

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

State of Arkansas
93rd General Assembly
Regular Session, 2021

A Bill

HOUSE BILL 1882

By: Representatives Crawford, B. Smith, Bentley

By: Senator G. Stubblefield

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS PRIVACY ACCOMMODATIONS ACT; TO AMEND THE LAW CONCERNING PUBLIC PROPERTY; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS PRIVACY ACCOMMODATIONS ACT; AND TO AMEND THE LAW CONCERNING PUBLIC PROPERTY.

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

SECTION 1. Arkansas Code Title 22, Chapter 3, is amended to add an additional subchapter to read as follows:

Subchapter 21 – Arkansas Privacy Accommodations Act

22-3-2101. Title.

This subchapter shall be known and may be cited as the "Arkansas Privacy Accommodations Act".

22-3-2102. Definitions.

As used in this subchapter:

(1)(A) "Changing facility" means a facility in which a person may be in a state of undress in the presence of others.

(B) "Changing facility" includes without limitation a:

(i) Locker room;

(ii) Changing room; and



(iii) Shower room;

(2) "Government building" means a building or structure, or the specific area of a building or structure, that is owned, leased, or otherwise under the control of a government entity;

(3) "Government entity" means a:

(A) State agency;

(B) Political subdivision of the state;

(C) Public primary or secondary school; and

(D) Public institution of higher education;

(4) "Restroom" means a facility that includes one (1) or more toilets or urinals; and

(5)(A) "Sex" means a person's immutable biological sex as objectively determined by anatomy and genetics existing at the time of birth.

(B) Evidence of a person's biological sex includes without limitation any government-issued identification document that accurately reflects a person's sex.

22-3-2103. Government entity to provide reasonable accommodation.

(a) A government entity shall provide a reasonable accommodation to a person who:

(1) For any reason, is unwilling or unable to use a multi-occupancy restroom or changing facility that is:

(A) Designated for the person's sex; and

(B) Located within a government building; and

(2) Submits a written request to the government entity that the government entity provide a reasonable accommodation.

(b)(1) A reasonable accommodation may include, without limitation:

(A) Access to a single-occupancy restroom or changing facility; or

(B) Controlled use of an employee restroom or changing facility.

(2) A reasonable accommodation does not include access to a restroom or changing facility that is designated for use by members of the opposite sex while persons of the opposite sex are present or could be present.

(c) This section does not prohibit a government entity from adopting

policies necessary to accommodate persons protected under the Americans with Disabilities Act of 1990, Pub. L. No. 101-336, or young children in need of physical assistance when using a restroom or changing facility located in a government building.

22-3-2104. Private cause of action – Penalties.

(a) A person whose written request for a reasonable accommodation is denied by a government entity has a private cause of action against the government entity unless the government entity can demonstrate that the reasonable accommodation would cause an undue hardship.

(b) A person has a private cause of action against a government entity if the person:

(1) Encounters a member of the opposite sex in a multi-occupancy restroom or changing facility that:

(A) Is designated for the person’s sex;

(B) Is located in a government building; and

(C) The government entity gave the member of the opposite sex permission to use the multi-occupancy restroom or changing facility; or

(2)(A) Is required by the government entity to share sleeping quarters with a member of the opposite sex, and the government entity gave the member of the opposite sex permission to use the sleeping quarters.

(B) Subdivision (b)(2)(A) of this section does not apply if the persons sharing sleeping quarters are members of the same family.

(c)(1) A claim arising under this section shall be brought in the state or federal trial court in whose jurisdiction either the person or the government entity resides at the time of filing; or

(2) A claim arising against the State of Arkansas under this section shall be filed with the Arkansas State Claims Commission under § 19-10-208.

(d) All civil actions brought under this section shall be initiated within two (2) years after the violation occurred.

(e) A person aggrieved under this section who prevails in court or in the Arkansas Claims Commission may recover monetary damages for all psychological, emotional, and physical harm suffered.

(f) A person who prevails on a claim brought under this section is entitled to recover reasonable attorney’s fees and costs.

(g) This section does not limit other remedies at law or equity available to the aggrieved person against the government entity that controls the government building.