

BOOM! LAWYERED: EVERYTHING YOU NEED TO KNOW ABOUT GEORGIA VOTER SUPPRESSION

Imani Gandy: Hello, fellow law nerds! Welcome to another episode of Boom! Lawyered, A Rewire News Group podcast hosted by the legal journalism team, half of which is getting vaccinated today. That would be this half, I'm Imani Gandy.

Jessica Pieklo: And I'm Jess Pieklo. Rewire News group is dedicated to inspiring you to own your relationship to sex, abortion, parenthood and power. And the team legal podcast is part of that mission. A big thanks to our subscribers and a welcome to our new listeners!

Imani Gandy: Jess, woo child! It has been a week. Was that just too Black? Woo, child.

Jessica Pieklo: Imani, it's Wednesday.

Imani Gandy: It's been a week. Really. Oh, shit. It's already Wednesday. Are you sure it's not last Friday? I'm so confused.

Jessica Pieklo: Look, you know my thoughts on time, so yes, as far as I'm concerned, it's March 453rd. I don't know. What day is it?

Imani Gandy: Well, I'll tell you what day it is. It's a day that we're going to talk about three critical things. The first of which is the flood of voter suppression bills that have been hitting the states. Just an absolute deluge.

Jessica Pieklo: Oh, thank goodness because this is something that has been going on in the background with everything else. And I know that you and I have been really anxious to get into it because hold on here, there are currently over 360 ... That's right, 360 conservative led voter suppression bills in 47 state legislatures across the country right now. And that's according to Marc Elias's Democracy Docket and the Brennan Center. They do everything from limiting absentee ballots to implementing restrictive voter ID requirements and reducing voter registration options. You name it, they try it.

Imani Gandy: And Georgia really tried it, my God.

Jessica Pieklo: Georgia.

Imani Gandy: Get it together, man. What is going on down there? You got peaches. You're the peach state. Why are you acting like this? Go eat some peach pie! But the voter suppression bill that came out of Georgia is by far the worst. Let's talk about what that bill does. It makes it a crime to give food and water to voters in line.

Jessica Pieklo: I'm sorry, what?

Imani Gandy: Yeah. I said it makes it a crime to give food and water to voters in line! And if we're talking about places like Georgia, particularly in heavily Black places, these

are people who are having to wait 8 to 10 hours in line to vote. And I don't know if you've ever been to Atlanta, Georgia but it is humid and hot there, even in November.

Jessica Pieklo: I was just going to say, it sounds sweaty.

Imani Gandy: It's very sweaty. I wouldn't recommend it for you because you just get sweaty at the drop of a hat. It's so hot and so humid. You've got elderly folks standing in line who are now not allowed to be food and water, which is just ludicrous. It also drastically limits the number of mail drop boxes. You remember how last year we heard about how in ... What was it, in Houston, that governor Greg Abbott had removed all but one of the drop boxes, forcing people to drive two hours to go drop off a ballot?

Jessica Pieklo: Yeah.

Imani Gandy: Yeah, they're doing that in Georgia too. Just knocking down mail drop boxes. The bill also adds strict new voter ID requirements for mail ballots. It allows unlimited challenges to voter eligibility by literally anyone.

Jessica Pieklo: Unlimited.

Imani Gandy: Unlimited, unlimited. You can just get Johnny Jackass being like, "Hey, are you registered? Is this your precinct? Are you allowed to vote here? Let me see your ID. Are you an American?"

This is just ... No, not good. Also requires an excuse for absentee voting, which would essentially end 15 years of Georgia's policy that there need not be an excuse for absentee voting. You don't need to have an excuse. You can just absentee vote. Your excuse can be, "I just want to."

Jessica Pieklo: Yeah.

Imani Gandy: That's really what it is. And then finally, it bans government officials from proactively sending voter absentee ballot applications. I don't know if you recall over the last cycle, people were all fired up like, "Look, the state of California is sending my son an absentee ballot and he doesn't even live here."

"Well, okay. Then don't return it."

Jessica Pieklo: Oh, my God.

Imani Gandy: They don't understand what the problem is here. It's just so, so bad. It's so bad.

Jessica Pieklo: It's so bad that even the New York Times is out against it. That bastion of liberal reporting. Our love to friends at the Times but the New York Times did its own analysis of the bill and called it a, 'breathtaking assertion of partisan power in

elections'. Wait, they said more though, 'that will curtail ballot access for voters in booming, urban and suburban counties, home to many Democrats'. That's bold talk from the New York Times. the, "What about her emails?"

New York Times just called this a breathtaking assertion of partisan power. And when we think about how crucial the Southeast is in electoral politics for progressive policies, to have the Gray Lady, right, the nation's paper of record, really drag Republicans like this is a moment in media history to just sit with, all right. And then there's the fact that Georgia representative Park Cannon was arrested trying to just watch the bill get enacted, right. Just trying to watch conservatives sign the bill into law. She knocked on a damn door and now faces eight years in jail. Eight years, for knocking on a door.

Imani Gandy: For knocking on a door. In unison everyone. Just a stark image, right. On the one hand you've got Brian Kemp signing this really horrific bill, trying to pretend that it's not a voter suppression bill because basically Black people turn Georgia blue, right. And meanwhile, there's a Black woman who is an actual state representative who just wanted to watch the man sign the bill. And she is arrested by police.

Jessica Pieklo: Yeah, yeah.

Imani Gandy: And people wonder why Black folks don't trust the police and people wonder why Black folks talk about defunding the police. It's because of stuff like this. It's because police just act with impunity in some cases when it comes to Black people.

Jessica Pieklo: Yeah.

Imani Gandy: But beyond that, I just have to say that the discussion around the bill and the discussion about the voter suppression efforts in the bill are annoying me to the extent that you have people that are trying to say, "Well, these other states also have really restrictive voting rights laws. Why is it such a big deal if Georgia does it?"

I've seen people talking about New York voting laws and how they have really wacky laws about when you can register. You can only register on a Thursday, if it's a full moon and you've watched six hours of Beverly Hills 90210. There are very ...

Jessica Pieklo: Not a terrible way to spend your time, by the way. [laughter]

Imani Gandy: Really not—Dylan McKay. But the point is ... And I really think that this is a point that I want all of our listeners to really just grab hold and just maybe eat it so that you can spew it into the faces of people who are making these bad faith arguments. Just regurgitate this information. The comparisons between Georgia laws and other states are asinine. And that's because states like New York or

whatever other states people are complaining about that have similar laws, 'similar laws', those states weren't pre-clearance states under the Voting Rights Act.

Jessica Pieklo: Right.

Imani Gandy: And what do I mean by that?

Jessica Pieklo: Yeah.

Imani Gandy: The Voting Rights Act had a section, Section V, which had this formula that set out rules about what states, municipalities, cities, counties, even to the granular level, right, cities were sometimes put on this list. What municipalities, what areas of the country have such a racist history when it comes to voting rights, has such a history steeped in Jim Crow when it came to poll taxes, when it came to literacy tests, that the department of justice said, "Hey Georgia, hey Shelby County, Alabama. We're going to put you on this pre-clearance list. And if you intend to enact any voting rights restrictions or any election laws whatsoever, we're going to need you to pop us a memo, just file that TPS report with the DOJ so that we can take a look." "I don't know if you've got the memo but we're now putting red covers on our TPS reports."

... but it's important to recognize that the reason some of these places were on this pre-clearance list, is because of their racist history when it comes to voting rights. New York doesn't have a similar racist history. Now, am I for making sure that it is easier for people to register to vote in New York? Absolutely.

Jessica Pieklo: Yes.

Imani Gandy: Am I concerned that a white hipster in Brooklyn is getting their votes suppressed? Not really. I'm sorry, I'm just not. And especially when you're comparing it to the actual Jim Crow steeped voter suppression tactics that are going on in Georgia. Can we just keep a level head here and focus on what this issue is about, which is about making sure that Black people, brown people and basically anyone who's a Democrat, seniors, students, anyone who's a Democrat, making sure that they can't vote but particularly Black people because Black people turn the state blue. And what happened two months later? George's like, "Nah, we can't have that. We got to make it so that ... There's too many Black people in line. What are we doing with all these Black voters? We got to make it stop."

Jessica Pieklo: That's such an important point because as a Coloradan, I am hearing all sorts of nonsense as people talk about voting laws in my own state, which by the way, I've never lived somewhere where it's just so damn easy to vote. They send you a ballot, you drop it off. There's an extended window of time. And our voter turnout is not only through the roof but locked tight in terms of any allegations of fraud.

Imani Gandy: Right.

Jessica Pieklo: And so this is particularly in the news right now with Georgia because we're starting to see some corporate backlash to this voter suppression bill, right. The major league baseball announced that it's moving its all-star game here to Colorado. Folks are super excited. Finally, there's a reason to care about baseball here in the state. My apologies to the folks who actually follow our team here but I don't know what they do.

Imani Gandy: Is it the Rockies?

Jessica Pieklo: The Rockies I guess, I don't know. I'm going to get dragged for this in Colorado spaces but now we care about baseball. But seriously, there's this whole backlash conversation happening. And we saw some of this when Georgia passed its six week abortion ban too. And we talk a lot about the ways in which restrictions on voting rights can parallel and overlap restrictions on reproductive rights, including some of the conversation. And so I'm just curious, what's your take on the backlash conversation that's happening now? Is it productive? Is there a way to hold two thoughts at the same time around that? If I want to put pressure on Georgia elected officials and I don't live in Georgia, what can I do?

Imani Gandy: Well, what you can do is find people in Georgia, organizers in Georgia and ask them how you can help because what I saw a lot of ... Well, first let me address the corporate backlash. I think it's fantastic that MLB moved the all-star game, right. I think it's fantastic that people are going hard after Coke and Delta and a lot of these corporations that have hubs in Atlanta and asking them to take a stand. I think that's completely appropriate. What I don't think is appropriate, is for people to get on social media and announce that, "We got to boycott Georgia. We're boycotting Georgia. Everybody boycott Georgia."

Jessica Pieklo: Yeah.

Imani Gandy: That's not useful because boycotting Georgia doesn't hurt the people that you think it does, right.

Jessica Pieklo: Yeah.

Imani Gandy: Taking the all-star game out of Colorado hurts elected officials, right because that's something that their constituents want to see in Atlanta. And if that game is being moved out, then Atlanta people, Georgia people ... Atlantians, Georgians, might actually have something to say about that but when you're talking about boycotting Georgia, a tourist boycott of some sort, that's not hurting elected officials, that's hurting Georgians. That's hurting vulnerable Georgians. That's jobs that people are not going to be able to get. And so this idea ... I literally saw someone saying that they were going to stop watching The Walking Dead. What does that do? First of all, it's already been filmed.

Jessica Pieklo: Right.

Imani Gandy: I don't really understand how not watching this season is really going to do anything. And second of all, that's just the most just lazy form of slacktivism, right. If you really want to do something and even if you ... And I'm not saying you got to get out on the streets or go anywhere because there are people who have social anxiety and other issues, they may have disabilities that preclude them from getting out on the streets and making noise but just saying you're not going to watch The Walking Dead anymore is not helpful.

Jessica Pieklo: Yeah.

Imani Gandy: I would recommend that people find mutual aid organizations, talk to grassroots organizers, get on Twitter and look at Bernice King's Twitter feed. She was saying, "Stop with the boycott talk, right."

Jessica Pieklo: Yeah.

Imani Gandy: "Go donate money to Fair Fight."

... which is Stacey Abrams's organization. There are a lot of things you can do besides getting on Twitter and announcing that we have to boycott Georgia when you haven't talked to anyone in Georgia about whether a Georgia boycott would be even useful.

Jessica Pieklo: Yeah.

Imani Gandy: Yeah.

Jessica Pieklo: That's super smart. Imani, you're super smart on these things.

Imani Gandy: Thanks. Thanks very much. You know what else I'm super smart on? Our second topic, which is this bananas bill out of Texas.

Jessica Pieklo: Oh, boy.

Imani Gandy: Look, Texas ... Can we have a chat because ...

Jessica Pieklo: You might need to write them a letter.

Imani Gandy: I'm going to write them a letter.

Jessica Pieklo: I think it was working with Missouri. I think maybe it's time to do an open letter from Imani Gandy to the Texas lawmakers because what on God's green earth is going on in Texas?

Imani Gandy: SB 8 is a heartbeat ban. We all know about heartbeat bans. If you've been listening to this podcast for a while, you understand that a heartbeat ban is not really a, 'heartbeat ban' because embryos don't have heartbeats.

Jessica Pieklo: Nope. Fetal pole cardiac activity.

Imani Gandy: Fetal pole cardiac electrical activity. Say that five times fast. It's not a heartbeat but calling it a heartbeat ban pulls on the heartstrings, right.

Jessica Pieklo: Yeah.

Imani Gandy: This bill goes beyond just a regular heartbeat ban and it gets into some really weird civil procedure questions that I'm just not sure how this is going to work out for them.

Jessica Pieklo: I was told there would be no civil procedure.

Imani Gandy: Sorry.

Jessica Pieklo: I need to launch an objection. My civil procedure professor was the head of the Federalist Society. And I am still traumatized as a result.

Imani Gandy: My civil procedure professor was Amy Wax who got canned from University of Pennsylvania for being a racist.

Jessica Pieklo: Wow, we both had horrible civil procedure experiences. This is amazing.

Imani Gandy: Although, I did get a A in her class. I guess she thought I was one of the good ones. I don't know but this bill would allow citizens to sue any person who, "Performs or induces an abortion in violation of this chapter."

And the chapter is just all abortion regulations. Or, "Knowingly engages in conduct that aids or abets the performance or inducement of an abortion, including paying for or reimbursing the costs of an abortion through insurance or otherwise."

That was a lot of words but what the hell, right. We're saying now that any person who ... Any person can file a lawsuit challenging a clinic or a provider for performing one of these, 'illegal abortions'. What about if I just want to drive a friend to an abortion clinic? What is going on?

Jessica Pieklo: I don't know. I sincerely have no idea. I am trying to wrap my head around the any old jackass provision of this bill.

Imani Gandy: Any given jackass.

Jessica Pieklo: Any given jackass could file ... Law nerds, we talk about standing, right.

Imani Gandy: Yes.

Jessica Pieklo: You have to have some skin in the game, so to speak, to bring a case. Otherwise the court's going to be like, "Whatever."

There's that. We can talk about that. And just the breadth, right, the sheer scope of this provision. Any person, including organizations, mutual aid groups. Like you said, you could be driving a friend, a family member and you're subject to criminal liabilities. This is effectively treating your rights as potential crimes. It's like precog for abortion rights. I don't know.

Imani Gandy: Precog. Yeah, it's ridiculous. It's ridiculous but it gets worse.

Jessica Pieklo: No.

Imani Gandy: Yeah. No, it does. A lawsuit can be brought by any person, whether a Texas resident or not because the bill doesn't specify. The bill does not specify that you have to be a citizen of Texas or a resident of Texas. That means any national organization, any celebrity, who's got a bug up their butt about abortion, any anti-abortion activist, Marjorie Dannenfelser or what's the name of the lady? Jill Stanek.

Jessica Pieklo: Oh, boy.

Imani Gandy: All of these hardcore anti-abortion people, even the ones who have murdered abortion providers who have bombed clinics, they are now allowed to file suit, not just for a violation of this heartbeat ban but for any of Texas' myriad abortion regulations. What?

Jessica Pieklo: Texas has a lot of abortion restrictions. I do believe.

Imani Gandy: Yeah. Yeah, they have a lot.

Jessica Pieklo: More than five.

Imani Gandy: Definitely more than five. We're talking the ASC requirements. We're talking requirements about abortion reporting. We're talking about abortion complication reporting, informed consent. All of these things. If Johnny Jackass in Vermont wants to sue someone in Texas because someone in Texas violated this, 'illegal abortion provision', that's something they can do.

Jessica Pieklo: Texas lawmakers are like, "Here, anybody who happens to think negatively about abortion, off to the races with your lawsuits."

Imani Gandy: Yeah.

Jessica Pieklo: Think of the sheer amount of money that goes into advocating around abortion restrictions at the state and national level. We are talking millions and millions and millions and millions and millions of dollars. And that's what we know about. That's not even dark money, right.

Imani Gandy: Yeah.

Jessica Pieklo: National right to life is going to come in. Operation Save America is going to come in. Rusty Thomas is going to come in and be like, "What I don't like is Jane's Due Process helping miners access the judicial bypass process. We believe that that is a violation of this law."

That is just going to tie up people in organizations that are on the ground delivering healthcare and healthcare services in a bunch of bad faith bullshit.

Imani Gandy: Yeah.

Jessica Pieklo: Okay, now I'm mad. I'm really mad. I was annoyed. I'm used to being annoyed at Texas lawmakers for thinking up some kind of nonsense when it comes to abortion restrictions but really, in terms of just a sheer power grab ... We were talking about power grab, a partisan power grab with this voter nonsense in Georgia. This is partisan power grab but around abortion rights in Texas.

Imani Gandy: Yes, yes. Yes because Texas has basically just conferred standing. You mentioned standing on people who otherwise would not have it, right. You need to have ... Normally, you need to have an injury that can be redressed by the court.

Jessica Pieklo: There's no injury.

Imani Gandy: There's no injury. Billy Bob Thompson and Corpus Christi, what does he have anything to do with an abortion provider in San Antonio? What does he have anything to do with T fund that provides abortion money and resources for people who are looking for abortion? It doesn't make any sense. Get your nose out of other people's uterus's. What is happening here?

Jessica Pieklo: His feelings about abortion don't rise to the level of legal injury that the court needs to address.

Imani Gandy: Yeah. The court is not in the habit of just hearing general grievances, right. There's no superior court of Festivus or something where you could just go in and be like, "I've got issues. I got problems with you people. And you're going to hear about them."

That's just not what the courts are for. It's also going to just jam up court dockets and make it more difficult for courts to hear cases that actually matter but what if I told you it got worse than that.

Jessica Pieklo: I'm done.

Imani Gandy: Okay. See you on Tuesday.

Jessica Pieklo: No, I'm out, no. No, I don't know that I could take worse.

Imani Gandy: You're going to love this, the law says ... There are certain affirmative defenses, right. If you get sued, you can have an affirmative defense that will basically say, "Yeah, you can't sue me. I win, get out of here."

This law says that it is not an affirmative defense that a defendant's reliance on any court decision that has been overruled on appeal or by a subsequent court, even if that court decision had not been overruled when the defendant engaged in the conduct that violates this chapter. Let me say that again. It is not an affirmative defense that a defendant relied on a court decision. And if that court decision is later overturned on appeal, they can still be liable under this law, even though they engaged in the conduct, even though they provided the abortion or aided or abetted the abortion when it was legal to do so. Jess's face right now is classic.

Jessica Pieklo: Okay.

Imani Gandy: Yeah.

Jessica Pieklo: That was a lot of words.

Imani Gandy: It was a lot of words.

Jessica Pieklo: Have Texas conservatives heard of due process?

Imani Gandy: I'm not sure they have.

Jessica Pieklo: For example ... This cannot be right. Texas lawmakers pass an all-out abortion ban and providers sue and a court very rightly says, "Hey, Texas lawmakers. You can't do that, that's unconstitutional."

Imani Gandy: Right.

Jessica Pieklo: You're telling me that those providers couldn't rely on that court decision because granted, it's been a little while since I was last in law school and a little while since I took constitutional law but one of the foundational principles of due process, is that the government can't do things to you as a person if you are relying on the government's word when you're acting a certain way.

Imani Gandy: Right.

Jessica Pieklo: Government's word being like, "Oh, I don't know. The courts saying a abortion ban is unconstitutional."

They just rewrote constitutional law.

Imani Gandy: Yeah.

Jessica Pieklo: Did I get that right?

Imani Gandy: Yeah. When I first read this, I was like, "Does that mean someone who gave an ... Provided an abortion in 1973 could now suddenly be sued?"

And it doesn't mean that because there's a six year statute of limitations. That means if you performed an abortion in 2015, while abortion was legal and then let's say just this year it becomes illegal, someone could sue you based on the abortion you performed in 2015 when it was legal.

Jessica Pieklo: That's just so bonkers, especially when you think of all of the laws that have been passed targeting abortion in that interim and the number of court challenges and just how it's been bouncing around back and forth. That's just wild.

Imani Gandy: Jess, do you know what an ex post facto law is?

Jessica Pieklo: Okay. First, there was civil procedure and now there's Latin. What did I do this week?

Imani Gandy: What have I done to deserve this? Yeah, I'm dropping a little bit more Latin on you. An ex post facto law, in Latin it means from a thing done afterwards. In other words, an ex post facto law makes liability retroactive to when the law didn't exist. And you can't do that, that's just unconstitutional. And that makes sense, right.

Jessica Pieklo: Yeah.

Imani Gandy: You cannot have something be legal, then make something illegal and then prosecute the people who were doing the thing when it was legal, prosecute them under the new rubric, which makes that thing illegal. That's just common fricking sense.

Jessica Pieklo: Yeah.

Imani Gandy: And I honestly didn't believe it but we were talking with some people from Avow!, Which is formerly NARAL Pro-Choice Texas. And they are up in arms about this bill and rightfully so but the bill sponsor confirmed that this is the case. Senator Hughes, who introduced this bill, said that, "Yes, a person could be sued if the abortion violated the heartbeat provision but they could also be

sued for any other perceived violation of any other requirements of this chapter. And they can be sued if the shit that they did then was legal but is now illegal."

Even if the law had been enjoined previously but was later ... The Supreme Court, Amy Coney Barrett court says, "No, no, no. We're going to say that admitting privileges are fine. And the judicial bypass system is bullshit. And you have to notify parents. Anyone who performed abortions in the past six years and didn't notify parents or didn't do the heartbeat ban test or didn't do informed consent, those people are now liable under this law."

Jessica Pieklo: I guess, props to Senator Hughes for saying the quiet part out loud.

Imani Gandy: Well, it actually gets worse.

Jessica Pieklo: No, it cannot possibly get any worse.

Imani Gandy: Oh no, it does. It's Texas, of course it can get worse, right. We've got a lot of great people in Texas, a lot of progressive people in Texas but there are also a lot of numpties in Texas and that's a real shame. This law also prohibits venue changes. And so this is a Civ Pro nerd issue. I'm going to explain what that means. And people who've watched any movie or watch Law and Order, watched the OJ Simpson docu-drama, you know what a venue change is. It's usually when there's some murderer who murdered a bunch of people and they're in a small town and wherever. And everyone in that small town has been saturated with media. And so now they don't think they can get a fair trial. The defendant doesn't think that he or she can get a fair trial in that particular area. And so they ask to move to a different venue, to perhaps where people haven't been bombarded with media coverage of this thing, right. That makes sense.

Texas is saying that any given jackass can sue you in a court close to them. Billy Bob, Billy Joe, whatever his name was. Billy Joe Thompson and Corpus Christi can file a lawsuit in Corpus Christi against T fund in Austin Texas and T fund cannot say to the court, "I would like a change of venue to Austin because I don't want to travel all the way to god damn Corpus Christi to defend myself in this bullshit lawsuit."

The Texas law is saying, "No, you can't do that."

Why? Because Texas literally wants people in all over the state to start enforcing these restrictions. They basically deputized every anti-choice numpty in Texas and saying, "You can sue ... If you live in a Southern ... If you live in practically Mexico, the southernmost part of Texas and you're suing someone in the northernmost part of Texas, you can force the person in the Northern most part of Texas to defend that lawsuit, basically in Mexico, in the southernmost part of Texas."

Jessica Pieklo: That deputizing point is exactly right on. As you were describing this, I was like okay, basically abortion providers and patients have no flexibility in terms of courts to hear their defenses. They are left exposed to any ideologue who has hurt feelings about DaBaby's ...

Imani Gandy: DaBaby the rapper or just babies?

Jessica Pieklo: We are a big fan of DaBaby the rapper in this house. No shade there, by the way. I'm saying babies with all the z's.

Imani Gandy: Yes.

Jessica Pieklo: No but sincerely, it's just ... And folks require venue changes all the time.

Imani Gandy: All the time.

Jessica Pieklo: It can be expensive. And the courts ... To travel in between locations because that's all venue is, its location, right. Where is the court going to hear this lawsuit? And so that can be expensive. You could have witnesses, think about that. If you are bringing providers down from a clinic and you're traveling across the state, that's going to disrupt business for the entire day, for example. And if you are a clinic that is only able to offer abortions a couple of days a week because of provider shortages and additional restrictions on the way you provide care, that's huge.

Imani Gandy: Yeah, Texas is just way out of pocket right now, just making laws that are honestly nonsensical from a civil procedure point of view, from a constitutional point of view, from a common sense point of view. And I honestly can't take it.

Jessica Pieklo: No.

Imani Gandy: No.

Jessica Pieklo: No.

Imani Gandy: No.

Jessica Pieklo: You know who else is a little bit out of pocket these days.

Imani Gandy: Oh, Lord. Who?

Jessica Pieklo: Arkansas.

Imani Gandy: Oh, for Christ sake Arkansas, what are you doing Arkansas?

Jessica Pieklo: Arkansas is the third thing that we're going to talk about on this show but this is in the, we did not see this one coming, right.

Imani Gandy: Right, yes.

Jessica Pieklo: There's some actual news and developments here. Earlier this week, Arkansas governor Asa Hutchinson vetoed a bill that would have made it a crime for transgender minors to receive gender affirming health care but as soon as Imani and I had started celebrating that news, the Arkansas legislature went and overrode that veto, meaning that horrible, no good, very bad anti-trans bill will now become law later this summer, unless it's blocked by a court first.

Imani Gandy: And now, the ACLU has promised a legal challenge. And I'd have to think that they'll use the governor statements about how this law is overboard and discriminatory, right because when Asa Hutchinson vetoed the bill, that's what he said. He said something to the effect of, he doesn't want Arkansas to go out like that. He doesn't want Arkansas to be seen as hostile to transgender people. And he said that it was over-broad and discriminatory, which for Asa Hutchinson is pretty wild because he's a very right wing governor.

Jessica Pieklo: He is.

Imani Gandy: The fact that he vetoed this bill was a really, really big deal but before we sent him any participation trophies, we've got to remember that just last month, he signed bills that allow doctors to refuse to treat people based on religious or moral objections and that barred trans women and girls from competing on women's sports teams in high school or college. Maybe this bill was a little bit too far and discriminatory but it's not like he's on the trans rights or human rights train.

Jessica Pieklo: Right.

Imani Gandy: He's careening wildly off the tracks.

Jessica Pieklo: What's going on with that? Do you think that maybe, probably he vetoed this bill for political cover? He's term limited in Arkansas, so he's definitely not going to be governor again. And I don't know. There's something that just feels very John Kasich to me about all of this, right.

Imani Gandy: Yeah.

Jessica Pieklo: An extremely right wing governor, trying to tack moderate in ways that don't really impact the folks in the state to the same degree. I don't know.

Imani Gandy: Right.

Jessica Pieklo: It doesn't sit right.

Imani Gandy: He had to have known that the legislature had the votes to override.

Jessica Pieklo: Yeah.

Imani Gandy: Maybe it was just, "I'm going to veto it because I don't want to be the governor that signs a bill that is ... That approves a bill that strips trans people of healthcare."

Jessica Pieklo: Right.

Imani Gandy: But also, Katelyn Burns, who's a Rewire alum, had the scoop yesterday that a couple of trans women talked to Asa Hutchinson. It very well could be that these trans women talked to him and he was like, "Yeah, that is fucked up."

Jessica Pieklo: Yeah.

Imani Gandy: And decided that he wasn't going to sign that bill. I don't know what it is but I find it fascinating. And I assume we're going to find out eventually what it is.

Jessica Pieklo: Yeah because there is this trend of conservative governors in states like Arkansas, we saw it also in South Dakota, where bills are whipped up in the legislature. And then at the last minute, they're like, "Ah, I don't know."

And maybe is it because they really think that the bill is bad for the state? I don't know. I just have to believe in my gut of guts that they are reading the political winds to a way that they feel like they can really just ... To mix my metaphors here, thread that needle, to be able to appease the conservative base in their state enough to deliver on some of these promises but also to ... Asa Hutchinson can now, if he wants to, go into the next presidential cycle and say, "Yeah, I am both a dyed in the wool conservative and also compassionate."

Is this the return of compassionate conservatism, Imani?

Imani Gandy: Oh no. We're not doing ... No, no. Oh, please. No.

Jessica Pieklo: And we've talked about this in the last episode too but these anti-trans bills are really going to be the thing for conservatives going into the midterms already.

Imani Gandy: Yeah.

Jessica Pieklo: Already in 2021, we've seen more anti-trans bills filed in states across the country than any other year.

Imani Gandy: Yeah.

Jessica Pieklo: Arkansas has this bill. North Carolina just filed a copycat of this Arkansas bill, Texas. It's not just abortion you're focused on right now. You've got some anti-trans nonsense there too. This is not going away in the political and legal landscape.

Imani Gandy: And really, I think ... Well, I have two thoughts. One is in 10, 15 years, people are going to look back on this period of time and think, "What the hell were you all thinking? What the hell were you thinking when you thought it was cool to strip healthcare from trans kids?"

Right. The same way same sex marriage has been normalized over the last decade, I think people being trans ... Just the idea that you can oppose someone being someone's identity is bonkers to me but I think trans rights are going to become more mainstream. It's going to become a more mainstream position to protect trans people, to allow them to have the same rights as everybody else. Perhaps Asa Hutchinson wants to be able to walk that fine line in the future but as you said, they need to keep conservative voters mad and energized through the midterms. They don't have Barack Obama to scream about anymore. Joe Biden is pretty inoffensive as a president.

Jessica Pieklo: Yeah.

Imani Gandy: He's just an old white guy, conservatives love old white guys. I think that it's going to be an interesting discussion in the midterm. And we also already have some instances where there are candidates who were able to beat anti-trans candidates, even as those anti-trans candidates focused on the fact that the non anti-trans candidates supported trans rights. There was an election in Iowa where someone was browbeaten over the fact that they supported people using the bathroom they want to use and that person won. I don't know how successful this tact is going to be. I guess we'll find out.

And on that note, do you want to talk about how anti-trans people are assholes? You can find me on Twitter @angryblacklady. You can find Jess on Twitter @Hegemommy, H-E-G-E-M-O-M-M-Y. You can follow Rewire News Group @RewireNewsGroup both on Twitter and on Instagram. Join our Facebook group. It is popping off and you can give us money, right. www.rewirenewsgroup/boomgive I believe, right, rewirenewsgroup/boomgive. Give us some money. Give us your duckets, your pesos.

Jessica Pieklo: Duckets.

Imani Gandy: Yeah, duckets.

Jessica Pieklo: Did you just say duckets?

Imani Gandy: Duckets. Give us your doubloons, your gold bullion. Give us your chicken bouillon. I don't care. Just give us whatever you got. We really appreciate it. We need you to help keep this Boom! Lawyered ship afloat, this Boom! Lawyered barge if you will, afloat.

Jessica Pieklo: All right, on that note, we will see you on the tubes folks.

Imani Gandy:

See you on the barge folks. Boom! Lawyered is created and hosted by Jessica Mason Pieklo and Imani Gandy. Marc Faletti produces the show.