

## REPORT OF CONFERENCE COMMITTEE

MR. PRESIDENT AND MR. SPEAKER:

We, the undersigned conferees, have had under consideration the amendments to the following entitled BILL:

S. B. No. 2753: SAFER Act; enact.

We, therefore, respectfully submit the following report and recommendation:

1. That the House recede from its Amendment No. 1.
2. That the Senate and House adopt the following amendment:

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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.** The  
34 Legislature finds that:

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



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

48 (c) These findings reflect the intent of the  
49 Legislature to fulfill important governmental interests of  
50 protecting students' dignity, health, safety, welfare, and privacy  
51 rights by enacting this neutral policy which simply treats equally  
52 those of the same and opposite biological sex "determined solely  
53 by a birth," without regard to the fluidity of how someone acts or  
54 feels.

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

57 29-18-5. **Chapter definitions.** For purposes of this act, the  
58 following terms shall have the meanings ascribed herein:

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



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

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

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

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

85 (f) "Single-sex or family-use restroom" means a room  
86 that includes a toilet or urinal and that is intended for a single  
87 occupant or a family, is enclosed by floor-to-ceiling walls, and



88 is accessed by a full door with a secure lock that prevents  
89 another individual from entering while the room is in use.

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

92 29-18-7. **Protection of restroom privacy.** Any public  
93 education building that maintains a restroom shall, at a minimum,  
94 have:

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

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

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

100 29-18-9. **Protection of changing room privacy.** Any public  
101 education building that maintains a changing facility must, at a  
102 minimum, have:

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

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

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

109 29-18-11. **Protection of single-sex educational housing space**  
110 **privacy.** Any student required to reside in housing at an  
111 educational institution shall have the right to be housed in a  
112 single-sex educational housing space with persons of the same sex.



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

115           29-18-13.   **Social fraternity and sorority single-sex housing**  
116 **facilities on public lands shall comply with state law.** Social  
117 fraternities and sororities at educational institutions that have  
118 and operate single-sex housing facilities located on public land  
119 shall comply with the definitions contained within this act for  
120 purposes of maintaining such facilities as single sex only.

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

123           29-18-15.   **Permissible purposes to enter sex-designated**  
124 **restrooms, changing facilities or single-sex educational housing**  
125 **spaces.** For purposes of this act, a person may not enter a  
126 restroom, changing facility, or single-sex educational housing  
127 space, designated for the opposite sex, except under the following  
128 circumstances:

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

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



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

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

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

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

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

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

155 29-18-17. **Private enforcement.** (1) A person may assert a  
156 violation of this act as a claim or defense in a judicial or  
157 administrative proceeding.

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



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

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

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

170 29-18-19. **Attorney General enforcement.** (1) The Attorney  
171 General shall bring an action to enforce compliance with this act.

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

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

179 1-3-83. **Female, male, sex of natural persons.** (1) "Female"  
180 means an individual who naturally has, had, will have, or would  
181 have, but for a developmental or genetic anomaly or historical  
182 accident, the reproductive system that at some point produces  
183 eggs.

184 (2) "Male" means an individual who naturally has, had, will  
185 have, or would have, but for a developmental or genetic anomaly or



186 historical accident, the reproductive system that at some point  
187 produces sperm.

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

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

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

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

198 (c) Persons with "DSD conditions" (sometimes referred  
199 to as "differences in sex development", "disorders of sex  
200 development", or "intersex conditions") are not members of a third  
201 sex.

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

209 **SECTION 12. Severability.** Any provision of this act is held  
210 to be invalid or unenforceable by its terms, or as applied to any





211 person or circumstance, shall be construed so as to give it the  
212 maximum effect permitted by law, unless such holding shall be one  
213 of utter invalidity or unenforceability, in which event such  
214 provision shall be deemed severable herefrom and shall not affect  
215 the remainder hereof or the application of such provision to other  
216 persons not similarly situated or to other, dissimilar  
217 circumstances.

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

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

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 PURPOSES.



CONFEREES FOR THE SENATE

X (SIGNED)  
Wiggins

X (SIGNED)  
Hopson

X (SIGNED)  
Harkins

CONFEREES FOR THE HOUSE

X (SIGNED)  
Hood

X (SIGNED)  
Yates

X (SIGNED)  
Hurst

