

By: Peña

H.B. No. 2802

A BILL TO BE ENTITLED

AN ACT

relating to the use of public bathrooms, locker rooms, and shower facilities; creating a criminal offense.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 341.061, Health and Safety Code, is amended to read as follows:

Sec. 341.061. PUBLIC BATHROOMS, LOCKER ROOMS, SHOWER FACILITIES, AND TOILET ACCOMMODATIONS; CIVIL AND CRIMINAL LIABILITY [~~FACILITIES~~]. (a) An operator, manager, or superintendent of a public building, schoolhouse, theater, filling station, tourist court, bus station, or tavern shall provide and maintain sanitary bathrooms, including toilet accommodations.

(b) An individual may not enter a public bathroom, locker room, or shower facility that is designated for use by persons of a sex that is not the same sex as the individual's biological sex. A violation of this subsection is a Class B misdemeanor.

(c) An individual who violates Subsection (b) is liable to a person who encounters the individual in the public bathroom, locker room, or shower facility.

(d) It is a defense to prosecution under Subsection (b) and a defense to liability under Subsection (c) that the individual entered the public bathroom, locker room, or shower facility:

(1) for a custodial purpose;

(2) for the purpose of repairing the facility;

1 (3) to give medical assistance; or

2 (4) to accompany a child who is of a sex that is not the
3 same sex as the individual's biological sex and who is:

4 (A) a child with special needs; or

5 (B) younger than five years of age.

6 (e) A person who prevails in a suit under Subsection (c)
7 shall be awarded:

8 (1) exemplary damages in the amount of \$2,000;

9 (2) actual damages, including damages for mental
10 anguish even if an injury other than mental anguish is not shown;

11 (3) court costs; and

12 (4) reasonable attorney's fees.

13 (f) The cause of action created by this section is
14 cumulative of any other remedy provided by common law or statute.

15 SECTION 2. This Act takes effect September 1, 2015.