

By: Toth

H.B. No. 5236

A BILL TO BE ENTITLED

AN ACT

relating to regulations and policies for entering or using a bathroom or changing facility in a public school.

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

SECTION 1. Chapter 38, Education Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. SINGLE-SEX MULTIPLE-OCCUPANCY BATHROOMS AND  
CHANGING FACILITIES

Sec. 38.451. DEFINITIONS. In this subchapter:

(1) "Multiple-occupancy bathroom or changing facility" means a facility designed or designated for use by more than one person at a time, where a person may be in a state of undress in the presence of another person, regardless of whether the facility provides curtains or partial walls for privacy. The term includes a restroom, locker room, changing room, or shower room.

(2) "Single-occupancy bathroom or changing facility" means a facility designed or designated for use by only one person at a time, where a person may be in a state of undress, including a single toilet restroom with a locking door that is designed or designated as unisex or for use based on biological sex.

Sec. 38.452. DETERMINATION OF BIOLOGICAL SEX. (a) For purposes of this subchapter, a person's biological sex is the biological sex correctly stated on the person's official birth

certificate as described by Subsection (b).

(b) A statement of a person's biological sex on the person's official birth certificate is considered to have correctly stated the person's biological sex only if the statement was:

(1) entered at or near the time of the person's birth;  
or

(2) modified to correct a scrivener or clerical error in the person's biological sex.

Sec. 38.453. SINGLE-SEX MULTIPLE-OCCUPANCY BATHROOM OR CHANGING FACILITY. A school district or open-enrollment charter school shall require that each multiple-occupancy bathroom or changing facility accessible to students and located in a school or school facility be designated for and used only by persons based on the person's biological sex.

Sec. 38.454. ACCOMMODATIONS AUTHORIZED. (a) This subchapter does not prohibit a school district or open-enrollment charter school from providing an accommodation, including a single-occupancy bathroom or changing facility or the controlled use of a faculty bathroom or changing facility, on request due to special circumstances.

(b) A school district or open-enrollment charter school may not provide an accommodation that allows a person to use a multiple-occupancy bathroom or changing facility accessible to students that is designated for the biological sex opposite to the person's biological sex.

Sec. 38.455. PRIVATE LEASES AND CONTRACTS. (a) A private entity that leases or contracts to use a building owned or leased by

a school district or open-enrollment charter school is not subject to Section 38.453.

(b) A school district or open-enrollment charter school may not require a private entity described by Subsection (a) to adopt, or prohibit the private entity from adopting, a policy on the designation or use of bathrooms or changing facilities located in the building.

Sec. 38.456. EXCEPTIONS. A designation of a multiple-occupancy bathroom or changing facility under Section 38.453 does not apply to a person entering a multiple-occupancy bathroom or changing facility designated for the biological sex opposite to the person's biological sex:

(1) for a custodial purpose;  
(2) for a maintenance or inspection purpose;  
(3) to render medical or other emergency assistance;  
(4) to accompany a student needing assistance in using the facility, if the assisting person is:

(A) an employee or authorized volunteer of the school district or open-enrollment charter school; or

(B) the student's parent, guardian, conservator, or authorized caregiver;

(5) to accompany a person other than a student needing assistance in using the facility; or

(6) to receive assistance in using the facility.

Sec. 38.457. CONSIDERATION OF CERTAIN POLICIES PROHIBITED. In awarding a contract for the purchase of goods or services, a school district or open-enrollment charter school may not consider

1 whether a private entity competing for the contract has adopted a  
2 policy relating to the designation or use of the entity's bathrooms  
3 or changing facilities.

4       SECTION 2.   This Act takes effect September 1, 2023.