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To: Judiciary, Division A

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2753

1 AN ACT TO CREATE NEW SECTION 29-18-1, MISSISSIPPI CODE OF
2 1972, TO CREATE THE "SAFER ACT" TO REGULATE GOVERNMENTAL
3 BUILDINGS; TO CREATE NEW SECTION 29-18-3, MISSISSIPPI CODE OF
4 1972, TO PROVIDE LEGISLATIVE FINDINGS FOR THE ACT; TO CREATE NEW
5 SECTION 29-18-5, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS
6 FOR THE ACT; TO CREATE NEW SECTION 29-18-7, MISSISSIPPI CODE OF
7 1972, TO REQUIRE CERTAIN PUBLIC BUILDINGS TO HAVE EXCLUSIVE MALE
8 AND/OR FEMALE RESTROOMS OR UNISEX RESTROOMS AT A MINIMUM; TO
9 CREATE NEW SECTION 29-18-9, MISSISSIPPI CODE OF 1972, TO REQUIRE
10 CHANGING FACILITIES TO BE EXCLUSIVE MALE AND/OR FEMALE OR UNISEX
11 AT A MINIMUM; TO CREATE NEW SECTION 29-18-11, MISSISSIPPI CODE OF
12 1972, TO REGULATE PUBLIC STUDENT HOUSING FOR SINGLE-SEX
13 EDUCATIONAL HOUSING; TO CREATE NEW SECTION 29-18-13, MISSISSIPPI
14 CODE OF 1972, TO REQUIRE SINGLE-SEX SOCIAL SORORITIES AND
15 FRATERNITIES TO COMPLY WITH THE DEFINITIONS OF THIS ACT TO
16 DESIGNATE HOUSING; TO CREATE NEW SECTION 29-18-15, MISSISSIPPI
17 CODE OF 1972, TO REGULATE HOW PERSONS ENTER A SINGLE-SEX RESTROOM,
18 CHANGING FACILITY OR EDUCATIONAL HOUSING SPACE; TO CREATE NEW
19 SECTION 29-18-17, MISSISSIPPI CODE OF 1972, TO AUTHORIZE ASSERTION
20 OF A VIOLATION OF THIS ACT; TO CREATE NEW SECTION 29-18-19,
21 MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE ATTORNEY GENERAL TO
22 BRING ACTION REGARDING THE PROVISIONS OF THIS ACT; TO CREATE NEW
23 SECTION 1-3-83, MISSISSIPPI CODE OF 1972, TO DEFINE THE TERMS
24 FEMALE, MALE AND SEX; AND FOR RELATED PURPOSES.

25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

26 **SECTION 1.** The following shall be codified as Section
27 29-18-1, Mississippi Code of 1972:



28 29-18-1. This act shall be known and may be cited as
29 "Securing Areas for Females Effectively and Responsibly Act" or
30 the "SAFER Act."

31 **SECTION 2.** The following shall be codified as Section
32 29-18-3, Mississippi Code of 1972:

33 29-18-3. **Legislative findings; intermediate scrutiny.** (1)
34 The Legislature finds that females and males should be provided
35 areas, including restrooms, changing facilities and single-sex
36 educational housing spaces, for their exclusive use, respective to
37 their sex, in order to maintain privacy and safety.

38 (2) There are important governmental reasons to distinguish
39 between the sexes with respect to spaces where biology, safety,
40 and/or privacy are implicated. As such, policies and laws that
41 distinguish between the sexes are subject to intermediate
42 constitutional scrutiny, which forbids unfair discrimination
43 against similarly situated males and females but allows the law to
44 distinguish between the sexes where such distinctions are
45 substantially related to important governmental objectives.

46 **SECTION 3.** The following shall be codified as Section
47 29-18-5, Mississippi Code of 1972:

48 29-18-5. **Chapter definitions.** For purposes of this act, the
49 following terms shall have the meanings ascribed herein:

50 (a) "Changing facility" means a space designated for
51 multiple individuals to dress or undress within the same space,
52 including, but not limited to, a dressing room, locker room,



53 changing room, or shower room. This term does not include a
54 unisex changing facility.

55 (b) "Single-sex educational housing space" means a
56 separate room or area located within a public building functioning
57 as housing for student residents at an educational institution and
58 designated for use or occupancy only for members of one (1) sex,
59 but excludes common areas designated for use by members of both
60 sexes.

61 (c) "Public building" means any building, facility or
62 space owned, operated, rented or leased by, or rented or leased to
63 any state agency, public university, public community or junior
64 college and the institutions of higher learning.

65 (d) "Restroom" means a space designated for multiple
66 individuals that includes toilets and/or urinals. This term does
67 not include a unisex restroom.

68 (e) "Unisex changing facility" means a room intended
69 for a single occupant or a family in which one or more persons may
70 be in a state of undress, including, but not limited to, a
71 dressing room, locker room, changing room, or shower room that is
72 enclosed by floor-to-ceiling walls and accessed by a full door
73 with a secure lock that prevents another individual from entering
74 while the changing facility is in use.

75 (f) "Unisex restroom" means a room that includes a
76 toilet or urinal and that is intended for a single occupant or a
77 family, is enclosed by floor-to-ceiling walls, and is accessed by



78 a full door with a secure lock that prevents another individual
79 from entering while the room is in use.

80 **SECTION 4.** The following shall be codified as Section
81 29-18-7, Mississippi Code of 1972:

82 29-18-7. **Protection of restroom privacy.** Any public
83 building that maintains a restroom shall, at a minimum, have:

84 (a) A restroom designated for exclusive use by females
85 and a restroom designated for exclusive use by males; or

86 (b) A unisex restroom.

87 **SECTION 5.** The following shall be codified as Section
88 29-18-9, Mississippi Code of 1972:

89 29-18-9. **Protection of changing room privacy.** Any public
90 building that maintains a changing facility must, at a minimum,
91 have:

92 (a) A changing facility designated for exclusive use by
93 females and a changing facility designated for exclusive use by
94 males; or

95 (b) A unisex changing facility.

96 **SECTION 6.** The following shall be codified as Section
97 29-18-11, Mississippi Code of 1972:

98 29-18-11. **Protection of single-sex educational housing space**
99 **privacy.** Any student required to reside in housing at an
100 educational institution shall have the right to be housed in a
101 single-sex educational housing space with persons of the same sex.



102 **SECTION 7.** The following shall be codified as Section
103 29-18-13, Mississippi Code of 1972:

104 29-18-13. **Social fraternity and sorority single-sex housing**
105 **facilities on public lands shall comply with state law.** Social
106 fraternities and sororities at educational institutions that have
107 and operate single-sex housing facilities located on public land
108 shall comply with the definitions contained within this act for
109 purposes of maintaining such facilities as single sex only.

110 **SECTION 8.** The following shall be codified as Section
111 29-18-15, Mississippi Code of 1972:

112 29-18-15. **Permissible purposes to enter sex-designated**
113 **restrooms, changing facilities or single-sex educational housing**
114 **spaces.** For purposes of this act, a person may not enter a
115 restroom, changing facility, or single-sex educational housing
116 space, designated for the opposite sex, except under the following
117 circumstances:

118 (a) To accompany a person of the opposite sex for the
119 purpose of assisting or chaperoning a child under the age of
120 twelve (12), a vulnerable person as defined in Section 43-47-5, or
121 a person with a disability as defined in Section 43-6-203(b);

122 (b) For law enforcement, fire protection or response,
123 or other public safety purposes;

124 (c) For governmental purposes, including employees or
125 contractors of governmental entities acting within the scope of
126 their employment or contract;



127 (d) For the purpose of rendering emergency medical
128 assistance or to intervene in any other emergency situation where
129 the health or safety of another person is at risk;

130 (e) For custodial, maintenance, or inspection purposes,
131 provided that the restroom or changing facility is not in use;

132 (f) If the appropriate designated restroom or changing
133 facility is out of order or under repair and the restroom or
134 changing facility designated for the opposite sex contains no
135 person of the opposite sex; or

136 (g) In single-sex educational housing spaces as
137 authorized by educational institutions for moving, visiting,
138 administrative, health, or other authorized purposes.

139 **SECTION 9.** The following shall be codified as Section
140 29-18-17, Mississippi Code of 1972:

141 29-18-17. **Private enforcement.** (1) A person may assert a
142 violation of this act as a claim or defense in a judicial or
143 administrative proceeding.

144 (2) Any person under eighteen (18) years of age may bring an
145 action at any time to assert a violation of this act through a
146 parent or next friend and may bring an action in their own name
147 upon reaching the age of eighteen (18) years of age.

148 (3) No private cause of action against a state agency,
149 public university, public community college or junior college, or
150 the institutions of higher learning is authorized by this act.



151 **SECTION 10.** The following shall be codified as Section
152 29-18-19, Mississippi Code of 1972:

153 29-18-19. **Attorney General enforcement.** (1) The Attorney
154 General shall bring an action to enforce compliance with this act.

155 (2) This act shall not be construed to deny, impair, or
156 otherwise affect any right or authority of the Attorney General,
157 the State of Mississippi, or any agency, officer, or employee of
158 the state, acting under any law other than this act, to institute
159 or intervene in any proceeding.

160 **SECTION 11.** The following shall be codified as Section
161 1-3-83, Mississippi Code of 1972:

162 1-3-83. **Female, male, sex of natural persons.** (1) "Female"
163 means an individual who naturally has, had, will have, or would
164 have, but for a developmental or genetic anomaly or historical
165 accident, the reproductive system that at some point produces,
166 transports, and utilizes eggs for fertilization.

167 (2) "Male" means an individual who naturally has, had, will
168 have, or would have, but for a developmental or genetic anomaly or
169 historical accident, the reproductive system that at some point
170 produces, transports, and utilizes sperm for fertilization.

171 (3) "Sex," when used to classify a natural person, means the
172 biological indication of male and female as observed or clinically
173 verified at birth, without regard to an individual's "gender
174 identity" or any other terms intended to convey a person's
175 psychological, chosen, or subjective experience or sense of self.



176 (4) The following additional provisions apply to the use of
177 "sex" and related terms:

178 (a) There are only two (2) sexes, and every individual
179 is either male or female.

180 (b) "Sex" is objective and fixed.

181 (c) Persons with "DSD conditions" (sometimes referred
182 to as "differences in sex development", "disorders of sex
183 development", or "intersex conditions") are not members of a third
184 sex.

185 (d) The foregoing definition of "sex," for purposes of
186 state law, neither requires nor precludes the accommodation of
187 persons with a congenital and physically verifiable diagnosis of
188 "DSD condition" (sometimes referred to as "differences in sex
189 development", "disorders of sex development", or "intersex
190 conditions"); however, such accommodation may be required by
191 federal law.

192 **SECTION 12. Severability.** Any provision of this act is held
193 to be invalid or unenforceable by its terms, or as applied to any
194 person or circumstance, shall be construed so as to give it the
195 maximum effect permitted by law, unless such holding shall be one
196 of utter invalidity or unenforceability, in which event such
197 provision shall be deemed severable herefrom and shall not affect
198 the remainder hereof or the application of such provision to other
199 persons not similarly situated or to other, dissimilar
200 circumstances.



201 **SECTION 13.** This act shall take effect and be in force from
202 and after July 1, 2024, and shall stand repealed on June 30, 2024.

