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By:  Shofner H.B. No. 2704

A BILL TO BE ENTITLED

AN ACT

relating to general definitions regarding biological sex and the designation and use of certain spaces according to biological sex; authorizing a civil right of action.

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

SECTION 1.  This Act may be cited as the Definition and Protection of a Woman Act.

SECTION 2.  The purposes of this Act are to:

(1)  clarify and reconcile the meanings in state statutory law of sex, male, female, and related terms; and

(2)  provide protections for women and girls against sexual assault, harassment, violence, and acts of abuse committed by men in restrooms, changing rooms, and sleeping quarters designated for women.

SECTION 3.  The legislature finds that:

(1)  in *United States v. Virginia,* 518 U.S. 515 (1996), citing *Ballard v. United States,* 329 U.S. 187, 193 (1946), the court recognized:

(A)  "[p]hysical differences between men and women, however, are enduring: '[T]he two sexes are not fungible; a community made up exclusively of one [sex] is different from a community composed of both'"; and

(B)  "'[i]nherent differences' between men and women . . . remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity";

(2)  the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution allows the legislature to enact facially neutral laws of general applicability;

(3)  biologically based definitions of sex have been consistently applied since our nation's founding;

(4)  decades of United States Supreme Court opinions have upheld the argument that biological distinctions between male and female are a matter of scientific fact, and biological sex is an objectively defined category that has obvious, immutable, and distinguishable characteristics; and

(5)  policies and laws that distinguish between the sexes are subject to intermediate constitutional scrutiny, which forbids unfair discrimination against similarly situated males and females but allows the law to distinguish between the sexes where such distinctions are substantially related to an important government interest.

SECTION 4.  Section 311.005, Government Code, is amended by adding Subdivisions (14), (15), (16), (17), (18), (19), and (20) to read as follows:

(14)  "Boy" means a child of the male sex.

(15)  "Father" means a parent of the male sex.

(16)  "Female" and "woman" mean an individual who has, or would have but for a developmental or genetic anomaly or accident, a reproductive system designed to produce, transport, and provide eggs for fertilization.

(17)  "Girl" means a child of the female sex.

(18)  "Male" and "man" mean an individual who has, or would have but for a developmental or genetic anomaly or accident, a reproductive system designed to produce, transport, and provide sperm for fertilization.

(19)  "Mother" means a parent of the female sex.

(20)  "Sex" means an individual's biological sex, either male or female, as observed or clinically verified at birth.

SECTION 5.  Subtitle Z, Title 10, Government Code, is amended by adding Chapter 3001 to read as follows:

CHAPTER 3001. GOVERNMENT ACTION REGARDING CERTAIN PRIVATE SPACES

Sec. 3001.001.  DEFINITIONS. In this chapter:

(1)  "Changing room" means a room or area in which an individual may be in a state of undress in the presence of another individual. The term includes a locker room or shower room.

(2)  "Correctional facility" means a facility designated by law for the confinement of an individual arrested for, charged with, or convicted of a criminal offense. The term includes:

(A)  a confinement facility operated by the Texas Department of Criminal Justice; and

(B)  a confinement facility operated under contract with any division of the Texas Department of Criminal Justice.

(3)  "Covered facility" means a correctional facility, family violence center, homeless shelter, juvenile detention center, and public school.

(4)  "Family violence center" means a family violence nonresidential center or a family violence shelter center, as those terms are defined by Section 51.002, Human Resources Code, that has contracted with the Health and Human Services Commission under Section 51.003, Human Resources Code.

(5)  "Homeless shelter" means a supervised publicly operated shelter or other facility that is designed to provide temporary living accommodations to homeless individuals.

(6)  "Juvenile detention center" means a nonsecure correctional facility, secure correctional facility, or secure detention facility, as those terms are defined by Section 51.02, Family Code.

(7)  "Multi-occupancy private space" means a changing room, a restroom, or sleeping quarters designed or designated for the simultaneous use of more than one individual.

(8)  "Political subdivision" means a governmental entity of this state, including a county, municipality, special purpose district or authority, and junior college district.

(9)  "Public school" has the meaning assigned Section 61.9811, Education Code.

(10)  "Restroom" means a room designed for use of a toilet or urinal by one or more individuals.

(11)  "Single-occupancy private space" means a changing room, a restroom, or sleeping quarters designed or designated for use by only one individual.

(12)  "Sleeping quarters" means a room that contains a bed and is designed as a space for more than one individual to regularly sleep overnight.

(13)  "State agency" means a department, commission, board, office, council, authority, or other agency in the executive, legislative, or judicial branch of state government that is created by the constitution or a statute of this state.

Sec. 3001.002.  REQUIRED DESIGNATION OF MULTI-OCCUPANCY PRIVATE SPACES. (a) The owner or operator of a covered facility shall designate each multi-occupancy private space in the facility for the exclusive use of either females or males.

(b)  A multi-occupancy private space designated under Subsection (a) for the exclusive use of either females or males may only be used by an individual of the designated sex.

(c)  The owner or operator of a covered facility shall take reasonable steps to ensure an individual using a multi-occupancy private space designated under Subsection (a) for the exclusive use of either females or males is not observed or disturbed by an individual of the opposite sex.

Sec. 3001.003.  REQUIREMENTS APPLICABLE TO CERTAIN SPACES IN PUBLIC SCHOOLS. (a) A public school may not require a student to share sleeping quarters with an individual who is of the sex opposite to the student's sex during any school-related event unless:

(1)  the individual is a member of the student's family, including a parent, guardian, sibling, or grandparent; and

(2)  the school obtained approval from the student's parent or guardian for the student to share the sleeping quarters with the family member.

(b)  A public school shall ensure that:

(1)  a private, separate changing room or space is designated for use by individuals of the same sex in each room or space in which an individual may be in a state of undress in the presence of another individual; and

(2)  only individuals of the designated sex enter the room or space described by Subdivision (1).

Sec. 3001.004.  CONSTRUCTION OF CHAPTER. Sections 3001.002 and 3001.003 do not prohibit the owner or operator of a covered facility from:

(1)  adopting a policy necessary to accommodate an individual with a disability, a young child, or an elderly individual who requires assistance when using a restroom, a changing room, or sleeping quarters;

(2)  establishing a single-occupancy private space or a family restroom, changing room, or sleeping quarters; or

(3)  changing the designation under Section 3001.002 of a multi-occupancy private space previously designated for the exclusive use of individuals of the opposite sex.

Sec. 3001.005.  EXCEPTIONS. A designation or requirement under Section 3001.002 or 3001.003 does not apply to an individual who enters a multi-occupancy private space or space described by Section 3001.002(a):

(1)  for custodial or maintenance purposes;

(2)  to render medical assistance;

(3)  for law enforcement purposes; or

(4)  to provide services or render assistance during a natural disaster or declared emergency or as necessary to prevent a serious threat to proper order or safety.

Sec. 3001.006.  PROHIBITED REGULATIONS. A state agency or political subdivision may not adopt or enforce a rule, policy, resolution, ordinance, or other measure that:

(1)  prohibits any person, including the owner or operator of a covered facility, from designating a private space for the exclusive use of males or females in a location in which biology, safety, or privacy are implicated, including a location designated for use by athletes; or

(2)  uses language to circumvent the requirements of this chapter or otherwise achieve the same or a substantially similar effect as prohibiting conduct required under this chapter.

Sec. 3001.007.  PRIVATE CAUSE OF ACTION. A person affected by a covered facility's alleged violation of this chapter may bring a civil action to obtain appropriate:

(1)  declaratory relief;

(2)  injunctive relief;

(3)  compensatory damages;

(4)  writ of mandamus; and

(5)  court costs, including reasonable attorney's and witness fees.

Sec. 3001.008.  CONTRACTOR CAUSE OF ACTION. Any person who contracts with this state or a political subdivision of this state to provide services for a covered facility may bring an action for appropriate relief under Section 3001.007 against the applicable state agency or political subdivision for directing the person to perform an act in violation of this chapter.

Sec. 3001.009.  RETALIATION PROHIBITED. (a) A covered facility may not take retaliatory or other adverse action against a person for acting to enforce this chapter.

(b)  A person who is the subject of an adverse action prohibited by Subsection (a) may bring an action against the covered facility for appropriate relief under Section 3001.007.

Sec. 3001.010.  REBUTTABLE PRESUMPTION FOR ALLEGED VIOLATION. In an action brought against a covered facility by a person for a violation of this chapter in requiring the person to share sleeping quarters with an individual who is of the sex opposite to the person and except as allowed under Section 3001.003, it is a rebuttable presumption that the covered facility's requirement of the person to share the sleeping quarters is discriminatory and caused actual harm to the person.

Sec. 3001.011.  SOVEREIGN AND GOVERNMENTAL IMMUNITY WAIVED. Sovereign and governmental immunity to suit is waived and abolished to the extent of liability created by this chapter.

SECTION 6.  This Act takes effect September 1, 2025.