

Stricken language would be deleted from and underlined language would be added to present law.

Act 955 of the Regular Session

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State of Arkansas

As Engrossed: S3/31/25

95th General Assembly

A Bill

Regular Session, 2025

SENATE BILL 486

By: Senator B. Johnson

By: Representative Bentley

For An Act To Be Entitled

AN ACT CONCERNING SAFETY AND PRIVACY IN CERTAIN ENTITIES; CONCERNING THE DESIGNATION OF MULTI-OCCUPANCY RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS IN CERTAIN ENTITIES BASED ON AN INDIVIDUAL'S SEX; AND FOR OTHER PURPOSES.

Subtitle

CONCERNING SAFETY AND PRIVACY IN CERTAIN ENTITIES; AND CONCERNING THE DESIGNATION OF MULTI-OCCUPANCY RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS IN CERTAIN ENTITIES BASED ON AN INDIVIDUAL'S SEX.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Legislative intent.

It is the intent of the General Assembly to:

(1) Clarify and reconcile the meaning of "sex", "male", and "female" in state law; and

(2) Preserve order and dignity in women's restrooms, changing rooms, and sleeping quarters in facilities where women have traditionally been afforded privacy and safety.

SECTION 2. Arkansas Code Title 9, Chapter 6, is amended to add an additional section to read as follows:

9-6-113. Safety and privacy in shelters – Designation of certain rooms based on sex – Definitions.



(a) As used in this section:

- (1) "Changing room" means the same as defined under § 22-3-2201;
- (2) "Female" means the same as defined under § 22-3-2201;
- (3) "Male" means the same as defined under § 22-3-2201;
- (4) "Multi-occupancy" means the same as defined under § 22-3-2201;
- (5) "Restroom" means the same as defined under § 22-3-2201;
- (6) "Sex" means the same as defined under § 22-3-2201; and
- (7) "Sleeping quarter" means the same as defined under § 22-3-2201.

(b) A shelter shall designate each multi-occupancy restroom, changing room, and sleeping quarter for the exclusive use of females or males.

(c)(1) Every restroom, changing room, or sleeping quarter in a shelter that is designated for the exclusive use of females or males shall only be used by a member of the designated sex.

(2) A person shall not enter a restroom or changing room that is designated for the exclusive use of females or males unless he or she is a member of the designated sex.

(3) A shelter shall not require a person to share a sleeping quarter with a member of the opposite sex.

(d) A shelter shall take reasonable steps to provide an individual with privacy in a designated restroom, changing room, and sleeping quarter from use by a member of the opposite sex.

(e) This section shall not apply to a person who enters a restroom, changing room, or sleeping quarter designated for the opposite sex to:

- (1) Perform custodial services or maintenance;
- (2) Render medical assistance;
- (3) Perform duties arising under the course and scope of employment as a law enforcement officer, employee, or contractor;
- (4) Seek protection in a designated shelter area during a threat of an emergency or a natural disaster; or
- (5) Provide aid during a threat of a natural disaster or a serious threat to good order or safety.

(f) This section shall not be construed to prohibit a shelter from:

- (1) Adopting policies necessary to accommodate:
 - (A) Persons protected under the Americans with

Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as it existed on January 1, 2025;

(B) Young children in need of assistance; or

(C) Elderly persons requiring aid;

(2) Establishing a single-occupancy restroom, changing room, or sleeping quarter, or a family restroom, changing room, or sleeping quarter;
or

(3) Redesignating a multi-occupancy restroom, changing room, or sleeping quarter designated for exclusive use by one (1) sex to a designation for exclusive use by the opposite sex.

(g) A person in a restroom or changing room designated for use by his or her sex who encounters a person of the opposite sex has a private cause of action for damages and declaratory and injunctive relief against the shelter in which the restroom or changing room is located if the shelter:

(1) Provided the person of the opposite sex permission to use a restroom or changing room of the opposite sex; or

(2) Failed to take reasonable steps to prohibit the person of the opposite sex from using the restroom or changing room of the opposite sex.

(h) A person required by the shelter to share a sleeping quarter designated for use by his or her sex with a person of the opposite sex has a private cause of action for damages and declaratory and injunctive relief against the shelter.

(i)(1) A civil action brought pursuant to subsection (g) or subsection (h) of this section shall be commenced within two (2) years of the date the cause of action arises.

(2) A person who prevails in an action brought under subsection (g) or subsection (h) of this section may recover reasonable attorney fees and costs from the offending shelter.

SECTION 3. Arkansas Code Title 12, Chapter 28, Subchapter 1, is amended to add an additional section to read as follows:

12-28-110. Safety and privacy in state correctional facilities – Designation of certain rooms based on sex – Definitions.

(a) As used in this section:

(1) "Changing room" means the same as defined under § 22-3-2201;

(2)(A) "Correctional facility" means a state correctional facility that has the power to detain or restrain a person under the laws of the state, including without limitation facilities operated by the Division of Correction or the Division of Community Correction.

(B) "Correctional facility" does not include a temporary municipal holding facility;

(3) "Facility" means a correctional facility or a juvenile detention facility;

(4) "Female" means the same as defined under § 22-3-2201;

(5) "Juvenile detention facility" means any facility for the temporary care of juveniles alleged to be delinquent or adjudicated delinquent and awaiting disposition who require secure custody in a physically restraining facility designed and operated with all entrances and exits under the exclusive control of the facility's staff so that the juvenile may not leave the facility unsupervised or without permission under § 12-41-803;

(6) "Male" means the same as defined under § 22-3-2201;

(7) "Multi-occupancy" means the same as defined under § 22-3-2201;

(8) "Restroom" means the same as defined under § 22-3-2201;

(9) "Sex" means the same as defined under § 22-3-2201; and

(10) "Sleeping quarter" means the same as defined under § 22-3-2201.

(b) A facility shall designate each multi-occupancy restroom, changing room, and sleeping quarter for the exclusive use of females or males.

(c)(1) Every restroom, changing room, or sleeping quarter in a facility that is designated for the exclusive use of females or males shall only be used by a member of the designated sex.

(2) A person shall not enter a restroom or changing room that is designated for the exclusive use of females or males unless he or she is a member of the designated sex.

(3) A facility shall not require a person to share a sleeping quarter with a member of the opposite sex.

(d) A facility shall take reasonable steps to provide an individual with privacy in a designated restroom, changing room, and sleeping quarter from use by a member of the opposite sex.

(e) This section shall not apply to a person who enters a restroom, changing room, or sleeping quarter designated for the opposite sex to:

- (1) Perform custodial services or maintenance;
- (2) Render medical assistance;
- (3) Perform duties arising under the course and scope of employment as a law enforcement officer, employee, or contractor;
- (4) Seek protection in a designated shelter area during a threat of an emergency or a natural disaster;
- (5) Provide aid during a threat of a natural disaster or a serious threat to good order or safety; or
- (6) Address, supervise, or treat athletes that the individual is overseeing as a coach or an athletics personnel member during a reasonable time before an athletic event, during an athletic event, or immediately following an athletic event if:

(A) The coach or the athletics personnel member verifies that no person is in a state of undress at any time while the coach or the athletics personnel member is present; and

(B) An adult other than the coach or the athletics personnel member is also present.

(f) This section shall not be construed to prohibit a facility from:

- (1) Adopting policies necessary to accommodate:
 - (A) Persons protected under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as it existed on January 1, 2025;
 - (B) Young children in need of assistance; or
 - (C) Elderly persons requiring aid;
- (2) Establishing a single-occupancy restroom, changing room, or sleeping quarter, or a family restroom, changing room, or sleeping quarter;
- (3) Redesignating a multi-occupancy restroom, changing room, or sleeping quarter designated for exclusive use by one (1) sex to a designation for exclusive use by the opposite sex; or
- (4) Assigning a transgender or intersex inmate in a housing or programming assignment on a case-by-case basis to ensure the health and safety of the inmate under 28 C.F.R. § 115.42, as it existed on January 1, 2025.

(g) A person in a restroom or changing room designated for use by his

or her sex who encounters a person of the opposite sex has a private cause of action for declaratory and injunctive relief against the facility in which the restroom or changing room is located if the facility:

(1) Provided the person of the opposite sex permission to use a restroom or changing room of the opposite sex; or

(2) Failed to take reasonable steps to prohibit the person of the opposite sex from using the restroom or changing room of the opposite sex.

(h) A person required by the facility to share a sleeping quarter designated for use by his or her sex with a person of the opposite sex has a private cause of action for declaratory and injunctive relief against the facility.

(i)(1) The Arkansas State Claims Commission shall have jurisdiction under § 19-10-201 et seq. over all claims made under subsection (g) or subsection (h) of this section for damages otherwise barred by the doctrine of sovereign immunity.

(2) A claim made under subdivision (i)(1) of this section shall be filed within two (2) years of the date the cause of action arises.

(j)(1) A civil action brought under subsection (g) or subsection (h) of this section shall be commenced within two (2) years of the date the cause of action arises.

(2)(A) A person who substantially prevails in an action brought under subsection (g) or subsection (h) of this section may file a claim with the commission to recover reasonable attorney's fees and other litigation expenses reasonably incurred under § 19-10-204.

(B) A claim for reasonable attorney's fees and other litigation expenses reasonably incurred under subdivision (j)(2)(A) of this section shall be filed with the commission within sixty (60) days of the final disposition of the action.

SECTION 4. Arkansas Code Title 12, Chapter 41, Subchapter 1, is amended to add an additional section to read as follows:

12-41-111. Safety and privacy in local correctional facilities – Designation of certain rooms based on sex – Definitions.

(a) As used in this section:

(1) "Changing room" means the same as defined under § 22-3-2201;

(2)(A) "Correctional facility" means a local correctional facility that has the power to detain or restrain a person under the laws of the state, including without limitation facilities operated by the Division of Correction or the Division of Community Correction.

(B) "Correctional facility" does not include a temporary municipal holding facility;

(3) "Facility" means a correctional facility or a juvenile detention facility;

(4) "Female" means the same as defined under § 22-3-2201;

(5) "Juvenile detention facility" means any facility for the temporary care of juveniles alleged to be delinquent or adjudicated delinquent and awaiting disposition who require secure custody in a physically restraining facility designed and operated with all entrances and exits under the exclusive control of the facility's staff so that the juvenile may not leave the facility unsupervised or without permission under § 12-41-803;

(6) "Male" means the same as defined under § 22-3-2201;

(7) "Multi-occupancy" means the same as defined under § 22-3-2201;

(8) "Restroom" means the same as defined under § 22-3-2201;

(9) "Sex" means the same as defined under § 22-3-2201; and

(10) "Sleeping quarter" means the same as defined under § 22-3-2201.

(b) A facility shall designate each multi-occupancy restroom, changing room, and sleeping quarter for the exclusive use of females or males.

(c)(1) Every restroom, changing room, or sleeping quarter in a facility that is designated for the exclusive use of females or males shall only be used by members of the designated sex.

(2) A person shall not enter a restroom or changing room that is designated for the exclusive use of females or males unless he or she is a member of the designated sex.

(3) A facility shall not require a person to share a sleeping quarter with a member of the opposite sex.

(d) A facility shall take reasonable steps to provide an individual with privacy in a designated restroom, changing room, and sleeping quarter from use by a member of the opposite sex.

(e) This section shall not apply to a person who enters a restroom, changing room, or sleeping quarter designated for the opposite sex to:

- (1) Perform custodial services or maintenance;
- (2) Render medical assistance;
- (3) Perform duties arising under the course and scope of employment as a law enforcement officer, employee, or contractor;
- (4) Seek protection in a designated shelter area during a threat of an emergency or a natural disaster;
- (5) Provide aid during a threat of a natural disaster or a serious threat to good order or safety; or
- (6) Address, supervise, or treat athletes that the individual is overseeing as a coach or an athletics personnel member during a reasonable time before an athletic event, during an athletic event, or immediately following an athletic event if:

(A) The coach or the athletics personnel member verifies that no person is in a state of undress at any time while the coach or the athletics personnel member is present; and

(B) An adult other than the coach or the athletics personnel member is also present.

(f) This section shall not be construed to prohibit a facility from:

- (1) Adopting policies necessary to accommodate:
 - (A) Persons protected under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as it existed on January 1, 2025;
 - (B) Young children in need of assistance; or
 - (C) Elderly persons requiring aid;
- (2) Establishing a single-occupancy restroom, changing room, or sleeping quarter, or a family restroom, changing room, or sleeping quarter;
- (3) Redesignating a multi-occupancy restroom, changing room, or sleeping quarter designated for exclusive use by one (1) sex to a designation for exclusive use by the opposite sex; or
- (4) Assigning a transgender or intersex inmate in a housing or programming assignment on a case-by-case basis to ensure the health and safety of the inmate under 28 C.F.R. § 115.42, as it existed on January 1, 2025.

(g) A person in a restroom or changing room designated for use by his

or her sex who encounters a person of the opposite sex has a private cause of action for damages and declaratory and injunctive relief against the facility in which the restroom or changing room is located if the facility:

(1) Provided the person of the opposite sex permission to use a restroom or changing room of the opposite sex; or

(2) Failed to take reasonable steps to prohibit the person of the opposite sex from using the restroom or changing room of the opposite sex.

(h) A person required by the facility to share a sleeping quarter designated for use by his or her sex with a person of the opposite sex has a private cause of action for damages and declaratory and injunctive relief against the facility.

(i)(1) A civil action brought pursuant to subsection (g) or subsection (h) of this section shall be commenced within two (2) years of the date the cause of action arises.

(2) A person who prevails in a civil action brought under subsection (g) or subsection (h) of this section may recover reasonable attorney fees and costs from the offending facility.

SECTION 5. Arkansas Code Title 22, Chapter 3, is amended to add an additional subchapter to read as follows:

Subchapter 22 – Safety and Privacy in Public Buildings

22-3-2201. Definitions.

As used in this subchapter:

(1) "Changing room" means a room or area in which a person may be in a state of undress in the presence of others, including without limitation a locker room or a shower room;

(2) "Female" means an individual who naturally has, had, will have, or would have but for a congenital anomaly or intentional or unintentional disruption the reproductive system that at some point produces, transports, and utilizes eggs for fertilization;

(3) "Governmental entity" means every department, division, office, board, commission, institution, and political subdivision of this state;

(4) "Male" means an individual who naturally has, had, will

have, or would have but for a congenital anomaly or intentional or unintentional disruption the reproductive system that at some point produces, transports, and utilizes sperm for fertilization;

(5) "Multi-occupancy" means a space designed for use by multiple persons simultaneously;

(6) "Public building" means a building or related facility occupied by a governmental entity;

(7) "Restroom" means a room that includes one or more toilets or urinals;

(8) "Sex" means an individual's biological sex, either male or female; and

(9) "Sleeping quarter" means a room with a bed in which more than one (1) individual is housed overnight.

22-3-2202. Safety and Privacy in Public Buildings – Designation of certain rooms based on sex.

(a) A governmental entity occupying a public building shall designate each multi-occupancy restroom, changing room, and sleeping quarter for the exclusive use of females or males.

(b)(1) Every restroom, changing room, or sleeping quarter in a public building that is designated for the exclusive use of females or males shall only be used by a member of the designated sex.

(2) A person shall not enter a restroom or changing room that is designated for the exclusive use of females or males unless he or she is a member of the designated sex.

(3) A governmental entity occupying a public building shall not require a person to share a sleeping quarter with a member of the opposite sex.

(c) A governmental entity occupying a public building shall take reasonable steps to provide an individual with privacy in a designated restroom, changing room, and sleeping quarter from members of the opposite sex.

(d) This section shall not apply to a person who enters a restroom, changing room, or sleeping quarter designated for the opposite sex to:

(1) Perform custodial services or maintenance;

(2) Render medical assistance;

(3) Perform duties arising under the course and scope of employment as a law enforcement officer, employee, or contractor;

(4) Seek protection in a designated shelter area during a threat of an emergency or a natural disaster;

(5) Provide aid during a threat of a natural disaster or a serious threat to good order or safety; or

(6) Address, supervise, or treat athletes that the individual is overseeing as a coach or an athletics personnel member during a reasonable time before an athletic event, during an athletic event, or immediately following an athletic event if:

(A) The coach or the athletics personnel member verifies that no person is in a state of undress at any time while the coach or the athletics personnel member is present; and

(B) An adult other than the coach or the athletics personnel member is also present.

(e) This section shall not be construed to prohibit a governmental entity occupying a public building from:

(1) Adopting policies necessary to accommodate:

(A) Persons protected under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101 et seq., as it existed on January 1, 2025;

(B) Young children in need of assistance; or

(C) Elderly persons requiring aid;

(2) Establishing a single-occupancy restroom, a changing room, or sleeping quarter, or a family restroom, changing room, or sleeping quarter; or

(3) Redesignating a multi-occupancy restroom, changing room, or sleeping quarter designated for exclusive use by one (1) sex to a designation for exclusive use by the opposite sex.

22-3-2203. Remedies.

(a) A person in a restroom or changing room designated for use by his or her sex who encounters a person of the opposite sex has a private cause of action for damages, if the governmental entity is a political subdivision of the state and declaratory and injunctive relief against the governmental entity occupying a public building in which the restroom or changing room is

located if the governmental entity:

(1) Provided the person of the opposite sex permission to use a restroom or changing room of the opposite sex; or

(2) Failed to take reasonable steps to prohibit the person of the opposite sex from using the restroom or changing room of the opposite sex.

(b) A person required by the governmental entity occupying a public building to share a sleeping quarter designated for use by his or her sex with a person of the opposite sex has a private cause of action for damages, if the governmental entity is a political subdivision of the state and declaratory and injunctive relief against the governmental entity occupying a public building.

(c)(1) The Arkansas State Claims Commission shall have jurisdiction under § 19-10-201 et seq. over all claims made under subsection (a) or subsection (b) of this section for damages otherwise barred by the doctrine of sovereign immunity.

(2) A claim made under subdivision (c)(1) of this section shall be filed within two (2) years of the date the cause of action arises.

(d)(1) A civil action brought under subsection (a) or subsection (b) of this section shall be commenced within two (2) years of the date the cause of action arises.

(2)(A) A person who substantially prevails in an action brought under subsection (a) or subsection (b) of this section may file a claim with the commission to recover reasonable attorney's fees and other litigation expenses reasonably incurred under § 19-10-204.

(B) A claim for reasonable attorney's fees and other litigation expenses reasonably incurred under subdivision (d)(2)(A) of this section shall be filed with the commission within sixty (60) days of the final disposition of the action.

SECTION 6. DO NOT CODIFY. SEVERABILITY. If any provision of this act or the application of this act to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are declared severable.

/s/B. Johnson

APPROVED: 4/21/25