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117TH CONGRESS
2D SESSION

S. 3481

To secure the dignity and safety of incarcerated women.

IN THE SENATE OF THE UNITED STATES

JANUARY 12 (legislative day, JANUARY 10), 2022

Mr. COTTON introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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A BILL

To secure the dignity and safety of incarcerated women.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preventing Violence Against Female Inmates Act of 2022''.

SEC. 2. HOUSING PRISONERS BASED ON SEX.

(a) FEDERAL PRISONS.—

(1) IN GENERAL.—Chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"§ 4051. Bar on housing together prisoners of different sexes

''(a) DEFINITIONS.—In this section:

''(1) BIOLOGICAL SEX.—The term 'biological sex' means the biological classification of male and female in the context of reproductive potential or capacity, as indicated by sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to a person's psychological, chosen, or subjectively experienced sense of identity or gender.

''(2) GENDER IDENTITY.—The term 'gender identity' means a person's self-perceived identity, self-concept, or asserted gender, regardless of the person's biological sex.

''(b) BAR.—The Bureau of Prisons—

''(1) shall use the biological sex of persons charged with or convicted of offenses against the United States in making determinations regarding housing such persons; and

''(2) shall not co-locate in detention facilities persons charged with or convicted of offenses against the United States if those persons are not of the same biological sex, unless the Bureau of Prisons co-locates such persons without regard to their purported gender identity.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 303 of title 18, United States Code, is amended by adding at the end the following:

"4051. Bar on housing together prisoners of different sexes.".

(b) STATE PRISONS.—Section 501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (34 U.S.C. 10152) is amended by adding at the end the following:

"(h) BAR ON HOUSING TOGETHER PRISONERS OF DIFFERENT SEXES.—

"(1) DEFINITIONS.—In this subsection, the terms 'biological sex' and 'gender identity' have the meanings given such terms in section 4051 of title 18, United States Code.

"(2) LIMITATION ON ELIGIBILITY FOR FUNDS.—Beginning in the first fiscal year beginning after the date of enactment of this subsection, a State may not receive funds under this subpart for a fiscal year if the State does not submit to the Attorney General a certification that the State—

"(A) prohibits co-locating in detention facilities persons charged with or convicted of offenses under the law of the State if those persons are not of the same biological sex, unless

the State co-locates such persons without regard to their purported gender identity; and

''(B) requires the use of the biological sex of persons charged with or convicted of offenses under the law of the State in making determinations regarding housing such persons.''.

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