

By: Senator(s) Harkins, England

To: Judiciary, Division A

SENATE BILL NO. 2753

1 AN ACT TO ENACT THE SECURING AREAS FOR FEMALES EFFECTIVELY
2 AND RESPONSIBLY (SAFER) ACT; TO STATE LEGISLATIVE FINDINGS; TO
3 DEFINE TERMS; TO REQUIRE ANY PUBLIC BUILDING THAT MAINTAINS A
4 RESTROOM TO HAVE A RESTROOM DESIGNATED FOR EXCLUSIVE USE BY
5 FEMALES AND A RESTROOM DESIGNATED FOR EXCLUSIVE USE BY MALES OR TO
6 HAVE A UNISEX RESTROOM; TO REQUIRE ANY PUBLIC BUILDING THAT
7 MAINTAINS A CHANGING FACILITY SHALL TO HAVE A CHANGING FACILITY
8 DESIGNATED FOR EXCLUSIVE USE BY FEMALES AND A CHANGING FACILITY
9 DESIGNATED FOR EXCLUSIVE USE BY MALES OR A UNISEX CHANGING
10 FACILITY; TO PROVIDE LIMITED CIRCUMSTANCES IN WHICH A PERSON MAY
11 ENTER A RESTROOM OR CHANGING FACILITY DESIGNATED FOR THE OPPOSITE
12 SEX; TO REQUIRE AN APPLICABLE GOVERNMENTAL ENTITY TO ESTABLISH
13 REGULATIONS AND PROCEDURES FOR WHEN A PERSON ENTERS A RESTROOM OR
14 CHANGING FACILITY OF THE OPPOSITE SEX AND REFUSES TO DEPART; TO
15 PROVIDE THAT THE REFUSAL TO DEPART THE RESTROOM OR CHANGING
16 FACILITY SHALL BE A MISDEMEANOR TRESPASS; TO CREATE A PRIVATE
17 CAUSE OF ACTION; TO REQUIRE THE ATTORNEY GENERAL TO ENFORCE THE
18 PROVISIONS OF THIS ACT; TO REQUIRE A REPORT TO CERTAIN
19 GOVERNMENTAL ENTITIES; TO REQUIRE THE STATE OR ITS POLITICAL
20 SUBDIVISIONS TO DISAGGREGATE GATHERED DATA OF INDIVIDUALS BY SEX
21 AS EITHER MALE OR FEMALE AS DEFINED IN SECTION 1-3-40, MISSISSIPPI
22 CODE OF 1972, WHEN IT GATHERS DATA OF INDIVIDUALS THAT IS
23 DISAGGREGATED BY SEX; TO CREATE NEW SECTION 1-3-40, MISSISSIPPI
24 CODE OF 1972, TO DEFINE THE TERMS OF "FEMALE," "MALE," "SEX,"
25 "GIRL," "BOY," "WOMAN," "MAN," "MOTHER" AND "FATHER" WHEN THE
26 TERMS ARE USED IN ANY STATUTE; TO PROVIDE FOR SEVERABILITY OF THE
27 ACT; AND FOR RELATED PURPOSES.

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



29 **SECTION 1.** This chapter shall be known and may be cited as
30 "Securing Areas for Females Effectively and Responsibly Act" or
31 the "SAFER Act."

32 **SECTION 2.** The Legislature finds and declares that:

33 (a) Females and males should be provided areas,
34 including restrooms and changing facilities, for their exclusive
35 use, respective to their sex, in order to maintain public safety,
36 decency, decorum and privacy.

37 (b) There are important governmental reasons to
38 distinguish between the sexes with respect to spaces such as
39 prisons, detention facilities, domestic violence shelters, rape
40 crisis centers, locker rooms, restrooms, and other areas where
41 biology, safety and/or privacy are implicated.

42 (c) As such, policies and laws that distinguish between
43 the sexes are subject to intermediate constitutional scrutiny,
44 which forbids unfair discrimination against similarly situated
45 males and females but allows the law to distinguish between the
46 sexes where such distinctions are substantially related to
47 important governmental objectives.

48 **SECTION 3.** For purposes of this chapter, the following terms
49 shall have the meanings ascribed herein unless the context clearly
50 indicates otherwise:

51 (a) "Changing facility" means a space designated for
52 multiple individuals to dress or undress within the same space,



53 including, but not limited to, a dressing room, fitting room,
54 locker room, changing room or shower room.

55 (b) "Public building" means any building, facility or
56 space owned, leased or controlled by, or leased to, the state or
57 any of its political subdivisions including, but not limited to,
58 counties, municipalities, institutions of higher learning or
59 community colleges.

60 (c) "Restroom" means a space that includes a toilet or
61 urinal. "Restroom" does not include a unisex restroom.

62 (d) "Unisex changing facility" means a room intended
63 for a single occupant or a family in which one or more persons may
64 be in a state of undress, including, but not limited to, a
65 dressing room, fitting room, locker room, changing room or shower
66 room that is enclosed by floor-to-ceiling walls and accessed by a
67 full door with a secure lock that prevents another individual from
68 entering while the changing facility is in use.

69 (e) "Unisex restroom" means a room that includes a
70 toilet or urinal and that is intended for a single occupant or a
71 family, is enclosed by floor-to-ceiling walls and is accessed by a
72 full door with a secure lock that prevents another individual from
73 entering while the room is in use.

74 **SECTION 4.** (1) Any public building that maintains a
75 restroom must, at a minimum, have:

76 (a) A restroom designated for exclusive use by females
77 and a restroom designated for exclusive use by males; or



78 (b) A unisex restroom.

79 (2) Any public building that maintains a changing facility
80 shall, at a minimum, have:

81 (a) A changing facility designated for exclusive use by
82 females and a changing facility designated for exclusive use by
83 males; or

84 (b) A unisex changing facility.

85 **SECTION 5.** (1) For purposes of this chapter, a person may
86 only enter a restroom or changing facility designated for the
87 opposite sex under the following circumstances:

88 (a) To accompany a person of the opposite sex for the
89 purpose of assisting or chaperoning a child under the age of 12, a
90 vulnerable person as defined by Section 43-47-5, or a person with
91 a disability as defined by Section 43-6-203(b);

92 (b) For law enforcement or governmental regulatory
93 purposes;

94 (c) For the purpose of rendering emergency medical
95 assistance or to intervene in any other emergency situation where
96 the health or safety of another person is at risk;

97 (d) For custodial, maintenance, or inspection purposes,
98 provided that the restroom or changing facility is not in use; or

99 (e) If the appropriate designated restroom or changing
100 facility is out of order or under repair and the restroom or
101 changing facility designated for the opposite sex contains no
102 person of the opposite sex.



103 (2) The applicable governmental entity for each public
104 building under its ownership, control or lease shall, within
105 ninety (90) days, establish regulations and procedures for any
106 person who willfully enters, for a purpose other than those listed
107 in subsection (1) of this section, a restroom or changing facility
108 designated for the opposite sex on the premises and refuses to
109 depart when asked to do so by any employee or contractor of the
110 owner, lessee or lessor of a public building.

111 (3) A person who willfully enters, for a purpose other than
112 those listed in subsection (1) of this section, a restroom or
113 changing facility clearly designated for the opposite sex on the
114 premises of a public building and refuses to depart when asked to
115 do so by an employee or contractor of the owner, lessee or lessor
116 of a public building shall be guilty of a misdemeanor trespass to
117 be punished as provided in Section 97-17-97.

118 **SECTION 6.** (1) A person may assert a violation of this
119 chapter as a claim or defense in a judicial or administrative
120 proceeding and obtain compensatory damages, injunctive relief,
121 declaratory relief, punitive damages as provided under Section
122 11-1-65, when sought against a party other than the state or its
123 political subdivisions, or any other appropriate relief. A
124 prevailing party who establishes a violation of this chapter shall
125 recover reasonable attorney's fees. Such claim may be brought
126 against any of the applicable governmental entities for each



127 public building under its ownership, control or lease which caused
128 or contributed to a violation of this chapter.

129 (2) A minor may bring an action throughout their minority
130 through a parent or next friend and may bring an action in their
131 own name upon reaching the age of majority.

132 (3) Notwithstanding any other provision of law, an action
133 under this chapter may be commenced, and relief may be granted, in
134 a judicial proceeding without regard to whether the person
135 commencing the action has sought or exhausted available
136 administrative remedies.

137 **SECTION 7.** (1) The Attorney General may bring an action to
138 enforce compliance with this chapter.

139 (2) This chapter does not deny, impair, or otherwise affect
140 any right or authority of the Attorney General, the State of
141 Mississippi, or any agency, officer, or employee of the state,
142 acting under any law other than this act, to institute or
143 intervene in any proceeding.

144 **SECTION 8.** (1) On or before July 1, 2025, every
145 governmental entity, for each public building under its ownership,
146 control or lease, shall provide a report and documentation
147 regarding its compliance with the provisions of this act to the
148 Department of Finance and Administration. On or before December
149 1, 2025, the Department of Finance and Administration shall file a
150 combined report of each governmental entities compliance with the



151 provisions of this act to the Speaker of the Mississippi House of
152 Representatives, the Lieutenant Governor and the Governor.

153 (2) The Department of Finance and Administration shall
154 promulgate rules and regulations to implement this section.

155 **SECTION 9.** When the state or its political subdivisions, as
156 defined by Section 11-46-1(i), gather data of individuals that are
157 disaggregated by sex, the state or its political subdivisions
158 shall disaggregate the data of individuals by sex as either male
159 or female as defined in Section 1-3-40.

160 **SECTION 10.** The following shall be codified as Section
161 1-3-40, Mississippi Code of 1972:

162 1-3-40. (a) The term "female," when used in any statute,
163 shall mean an individual who has, had, will have through the
164 course of normal development, or would have had, but for a
165 developmental anomaly, genetic anomaly, disease, or injury, the
166 reproductive system that at some point produces ova.

167 (b) The term "male," when used in any statute, shall
168 mean an individual who has, had, will have through the course of
169 normal development, or would have had, but for a developmental
170 anomaly, genetic anomaly, disease, or injury, the reproductive
171 system that at some point produces sperm.

172 (c) The term "sex," when used to classify a natural
173 person in any statute, shall mean the biological indication of
174 male and female at birth, without regard to an individual's



175 "gender identity" or any other terms intended to convey a person's
176 psychological, chosen or subjective experience or sense of self.

177 (d) The term "girl," when used in any statute, shall
178 mean a human female who is a minor.

179 (e) The term "boy," when used in any statute, shall
180 mean a human male who is a minor.

181 (f) The term "woman" when used in any statute, shall
182 mean a human female who is not a minor.

183 (g) The term "man," when used in any statute, shall
184 mean a human male who is not a minor.

185 (h) The term "mother," when used in any statute, shall
186 mean a female parent.

187 (i) The term "father," when used in any statute, shall
188 mean a male parent.

189 **SECTION 11.** Any provision of this act held to be invalid or
190 unenforceable by its terms, or as applied to any person or
191 circumstance, shall be construed so as to give it the maximum
192 effect permitted by law, unless such holding shall be one of utter
193 invalidity or unenforceability, in which event such provision
194 shall be deemed severable under Section 1-3-77 and shall not
195 affect the remainder hereof or the application of such provision
196 to other persons not similarly situated or to other, dissimilar
197 circumstances.



198 **SECTION 12.** Sections 1 through 8 of this act shall be
199 codified as a separate chapter within Title 29, Mississippi Code
200 of 1972.

201 **SECTION 13.** This act shall take effect and be in force from
202 and after its passage.

