**BILL ANALYSIS**

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| Senate Research Center | S.B. 240 |
|  | By: Middleton |
|  | State Affairs |
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|  | As Filed |

**AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

There are concerns men are increasingly entering spaces, such as bathrooms, locker-rooms, and women's violence shelters, that have been traditionally set aside to protect the individual privacy rights of women. Currently, political subdivisions and state agencies are not required to develop a policy securing these rights. S.B. 240 requires that private spaces owned or controlled by political subdivisions or state agencies must be designated for use by individuals based on their biological sex.

As proposed, S.B. 240 amends current law relating to regulations and policies for entering or using certain private spaces and authorizes a civil penalty.

**RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

**SECTION BY SECTION ANALYSIS**

SECTION 1. Provides that this Act be cited as the Texas Women's Privacy Act.

SECTION 2. Amends Subtitle Z, Government Code, by adding Chapter 3001, as follows:

CHAPTER 3001. GOVERNMENTAL ACTION AFFECTING CERTAIN PRIVATE SPACES.

Sec. 3001.001. DEFINITIONS. Defines "biological sex," "correctional facility," "family violence shelter," "political subdivision," "private space," "single-occupancy private space," and "state agency."

Sec. 3001.002. SAFETY AND PRIVACY IN PRIVATE SPACES. (a) Requires a political subdivision or state agency to require each private space located within a facility owned, operated, or controlled by the political subdivision or state agency be designated for and used only by persons based on the person's biological sex.

(b) Requires that nothing in this section be construed to prohibit a political subdivision or state agency from adopting policies necessary to accommodate persons protected under the Americans with Disabilities Act, young children in need of assistance, or elderly persons requiring aid; establishing single-occupancy private spaces or family restrooms, changing rooms, or sleeping quarters; or redesignating a private space designated for exclusive use by one sex to a designation for exclusive use by the opposite sex.

Sec. 3001.003. ACCOMMODATIONS AUTHORIZED. Provides that this chapter does not prohibit a political subdivision or state agency from providing an accommodation, including a single-occupancy private space, on request due to special circumstances. Prohibits the political subdivision or state agency from providing an accommodation that allows a person to use a private space designated for the biological sex opposite to the person's biological sex.

Sec. 3001.004. EXCEPTIONS. Provides that a designation of a private space under Section 3001.002 does not apply to a person entering a private space designated for the biological sex opposite to the person's biological sex for certain reasons, or to a child who meets certain criteria.

Sec. 3001.005. CIVIL PENALTY. (a) Provides that a political subdivision or state agency that violates this chapter is liable for a civil penalty of $5,000 for the first violation and $25,000 for the second or a subsequent violation.

(b) Provides that each day of a continuing violation of this chapter constitutes a separate violation.

Sec. 3001.006. COMPLAINT; NOTICE. (a) Authorizes a citizen of this state to file a complaint with the attorney general that a political subdivision or state agency is in violation of this chapter only if the citizen provides the political subdivision or state agency a written notice that describes the violation and the political subdivision or state agency does not cure the violation before the end of the third business day after the date of receiving the written notice.

(b) Requires that a complaint filed under this section include a copy of the written notice and the citizen's sworn statement or affidavit describing the violation and indicating that the citizen provided the notice required by this section.

Sec. 3001.007. DUTIES OF ATTORNEY GENERAL: INVESTIGATION AND NOTICE. (a) Requires the attorney general, before bringing a suit against a political subdivision or state agency for a violation of this chapter, to investigate a complaint filed under Section 3001.006 to determine whether legal action is warranted.

(b) Requires the political subdivision or state agency that is the subject of the complaint to provide to the attorney general any information the attorney general requests in connection with the complaint, including supporting documents related to the complaint and a statement regarding whether the entity has complied or intends to comply with this chapter.

(c) Requires the attorney general, if the attorney general determines that legal action is warranted, to provide the appropriate officer of the political subdivision or state agency charged with the violation a written notice that contains and requires certain criteria.

Sec. 3001.008. COLLECTION OF CIVIL PENALTY; MANDAMUS. (a) Authorizes the attorney general, if, after receipt of notice under Section 3001.007(c), the political subdivision or state agency has not cured the violation on or before the 15th day after the date the notice is provided under Section 3001.007(c)(3), to sue to collect the civil penalty provided by Section 3001.005.

(b) Authorizes the attorney general, in addition to filing suit under Subsection (a), to also file a petition for a writ of mandamus or apply for other appropriate equitable relief.

(c) Authorizes a suit or petition under this section to be filed in a district court in Travis County or a county in which the principal office of the political subdivision or state agency is located.

(d) Requires the attorney general to recover reasonable expenses incurred in obtaining relief under this section, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(e) Requires that a civil penalty collected by the attorney general under this section be deposited to the credit of the compensation to victims of crime fund established under Subchapter B, Chapter 56, Code of Criminal Procedure.

(f) Authorizes a person to bring a civil action for declaratory relief, injunctive relief, and reasonable attorney's fees and costs against a political subdivision or state agency that violates this chapter.

Sec. 3001.009. IMMUNITY FROM SUIT AND LIMITS ON JURISDICTION. (a) Requires the state and each of its officers and employees, notwithstanding any other law, to have sovereign immunity, its political subdivisions and each of their officers and employees to have governmental immunity, and each officer and employee of this state and its political subdivisions to have official immunity in any action, claim, counterclaim, or any type of legal or equitable action that challenges the validity of any provision or application of this chapter, on constitutional grounds or otherwise, or that seeks to prevent or enjoin the state or its political subdivisions or any officer, employee, or agent of this state or a political subdivision from enforcing any provision or application of this chapter, or from hearing, adjudicating, or docketing a suit or petition brought under Section 3001.008, unless that immunity has been abrogated or preempted by federal law in a manner consistent with the Constitution of the United States.

(b) Requires that the immunities conferred by Subsection (a), notwithstanding any other law, apply in every court, both state and federal, and in every adjudicative proceeding of any type whatsoever.

(c) Authorizes no provision of state law, notwithstanding any other law, to be construed to waive or abrogate an immunity described in Subsection (a) unless it expressly waives or abrogates immunity with specific reference to this section.

(d) Provides that, notwithstanding any other law, no attorney representing the state or a political subdivision or any officer, employee, or agent of this state or a political subdivision is authorized or permitted to waive an immunity described in Subsection (a) or take any action that would result in a waiver of that immunity, and requires that any such action or purported waiver be regarded as a legal nullity and an ultra vires act.

(e) Prohibits a court of this state, notwithstanding any other law, including Chapter 37 (Declaratory Judgments), Civil Practice and Remedies Code, and Sections 22.002 (Writ Power), 22.221 (Writ Power), and 24.007 (Jurisdiction) through 24.011 (Writ Power), Government Code, from awarding declaratory or injunctive relief, or any type of stay or writ, including a writ of prohibition, that would pronounce any provision or application of this subchapter invalid or unconstitutional, or that would restrain the state or its political subdivisions, or any officer, employee, or agent of this state or a political subdivision, or any person from enforcing any provision or application of this chapter, or from hearing, adjudicating, docketing, or filing a suit or petition brought under Section 3001.008, and prohibits a court of this state from having jurisdiction to consider any action, claim, or counterclaim that seeks such relief.

(f) Prohibits a court of this state, notwithstanding any other law, including Chapter 26 (Class Actions), Civil Practice and Remedies Code, and Rule 42, Texas Rules of Civil Procedure, from certifying a plaintiff or defendant class in any action seeking the relief described in Subsection (e).

(g) Requires that nothing in this section or chapter be construed to prevent a litigant from asserting the invalidity or unconstitutionality of any provision or application of this chapter as a defense to any action, claim, or counterclaim brought against that litigant.

Sec. 3001.0010. SOVEREIGN IMMUNITY WAIVED. Provides that, notwithstanding Section 3001.009, sovereign immunity to suit and governmental immunity are waived and abolished to the extent of liability created by this chapter.

SECTION 3. Amends Chapter 30, Civil Practice and Remedies Code, by adding Section 30.023, as follows:

Sec. 30.023. AWARD OF ATTORNEY'S FEES IN ACTIONS CHALLENGING CERTAIN PRIVACY LAWS. (a) Provides that, notwithstanding any other law, any person, including an entity, attorney, or law firm, who seeks declaratory or injunctive relief to prevent this state, a political subdivision, any governmental entity or public official in this state, or any person in this state from enforcing any statute, ordinance, rule, regulation, or any other type of law that regulates access to a private space based on biological sex in any state or federal court, or that represents any litigant seeking such relief in any state or federal court, is jointly and severally liable to pay the costs and reasonable attorney's fees of the prevailing party, including the costs and reasonable attorney's fees that the prevailing party incurs in its efforts to recover costs and fees.

(b) Provides that, for purposes of this section, a party is considered a prevailing party if a state or federal court dismisses any claim or cause of action brought against the party that seeks the declaratory or injunctive relief described by Subsection (a), regardless of the reason for the dismissal, or enters judgment in the party's favor on any such claim or cause of action.

(c) Authorizes a prevailing party to recover costs and attorney's fees under this section only to the extent that those costs and attorney's fees were incurred while defending claims or causes of action on which the party prevailed.

SECTION 4. Severability clause.

SECTION 5. Effective date: upon passage or September 1, 2025.