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To: Judiciary, Division A

SENATE BILL NO. 2753
(As Sent to Governor)

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

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

27 **SECTION 1.** The following shall be codified as Section
28 29-18-1, Mississippi Code of 1972:



29 29-18-1. This act 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 following shall be codified as Section
33 29-18-3, Mississippi Code of 1972:

34 29-18-3. **Legislative findings; intermediate scrutiny.** The
35 Legislature finds that:

36 (a) Females and males should be provided areas,
37 including restrooms, changing facilities and single-sex
38 educational housing spaces, for their exclusive use, respective to
39 their sex, in order to maintain privacy and safety.

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

49 (c) These findings reflect the intent of the
50 Legislature to fulfill important governmental interests of
51 protecting students' dignity, health, safety, welfare, and privacy
52 rights by enacting this neutral policy which simply treats equally
53 those of the same and opposite biological sex "determined solely



54 by a birth," without regard to the fluidity of how someone acts or
55 feels.

56 **SECTION 3.** The following shall be codified as Section
57 29-18-5, Mississippi Code of 1972:

58 29-18-5. **Chapter definitions.** For purposes of this act, the
59 following terms shall have the meanings ascribed herein:

60 (a) "Changing facility" means a space designated for
61 multiple individuals to dress or undress within the same space,
62 including, but not limited to, a dressing room, locker room,
63 changing room, or shower room. This term does not include a
64 single-sex or family-use changing facility.

65 (b) "Single-sex educational housing space" means a
66 multi-person dwelling unit, such as a room, suite, or apartment,
67 located within a public education building functioning as housing
68 for student residents at an educational institution and designated
69 for use or occupancy only for members of one (1) sex, but excludes
70 common areas designated for use by members of both sexes.

71 (c) "Public education building" means any building,
72 facility or space owned, operated, rented or leased by, or rented
73 or leased to any public school, public university, public
74 community or junior college and the institutions of higher
75 learning.

76 (d) "Restroom" means a space designated for multiple
77 individuals that includes toilets and/or urinals. This term does
78 not include a single-sex or family-use restroom.



79 (e) "Single-sex or family use changing facility" means
80 a room intended for a single occupant or a family in which one or
81 more persons may be in a state of undress, including, but not
82 limited to, a dressing room, locker room, changing room, or shower
83 room that is enclosed by floor-to-ceiling walls and accessed by a
84 full door with a secure lock that prevents another individual from
85 entering while the changing facility is in use.

86 (f) "Single-sex or family-use restroom" means a room
87 that includes a toilet or urinal and that is intended for a single
88 occupant or a family, is enclosed by floor-to-ceiling walls, and
89 is accessed by a full door with a secure lock that prevents
90 another individual from entering while the room is in use.

91 **SECTION 4.** The following shall be codified as Section
92 29-18-7, Mississippi Code of 1972:

93 29-18-7. **Protection of restroom privacy.** Any public
94 education building that maintains a restroom shall, at a minimum,
95 have:

96 (a) A restroom designated for exclusive use by females
97 and a restroom designated for exclusive use by males; or

98 (b) A single-sex or family-use restroom.

99 **SECTION 5.** The following shall be codified as Section
100 29-18-9, Mississippi Code of 1972:

101 29-18-9. **Protection of changing room privacy.** Any public
102 education building that maintains a changing facility must, at a
103 minimum, have:



104 (a) A changing facility designated for exclusive use by
105 females and a changing facility designated for exclusive use by
106 males; or

107 (b) A single-sex or family-use changing facility.

108 **SECTION 6.** The following shall be codified as Section
109 29-18-11, Mississippi Code of 1972:

110 29-18-11. **Protection of single-sex educational housing space**
111 **privacy.** Any student required to reside in housing at an
112 educational institution shall have the right to be housed in a
113 single-sex educational housing space with persons of the same sex.

114 **SECTION 7.** The following shall be codified as Section
115 29-18-13, Mississippi Code of 1972:

116 29-18-13. **Social fraternity and sorority single-sex housing**
117 **facilities on public lands shall comply with state law.** Social
118 fraternities and sororities at educational institutions that have
119 and operate single-sex housing facilities located on public land
120 shall comply with the definitions contained within this act for
121 purposes of maintaining such facilities as single sex only.

122 **SECTION 8.** The following shall be codified as Section
123 29-18-15, Mississippi Code of 1972:

124 29-18-15. **Permissible purposes to enter sex-designated**
125 **restrooms, changing facilities or single-sex educational housing**
126 **spaces.** For purposes of this act, a person may not enter a
127 restroom, changing facility, or single-sex educational housing



128 space, designated for the opposite sex, except under the following
129 circumstances:

130 (a) To assist or chaperon a child under the age of
131 twelve (12), a vulnerable person as defined in Section 43-47-5, or
132 a person with a disability as defined in Section 43-6-203(b), with
133 such child, vulnerable person, or person with a disability also
134 allowed to enter, with a parent, guardian, or caregiver, the
135 restroom or changing room designated for the sex of their parent,
136 guardian, or caregiver;

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

139 (c) For governmental purposes, including employees or
140 contractors of governmental entities acting within the scope of
141 their employment or contract;

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

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

147 (f) If the appropriate designated restroom or changing
148 facility is out of order or under repair and the restroom or
149 changing facility designated for the opposite sex contains no
150 person of the opposite sex; or



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

154 **SECTION 9.** The following shall be codified as Section
155 29-18-17, Mississippi Code of 1972:

156 29-18-17. **Private enforcement.** (1) A person may assert a
157 violation of this act as a claim or defense in a judicial or
158 administrative proceeding.

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

163 (3) Any attorney's fees may be awarded by the court as it
164 deems appropriate.

165 (4) No private cause of action against a public school,
166 state agency, public university, public community college or
167 junior college, or the institutions of higher learning is
168 authorized by this act.

169 **SECTION 10.** The following shall be codified as Section
170 29-18-19, Mississippi Code of 1972:

171 29-18-19. **Attorney General enforcement.** (1) The Attorney
172 General shall bring an action to enforce compliance with this act.

173 (2) This act shall not be construed to deny, impair, or
174 otherwise affect any right or authority of the Attorney General,
175 the State of Mississippi, or any agency, officer, or employee of



176 the state, acting under any law other than this act, to institute
177 or intervene in any proceeding.

178 **SECTION 11.** The following shall be codified as Section
179 1-3-83, Mississippi Code of 1972:

180 1-3-83. **Female, male, sex of natural persons.** (1) "Female"
181 means an individual who naturally has, had, will have, or would
182 have, but for a developmental or genetic anomaly or historical
183 accident, the reproductive system that at some point produces
184 eggs.

185 (2) "Male" means an individual who naturally has, had, will
186 have, or would have, but for a developmental or genetic anomaly or
187 historical accident, the reproductive system that at some point
188 produces sperm.

189 (3) "Sex," when used to classify a natural person, means the
190 biological indication of male and female as observed or clinically
191 verified at birth, without regard to a person's psychological,
192 chosen, or subjective experience, feelings, actions, or sense of
193 self.

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

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

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

199 (c) Persons with "DSD conditions" (sometimes referred
200 to as "differences in sex development", "disorders of sex



201 development", or "intersex conditions") are not members of a third
202 sex.

203 (d) The foregoing definition of "sex," for purposes of
204 state law, neither requires nor precludes the accommodation of
205 persons with a congenital and physically verifiable diagnosis of
206 "DSD condition" (sometimes referred to as "differences in sex
207 development", "disorders of sex development", or "intersex
208 conditions"); however, such accommodation may be required by
209 federal law.

210 **SECTION 12. Severability.** Any provision of this act is held
211 to be invalid or unenforceable by its terms, or as applied to any
212 person or circumstance, shall be construed so as to give it the
213 maximum effect permitted by law, unless such holding shall be one
214 of utter invalidity or unenforceability, in which event such
215 provision shall be deemed severable herefrom and shall not affect
216 the remainder hereof or the application of such provision to other
217 persons not similarly situated or to other, dissimilar
218 circumstances.

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

