SENATE BILL 468

By Bowling

AN ACT to amend Tennessee Code Annotated, Title 4; Title 37; Title 41; Title 49 and Title 68, relative to public safety.

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

SECTION 1. Tennessee Code Annotated, Title 68, is amended by adding the following as a new chapter:

68-107-101. Short title.

This act is known and may be cited as the "Women's Safety and Protection Act."

68-107-102. Purpose.

The purpose of this chapter is:

(1) To clarify and reconcile the meaning of sex, male, female, and related terms in state law; and

(2) To provide protections for women and girls against sexual assault, harassment, and violence in correctional facilities, juvenile detention facilities, domestic violence shelters, dormitories, and restrooms, or where women have been traditionally afforded safety and protection from acts of abuse committed by biological men.

68-107-103. Findings.

The legislature finds and declares that:

(1) "Physical differences between men and women, however, are enduring: '[T]he two sexes are not fungible; a community made up exclusively of one [sex] is different from a community composed of both.'" *United States v.*

Virginia, 518 U.S. 515, 533 (1996), citing *Ballard v. United States*, 329 U.S. 187, 193 (1946);

(2) The United States Supreme Court has recognized that there are "'[i]nherent differences' between men and women", and that these differences "remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity" in *United States v. Virginia*, 518 U.S. 515, 533 (1996);

(3) The equal protection clause of the Fourteenth Amendment of the Constitution of the United States of America allows for legislatures to enact facially neutral laws of general applicability, such as biologically based definitions of sex;

(4) Biologically based definitions of sex have been consistently applied since our nation's founding; and

(5) Decades of opinions from the supreme court of the United States have upheld the argument that biological distinctions between male and female are a matter of scientific fact, and biological sex is an objectively defined category that has obvious, immutable, and distinguishable characteristics.

68-107-104. Chapter definitions.

As used in this chapter:

(1) "Boy" means a human male who is a minor;

(2) "Changing room" means a room or area in which a person may be in a state of undress in the presence of others, including a locker room or shower room;

(3) "Correctional facility" means a correctional facility owned and operated by the state or the housing of prisoners committed to the custody of the department of correction;

(4) "Domestic violence shelter" means a community-based shelter for victims of domestic violence;

(5) "Father" means a parent who is of the male sex;

(6) "Female" means an individual whose biological reproductive system is developed to produce ova; who has, had, will have, or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports, and utilizes eggs for fertilization;

(7) "Girl" means a human female who is a minor;

(8) "Juvenile detention facility" means a facility that is formally recognized as a juvenile detention facility by the state agency responsible for monitoring, review, or certification of juvenile detention facilities that house juvenile offenders;

(9) "Male" means an individual whose biological reproductive system is developed to fertilize the ova of a female who has, had, will have, or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports, and utilizes sperm for fertilization;

(10) "Man" means a human male who has reached the age of majority;

(11) "Mother" means a parent who is a member of the female sex;

(12) "Public school" means a school that is created pursuant to § 49-1-101;

(13) "Restroom" means a room that includes one (1) or more toilets or urinals;

(14) "Sex":

(A) Means an individual's biological sex, either male or female, as observed or clinically verified at birth; and

(B) Does not include gender identity and other subjective terms, which do not apply to this chapter and must not be used as synonyms or substitutes for sex;

(15) "Sleeping quarters" means a room with more than one (1) bed and in which more than one (1) individual is housed overnight; and

(16) "Woman" means a human female who has reached the age of majority.

68-107-105. Application of definitions — Distinctions between the sexes.

Notwithstanding another law to the contrary, any law enacted by the legislature, or any rule adopted by a state agency or other entity subject to the Uniform Administrative Procedures Act, compiled in title 4, chapter 5, when applicable to an individual's sex must be interpreted using the definitions provided in this chapter.

68-107-106. Safety and privacy of women and girls in facilities designated for biological females.

Notwithstanding another law to the contrary, a governmental agency shall not prohibit distinctions between the sexes with respect to athletics, correctional facilities, juvenile detention facilities, domestic violence shelters, or other accommodations where biology, safety, or privacy is implied and that result in separate accommodations that are substantially related to the important government interest of protecting the health, safety, and privacy of individuals in such circumstances. This chapter does not prohibit a

domestic violence shelter, public school, correctional facility, or juvenile detention facility from:

(1) Establishing single-occupancy restrooms, changing rooms, or sleeping quarters that are not designated by sex; or

(2) Redesignating a multi-occupancy restroom or sleeping quarters for the exclusive use of another group authorized under this chapter as needed.

68-107-107. Safety and privacy in domestic violence shelters.

(a) A domestic violence shelter shall designate each multi-occupancy restroom, changing room, and sleeping quarters for the exclusive use of any one (1) of the following:

(1) Females;

(2) Males; or

(3) Members of the same family.

(b) A restroom, changing room, or sleeping quarters within a domestic violence shelter that is designated for females or males must be used only by members of that sex. An individual shall not enter a restroom, changing room, or sleeping quarters that is designated for females or males unless the individual is a member of that sex.

(c) The domestic violence shelter shall take reasonable steps to provide individuals with privacy in restrooms, changing rooms, and sleeping quarters from members of the opposite sex.

(d) This section does not apply to an individual who enters a restroom, changing room, or sleeping quarters designated for the opposite sex in the following circumstances:

(1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that is normally used by the opposite sex;

(2) To render medical assistance;

(3) To render assistance by law enforcement; or

(4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

(e) This section does not prohibit a domestic violence shelter from adopting policies necessary to accommodate persons protected under the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) or young children in need of physical assistance when using restrooms, changing facilities, or sleeping quarters.

68-107-108. Safety and privacy in restrooms of public schools.

(a) A public school shall designate each multi-occupancy restroom or changing room for the exclusive use of either females, males, or members of the same family.

(b)

(1) A restroom or changing room within a public school that is designated for males or females must be used only by members of that same sex. An individual shall not enter a restroom or changing room that is designated for one (1) sex unless the individual is a member of that sex.

(2) The public school shall take reasonable steps to provide individuals with privacy in restrooms and changing rooms from members of the opposite sex.

(c) During a public school-authorized activity or event where students share sleeping quarters, a student shall not share sleeping quarters with a member of the opposite sex, unless such persons are members of the same family, such as a parent, legal guardian, sibling, or grandparent, and the student has received approval from the parent or legal guardian to do so.

(d) In any other public school facility or setting where a person may be in a state of undress in the presence of others, school personnel shall provide separate, private areas designated for use by persons based on the person's sex, and a person shall not enter these private areas unless the person is a member of the designated sex.

(e) This section does not apply to an individual who enters a restroom, changing room, or sleeping quarters designated for the opposite sex in the following circumstances:

(1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that is normally used by the opposite sex;

(2) To render medical assistance;

(3) To render assistance by law enforcement; or

(4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

(f) This section does not prohibit a public school from adopting policies necessary to accommodate persons protected under the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.); title 49, chapter 2, part 8; or adoption of policies necessary to accommodate young children in need of physical assistance when using restrooms, changing facilities, or sleeping quarters.

68-107-109. Safety and privacy in correctional facilities and juvenile detention facilities.

(a) A correctional facility or juvenile detention facility shall designate each multi-occupancy restroom, changing room, and sleeping quarters for the exclusive use of either females, males, or members of the same family.

(b)

(1) A restroom, changing room, or sleeping quarters within a correctional facility or juvenile detention facility that is designated for females or males must be used only by members of that sex. An individual shall not enter a restroom, changing room, or sleeping quarters that is designated for females or males unless the individual is a member of that sex.

(2) A correctional facility or juvenile detention facility shall take reasonable steps to provide individuals with privacy in restrooms, changing rooms, and sleeping quarters from members of the opposite sex.

(c) This section does not apply to an individual who enters a restroom, changing room, or sleeping quarters designated for the opposite sex in the following circumstances:

(1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that is normally used by the opposite sex;

(2) To render medical assistance;

(3) To render assistance by law enforcement; or

(4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

(d) This section does not prohibit a correctional facility or juvenile detention facility from adopting policies necessary to accommodate persons protected under the federal Americans with Disabilities Act (42 U.S.C. § 12101 et seq.) or young children in need of physical assistance when using restrooms, changing facilities, or sleeping quarters.

68-107-110. Standard of review.

A law that distinguishes between the sexes in furtherance of this chapter is subject to intermediate scrutiny, which forbids discrimination against similarly situated individuals, but allows the law to distinguish between the sexes when there is an important governmental interest.

68-107-111. Remedies, rebuttable presumption, cause of action.

(a) An individual who suffers, or is likely to suffer, from direct or indirect harm as a result of a violation of this chapter may assert that violation as a cause of action for remedies provided for in subsection (e).

(b) A person who contracts with an agency of government to provide services for biological females at a domestic violence shelter, juvenile detention facility, correctional facility, or public school that is operated at the direction of, and receives funding from, the state, a local government, or a political subdivision has a cause of action against the agency of the public servant who directed the contractor to violate this chapter.

(c) A person who is subjected to retaliation or other adverse action by asserting rights that are affirmed by this chapter has a cause of action for remedies provided for in subsection (e).

(d) It is a rebuttable presumption that requiring an individual to be housed with members of the opposite sex at a domestic violence shelter, juvenile detention facility, correctional facility, or public school that is subject to this chapter is inherently discriminatory and is a cognizable harm to biological women under this chapter.

(e) A person who brings a cause of action pursuant to this chapter may obtain appropriate relief, including, but not limited to:

(1) Injunctive relief, a protective order, a writ of mandamus or a prohibition, or declaratory relief to prevent a violation of this chapter; or

(2) Actual damages, reasonable attorney fees, and costs.

(f) The court may waive the requirement that the petitioner post bond for good cause shown.

(g) A civil action under this chapter must be initiated within two (2) years from the date that the harm occurred.

SECTION 2. If any provision of this act, or its application to any person or circumstance is held invalid, then the invalidity does not affect other provisions or applications of this act that can be given effect without the invalid provision or application, and to that end, the provisions of this act are severable.

SECTION 3. The headings in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 4. This act takes effect July 1, 2025, the public welfare requiring it.