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MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual; and MISSOULA COUNTY, Plaintiffs, vs. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Cause No. DV 25-282 Hon. Leslie Halligan **BRIEF IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

(Continued from previous page)

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INTRODUCTION

House Bill 121 ("HB 121" or "the Act") is the latest iteration of the State's relentless assault on transgender and intersex Montanans. It denies transgender people what other Montanans take for granted: the right to use restrooms, changing rooms, and sleeping quarters in public spaces that align with their gender identity. And its restrictive definitions of "sex" make it unclear whether intersex people can use these essential facilities at all.

This Court correctly concluded at the preliminary injunction stage that the Montana Constitution does not countenance this discrimination. Based on a full evidentiary record, it should now grant summary judgment to Plaintiffs—five transgender and intersex Montanans targeted by HB 121 ("individual Plaintiffs") and Missoula County, which operates many facilities impacted by the Act.

First, HB 121 violates the individual Plaintiffs' fundamental right to equal protection. It discriminates based on transgender and intersex status (and, by extension, sex) because it singles out transgender and intersex people for disfavored treatment. Transgender status and sex are suspect classifications triggering heightened scrutiny, which HB 121 cannot survive.

Second, HB 121 violates the individual Plaintiffs' fundamental right to privacy. Because it forces transgender men to use women's facilities and transgender women to use men's facilities, HB 121 will out some Plaintiffs as transgender or

intersex every time they enter a restroom, exposing them to harassment, abuse, and violence. Further, by conditioning access to covered facilities on a person's "gonads" and "genitalia" and authorizing private lawsuits whenever a person is perceived to be using the "wrong" facility, HB 121 makes that person's anatomy, genetics, and medical history a central issue in ensuing court proceedings. Those proceedings, by Defendants' own description, would be profoundly invasive: to determine a person's "sex," Defendants prescribe biopsies, ultrasounds, and blood tests "to find out what gametes they have."

Third, HB 121 violates the individual Plaintiffs' fundamental right to pursue life's basic necessities. Access to restrooms and other sex-separated facilities corresponding to one's gender identity is a necessity, as is the opportunity to pursue employment and education. But HB 121 denies that access to transgender and intersex Montanans, making it difficult, if not impossible, for them to work in public buildings, attend public schools, and otherwise engage in public life.

Fourth, HB 121 violates due process. It is unconstitutionally vague as to regulated entities like Plaintiff Missoula County because it gives them no notice of how to comply with the law while subjecting them to onerous private lawsuits for alleged non-compliance. The Act is also unconstitutionally vague as to intersex people like Plaintiff John Doe because its definitions of "female" and "male"

exclude intersex people entirely, leaving them unable to discern whether they can use any covered facilities.

Discovery has now confirmed that HB 121 is unconstitutional in all these respects. The undisputed facts establish that HB 121 denies transgender and intersex Montanans equal access to essential facilities and compels the disclosure of their deeply private information—without any evidence to suggest that allowing them to use facilities corresponding with their gender identity causes harm. The State also admits that it does not know what regulated entities or intersex people must do to comply with HB 121. And the evidence is unambiguous that instead of advancing women's safety and privacy, HB 121 will only make all Montanans less safe.

Accordingly, Plaintiffs are entitled to summary judgment on all their claims.

BACKGROUND

I. Undisputed Material Facts

A. Gender Identity, Gender Dysphoria, and Intersex Identity

A person's gender identity is their deeply felt, internal sense of belonging to a particular gender, which can differ from the sex they were assigned at birth. *Cross by & through Cross v. State*, 2024 MT 303, ¶ 5, 419 Mont. 290, 560 P.3d 637; Pls.' Statement of Undisputed Facts ("SUF") ¶ 1. Transgender people have a gender identity that does not correspond to their birth-assigned sex, and cisgender people have a gender identity that aligns with their birth-assigned sex. SUF ¶ 2.

The incongruence between a person's gender identity and their birth-assigned sex can cause clinically significant distress or impairment of functioning known as gender dysphoria. *Cross*, ¶ 5; SUF ¶ 4. Gender dysphoria is a serious medical condition that is associated with intense and persistent pain and discomfort from the incongruity between a person's gender identity and their assigned sex. SUF ¶ 4. "[U]ntreated gender dysphoria can lead to significant lifelong distress," including "clinically significant anxiety and depression" and "an increased risk of suicidality." *Cross*, ¶ 7; SUF ¶ 5. Treating gender dysphoria involves bringing a patient's body and gender expression into alignment with their gender identity. SUF ¶ 6. A key aspect of this treatment is "social transition," a process through which transgender people live and become socially recognized in accordance with their gender identity. SUF ¶¶ 7–8. Social transition includes dressing and using names, restrooms, and other sex-separated facilities consistent with a person's gender identity. SUF ¶ 7.

Intersex people are born with reproductive anatomy or other sex traits that do not uniformly correspond with the traits typically relied upon to deem an individual "female" or "male." SUF ¶ 9. Being intersex is a naturally occurring variation in humans and usually does not require any medical treatment. SUF ¶ 10. Although doctors may assign intersex babies a legal sex of "female" or "male," that individual's gender identity may not align with their birth-assigned sex. SUF ¶ 11.

B. House Bill 121

Governor Gianforte signed HB 121 into law on March 27, 2025. HB 121, 2025 Leg., 69th Sess. (Mont. 2025). HB 121 bans transgender and intersex people from using restrooms and other sex-separated facilities corresponding to their gender identity in public spaces across Montana. It requires "covered entities" to "designate each multi-occupancy restroom, changing room, or sleeping quarters for the exclusive use of females or males." HB 121, § 3(1). Those facilities "may be used only by members of that sex." *Id.* § 3(2). "Female" and "male" are defined based on sex traits "present at birth," and are proclaimed to be the only two sexes. *Id.* §§ 2(12), 3(2). These definitions expressly disregard "an individual's psychological, behavioral, social, chosen, or subjective experience of gender." *Id.* § 2(12). They also exclude intersex people, who are born with sex traits that are not uniformly "female" or "male." SUF ¶¶ 9, 12.

The Act's restrictions apply to a sweeping range of public spaces, including schools, offices, libraries, courthouses, state parks, correctional facilities, and private nonprofit domestic violence shelters. HB 121, § 2(3), (9), (10).

For regulated entities, the consequences of alleged non-compliance with HB 121 are drastic. The Act creates a "private cause of action" against a covered entity for any "individual who, while accessing a restroom or changing room designated for use by the individual's sex, encounters another individual of the opposite sex,"

or "who is required by a covered entity to share sleeping quarters with an individual of the opposite sex." *Id.* § 4(1)–(2). Thus, a regulated entity could be sued anytime a person sees someone they perceive to be the "wrong sex" in a restroom, changing room, or sleeping quarters operated by the entity.

The Legislature claims the Act protects women "from acts of abuse, harassment, sexual assault, and violence committed by men." *Id*. § 1(2). But after full discovery, Defendants have produced *no* evidence that denying transgender and intersex people equal access to covered facilities will do anything to protect women: no evidence that safety- or privacy-related offenses have been a problem in Montana facilities, no evidence that transgender or intersex people have ever committed such offenses in Montana, and no evidence that the Act's restrictions will protect women from such offenses. SUF ¶¶ 104–14.

Instead, the undisputed evidence shows that HB 121 was motivated by bare animus against transgender people. Representative Kerri Seekins-Crowe, the bill's primary sponsor, described HB 121 as a "Bill to Protect Montana's Women from Perverted Men who want to Invade Women's Private Spaces," SUF ¶ 37, casting transgender women as "perverts." Representative Seekins-Crowe admits that HB 121 was crafted to target the transgender community. In carrying the bill, she relied upon a book titled "EXPOSING THE GENDER LIE: How to Protect Children and Teens from the Transgender Industry's False Ideology." SUF ¶ 38. What the book

calls "False Ideology" and "the denial of objective reality" is simply the acceptance of transgender identities. SUF ¶ 38. And Representative Seekins-Crowe decried the "social," "political and medical institutions that are pushing the transgender ideology," which, she believes, include "the Montana courts." SUF ¶ 39.

A floor sponsor of HB 121, Senator John Fuller, insinuated that transgender identities are delusions. He said the Act's "definition of biological sex" is about "recognizing reality" and "reality does not pay any attention to wishes and likes and dislikes." SUF ¶ 41. Lieutenant Governor Kristen Juras similarly asserted in a House Judiciary committee hearing that "[a]cknowledging biological realities should not be complicated or controversial," touting HB 121 as part of the Legislature and Governor's "shared record of defending Montanans from the far left's ideological crusade." SUF ¶¶ 40, 43.

Notably, Lieutenant Governor Juras explicitly tied HB 121 to other bills targeting the transgender community that the Gianforte administration had supported in previous sessions, each of which has been found by Montana courts to be unconstitutional or likely unconstitutional. SUF ¶¶ 42–43; *see, e.g.*, *Edwards v. State*, Cause No. DV-23-1026, Ord. on Cross Mots. for Summ. J., Doc. 54 at 2 (Mont. Dist. Ct. Feb. 18, 2025) (law imposing restrictive definitions of "sex," "male," and "female"); *Barrett v. State*, 2024 MT 86, ¶ 50, 416 Mont. 226, 547 P.3d

630 (law restricting transgender women from competing in women's sports); *Cross*, ¶ 57 (law banning gender-affirming care for transgender youth).[1]

C. Plaintiffs

The individual Plaintiffs are five Montanans: Casey Perkins, Spencer McDonald, Kasandra Reddington, and Jane Doe are transgender, and John Doe is intersex. SUF ¶¶ 62–63. Like other Montanans, the individual Plaintiffs rely on spaces regulated by HB 121 for work, education, recreation, and myriad other activities. SUF ¶ 65. They have testified in detail about the significant harms they would suffer if the Act were enforced. *See, e.g.*, SUF ¶¶ 66–67.

For the individual Plaintiffs, the Act would make activities as routine as using the restroom fraught and humiliating. It would "out" the transgender Plaintiffs as transgender every time they use a covered restroom: the Act requires Mr. McDonald, like other transgender men, to use women's restrooms, even though other people are likely to perceive him as a man; and it requires Ms. Perkins, like other transgender women, to use men's restrooms, even though other people are likely to perceive her as a woman. SUF ¶ 66. Being outed, in turn, would expose Plaintiffs to harassment, abuse, and violence. SUF ¶ 66. And Mr. Doe, who was born with "female" XX

[1] Just last week, the State enacted SB 437, which re-imposed substantially the same definitions that this Court held unconstitutional in *Edwards*. SB 437 continues to proclaim that "every individual is either male or female" and "in no case is an individual's sex determined by . . . self-identification." SB 437, 2025 Leg., 69th Sess. (Mont. 2025).

chromosomes but phenotypically expresses as male, does not even know whether he can use *any* covered facilities because the Act's definitions exclude intersex people altogether. SUF ¶¶ 66, 98–100. In short, the Act would make it difficult, dangerous, and humiliating for the individual Plaintiffs to simply exist in public.

The other Plaintiff is Missoula County, which operates 115 public buildings that are "covered entities" regulated by HB 121. SUF ¶ 64. The County can be sued under HB 121, § 4 whenever a person believes someone is using the "wrong" restroom in one of these 115 buildings. The Act thus imposes on the County significant compliance and litigation costs, as well as potentially onerous liability for perceived non-compliance. SUF ¶¶ 89–92.

II. Procedural Background

The individual Plaintiffs filed this lawsuit on March 27, 2025, alleging that HB 121 violates their rights under the Montana Constitution to equal protection, privacy, life's basic necessities, and due process. Compl. for Declaratory and Inj. Relief, Doc. 1. At the same time, they moved for emergency injunctive relief. Pls.' Mot. for TRO and Prelim. Inj., Doc. 7.

Judge Vannatta, to whom this case was originally assigned, issued a temporary restraining order on April 2, 2025, Doc. 11, followed by a preliminary injunction on May 16, Op. and Ord. Granting Pls.' Mot. for Prelim. Inj., Doc. 25 ("PI Op."). In a detailed decision, the Court concluded that Plaintiffs were likely to succeed on the

merits of at least their equal protection and privacy claims. PI Op. at 17–46. The State appealed the preliminary injunction order. Not. of App., Doc. 34. That appeal is pending.

On June 3, 2025, the Court granted Representative Seekins-Crowe's motion to intervene as a Defendant pursuant to § 5-2-107, MCA. Doc. 31. Representative Seekins-Crowe has testified that her interests in this litigation do not differ from the State's interests. SUF ¶ 102.

On July 31, 2025, Plaintiffs filed an amended complaint adding Missoula County as a Plaintiff. Doc. 45. The State and Representative Seekins-Crowe each filed answers to the amended complaint. Docs. 46, 49.

On August 29, 2025, Defendants moved to disqualify Judge Vannatta from this case for cause. Doc. 50. Judge Vannatta concluded that "[t]he 'facts' alleged by the State attempting to show [his] personal bias or prejudice are exceedingly thin." Doc. 58 at 7. But he nevertheless opted to recuse, "[w]ith great reluctance and concern for the future misuse of the disqualification statute," to "preserv[e] the public's confidence in the impartiality of the judiciary." *Id.* at 2, 10. Following Judge Vannatta's recusal, this case was reassigned to this Department. Doc. 63.

The parties subsequently engaged in discovery, which concluded last month. Pending this Court's decision on summary judgment, trial in this matter is scheduled to begin on October 19, 2026. Doc. 97.10.

LEGAL STANDARD

Summary judgment should be granted when there are no "genuine issue[s] as to any material fact" and "the movant is entitled to judgment as a matter of law." Mont. R. Civ. P. 56(c)(3). Once the moving party "demonstrate[s] that no genuine issues of material fact exist," "the burden then shifts to the non-moving party to prove, by more than mere denial and speculation, that a genuine issue does exist." *Gryczan v. State* (1997), 283 Mont. 433, 440, 942 P.2d 112, 116–17 (citation omitted). The non-moving party must "set out specific facts showing a genuine issue for trial." Mont. R. Civ. P. 56(e)(2). "Conclusory statements are insufficient to raise a genuine issue of material fact." *Styren Farms, Inc. v. Roos*, 2011 MT 299, ¶ 10, 363 Mont. 41, 265 P.3d 1230 (citations omitted).

ARGUMENT

No material facts are in dispute. As a matter of law, HB 121 violates the individual Plaintiffs' fundamental rights to equal protection, privacy, and the pursuit of life's basic necessities. HB 121 also violates Missoula County's and John Doe's right to due process. Plaintiffs are therefore entitled to summary judgment on all counts.

I. HB 121 violates Plaintiffs' right to equal protection.

HB 121 targets transgender and intersex people for disfavored treatment without justification and therefore violates the individual Plaintiffs' right to equal protection. The Montana Constitution guarantees that "[n]o person shall be denied

the equal protection of the laws" and that "[t]he dignity of the human being is inviolable." Mont. Const. art. II, § 4. Article II, Section 4 "provides even more individual protection than does the Fourteenth Amendment," *Planned Parenthood of Montana v. State*, 2024 MT 228, ¶ 29, 418 Mont. 253, 557 P.3d 440 ("*Planned Parenthood II*") (citation omitted), especially given that it expressly recognizes the right to individual dignity in a way that "[t]he federal constitution does not," *Walker v. State*, 2003 MT 134, ¶ 73, 316 Mont. 103, 68 P.3d 872.

Montana courts evaluate equal protection claims under "a three-step process: (1) identify the classes involved and determine if they are similarly situated; (2) determine the appropriate level of scrutiny to apply to the challenged legislation; and (3) apply the appropriate level of scrutiny." *Planned Parenthood of Montana v. State*, 2024 MT 178, ¶ 26, 417 Mont. 457, 554 P.3d 153 ("*Planned Parenthood I*") (citation omitted).

At the first step, "[t]he goal of identifying a similarly situated class is to isolate the factor allegedly subject to impermissible discrimination." *Goble v. Mont. State Fund*, 2014 MT 99, ¶ 29, 374 Mont. 453, 325 P.3d 1211. This inquiry focuses on whether a challenged law "treat[s] . . . two groups differently." *Snetsinger v. Mont. Univ. Sys*., 2004 MT 390, ¶ 27, 325 Mont. 148, 104 P.3d 445. Even "an apparently neutral classification may violate equal protection if in reality" it "impose[s] different burdens on different classes of persons." *Id.* ¶ 16 (cleaned up).

At the second step, strict scrutiny applies where the law "infringes upon a fundamental right or discriminates against a suspect class." *Powell v. State Comp. Ins. Fund*, 2000 MT 321, ¶ 17, 302 Mont. 518, 15 P.3d 877. Middle-tier scrutiny applies if the law does not burden a suspect class but affects a non-fundamental constitutional right. *Snetsinger*, ¶ 18. And "where the right at issue is neither fundamental nor warrants middle-tier scrutiny," rational-basis review applies. *Powell*, ¶ 19.

A. The Act discriminates based on transgender status, intersex status, and sex.

The Act requires covered entities to "designate each [covered facility] for the exclusive use of females or males," HB 121, § 3(1), where "female" and "male" are "determined by the biological and genetic indication of male or female," including "genitalia present at birth," *id.* § 2(12). Covered facilities "may be used only by members of" the defined "female" and "male" categories. *Id.* § 3(2). These provisions create three distinct classifications based on transgender status, intersex status, and sex. *See* PI Op. 22 ("[T]he Act adopts a classification which . . . impos[es] restrictions on transgender and intersex people that do not apply to cisgender people.").

1. Transgender status

The first classification analyzes the Act's impact on cisgender people versus transgender people. It is undisputed that, under the Act, cisgender people can use

covered facilities consistent with their gender identity, but transgender people cannot. SUF ¶¶ 20–25; *see* PI Op. 22 ("[C]is . . . individuals are allowed to use [covered facilities] that correspond to their gender identity and transgender/intersex . . . individuals are not.").

Every Montana court to have examined similar laws has agreed that they classify based on transgender status because they impose greater burdens on transgender people. *See, e.g.*, *Edwards*, Cause No. DV-23-1026, at 27–28; *Cross v. State*, Cause No. DV-23-541, 2023 WL 6392607, at *8 (Mont. Dist. Ct. Sept. 27, 2023), *aff'd*, *Cross*, ¶ 57; *Kalarchik v. State*, Cause No. ADV-2024-261, Ord. on Mot. for Prelim. Inj., Doc. 61 at 7–8 (Mont. Dist. Ct. Dec. 16, 2024).

2. Intersex status

The second classification analyzes the Act's impact on intersex people versus non-intersex people. "By declaring as a matter of law that human beings can only be 'exactly' one of the two sexes," HB 121 "explicitly excludes [intersex people] from the definition of human beings." *Edwards*, Cause No. DV-23-1026, at 11. People who fit the Act's definitions of "female" and "male" can access sex-separated facilities without violating the Act. *See* HB 121, § 3(1)–(3). But intersex people, who do not fit those definitions, cannot.

Defendants admit that people born with both male and female sex traits or reproductive anatomy cannot use covered facilities designated for either men or

women. SUF ¶¶ 27, 29, 31, 33, 35; *see* PI Op. 22 (finding the same). For example, "HB 121 prohibits a person born with male sex chromosomes from using covered facilities designated for women," SUF ¶ 27, and a person "born with female sex chromosomes from using" men's facilities, SUF ¶ 29. That means an intersex person with a combination of chromosomes, such as XXY, cannot use any covered facilities. SUF ¶¶ 12, 97–100. The Act therefore discriminates based on intersex status.

3. Sex

Because the Act discriminates based on transgender and intersex status, it also necessarily discriminates based on sex. "[I]t is impossible to discriminate against a person for being . . . transgender without discriminating against that individual based on sex." *Bostock v. Clayton Cnty.*, 590 U.S. 644, 660 (2020); *see Cross*, ¶ 63 (McKinnon, J., concurring) ("[T]ransgender discrimination is, by nature, sex discrimination."). An example makes this clear: A transgender woman born with the characteristics the Act categorizes as "male" cannot use the women's restroom, but a cisgender woman born with "female" characteristics can. SUF ¶¶ 23, 25.

Discrimination based on intersex status is likewise sex discrimination. An intersex person who does not fit into the Act's categories of "male" or "female" cannot access any sex-designated restroom, but a person who fits into those categories can. SUF ¶¶ 24–25, 95–97, 100.

The State acknowledges "the Act classifies on the basis of sex." Appellants' Opening Br. 24 (Mont. S. Ct. Aug. 13, 2025); SUF ¶ 13. It claims, however, that the classification is permissible because "it treats the[] two classes the same." Appellants' Opening Br. 24. That claim is incorrect because the Act "penalizes a person identified as male at birth for traits or actions that it tolerates in an [individual] identified as female at birth." *Bostock*, 590 U.S. at 660; *see* SUF ¶¶ 20–25.

B. The Act's targeting of suspect classes and infringement on fundamental rights independently require application of strict scrutiny.

As this Court has already determined, "[s]trict scrutiny is the appropriate level of scrutiny to apply to HB 121" for two independent reasons. PI Op. 31. First, HB 121 discriminates based on transgender status and sex, which are both suspect classifications. Second, the Act infringes on Plaintiffs' fundamental rights to equal protection, privacy, and basic necessities. *See Montana Env't Info. Ctr. v. Dep't of Env't Quality*, 1999 MT 248, ¶ 63, 296 Mont. 207, 988 P.2d 1236 (a right is "fundamental" if "it is guaranteed by the Declaration of Rights found at Article II" of the Montana Constitution).

1. Transgender status is a suspect classification.

The undisputed facts show that transgender status is a suspect classification. "A suspect class is 'one saddled with such disabilities, or subjected to such a history of purposeful unequal treatment, or relegated to such a position of political

powerlessness as to command extraordinary protection" from the law. *In re S.L.M.* (1997), 287 Mont. 23, 33, 951 P.2d 1365, 1371 (citation omitted), *abrogated on other grounds by Planned Parenthood I*, ¶ 21. This Court concluded in granting a preliminary injunction that "[t]ransgender Montanans . . . constitute a suspect class" under this definition. PI Op. 24–27. An even more robust evidentiary record now supports this conclusion, and Defendants have presented no evidence to refute it.

First, transgender people—in Montana and across the country—have suffered a history of purposeful unequal treatment. They have long faced mistreatment, harassment, and violence "when it comes to the most basic elements of life, such as finding a job, having a place to live, accessing medical care, and enjoying the support of family and community." SUF ¶¶ 68–74 (extensive survey finding that transgender people in the United States experience "[p]ervasive" discrimination, "mistreatment, harassment, and violence in every aspect of life"). The individual Plaintiffs in this case are no exception. *See, e.g.*, SUF ¶¶ 58–59.

That discrimination continues today. In Montana, the Legislature and executive branch have repeatedly enacted laws targeting transgender people. SUF ¶ 42 (cataloging laws, including 2023's Senate Bill 99, which banned gender-affirming health care for transgender youth, and Senate Bill 458, which required Montanans to be classified by "exactly two sexes, male and female," as defined by their reproductive capabilities, and imposed definitions of "sex," "male," and

"female" identical to those in HB 121). Each of these laws has been found by courts to be unconstitutional or likely unconstitutional. SUF ¶ 42. For example, this Court found in striking down SB 458 that "the Legislature s[ought] to permit discrimination against a person whose [birth-assigned] sex does not align with their gender identity." *Edwards*, Cause No. DV-23-1026, at 28–29. And a court preliminarily enjoined SB 99 after determining that its "purported purpose" was "disingenuous" and "[t]he legislative record [wa]s replete with animus toward transgender persons." *Cross*, Cause No. DV-23-541, 2023 WL 6392607, at *14, *18–19 (internal quotation marks omitted). The federal government also has a long track record of discriminating against transgender people—an assault that has escalated under the current administration. *See* SUF ¶ 75 (cataloguing slew of executive orders attacking transgender people).

Second, the transgender community suffers a level of political powerlessness that warrants extraordinary legal protection because of its small population and the enduring societal prejudices it faces. *See* SUF ¶ 44 (State admitting that "transgender persons represent a small and discrete group of people within Montana"). "[O]ne would be hard-pressed to identify a class of people more discriminated against historically or otherwise more deserving of the application of heightened scrutiny . . . than transgender people." *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 610–11 (4th Cir. 2020), *as amended* (Aug. 28, 2020) (citation omitted).

Transgender people suffer from disproportionately high rates of poverty, homelessness, and employment discrimination. SUF ¶ 74. Moreover, they are frequently the victims of harassment, outright "physical assault," and "particularly violent" crimes. *Grimm*, 972 F.3d at 612; SUF ¶ 70 (survey finding that in one-year period, 46% of transgender people were verbally harassed, 9% were physically attacked, and 10% were sexually assaulted). They also face barriers to political representation. SUF ¶¶ 72–73.

Accordingly, "transgender status is a suspect class." *Cross*, ¶ 65 (McKinnon, J., concurring); PI Op. 24–27.

2. The Act burdens the fundamental right to equal treatment based on sex, and sex is a suspect classification.

The Act is also subject to strict scrutiny because the right not to be discriminated against based on sex is fundamental and sex is a suspect classification. PI Op. 27–28. Montana's Declaration of Rights expressly provides that the State shall not "discriminate against any person in the exercise of his civil or political rights on account of . . . sex." Mont. Const. art. II, § 4. That means "the right to be free from discrimination based on sex" is a fundamental right. *Cross*, ¶¶ 62–63 (McKinnon, J., concurring); *see Kalarchik*, Cause No. ADV-2024-261, at 10–11 (same); *Cross*, Cause No. DV-23-541, 2023 WL 6392607, at *11 (same).

Moreover, sex is a suspect classification. There is no dispute that "our Nation has had a long and unfortunate history of sex discrimination" stemming from

"archaic and overbroad generalizations about gender" as well as "outmoded notions of the relative capabilities of men and women." *J.E.B. v. Alabama*, 511 U.S. 127, 135–36 (1994) (cleaned up); *see State v. Miller*, 2022 MT 92, ¶ 54, 408 Mont. 316, 510 P.3d 17 (McKinnon, J., concurring) (explaining that discrimination "based on gender stereotypes" has "wreaked injustice in so many spheres of our country's public life" (citation omitted)).

3. The Act burdens the fundamental rights to privacy and to pursue life's basic necessities.

Finally, as explained below, the Act is subject to strict scrutiny for the independent reason that it burdens the right to privacy and the right to pursue life's basic necessities.[2] *See infra* Argument Parts II–III. Both those rights are fundamental. *Gryczan*, 283 Mont. at 449, 942 P.2d at 122 (privacy); *Wadsworth v. State* (1996), 275 Mont. 287, 299, 911 P.2d 1165, 1171–72 (basic necessities).

C. The Act does not survive any level of scrutiny.

To survive strict scrutiny, Defendants must establish that the Act is "narrowly tailored to serve a compelling government interest and only that interest." *Cross*,

[2] Although HB 121 outright violates these fundamental rights, for strict scrutiny to apply, it is enough that the Act merely imposes some burden on the exercise of those rights. *See, e.g.*, *Cross*, ¶ 22 ("We apply strict scrutiny when a fundamental right, such as the right to privacy, is *affected*." (emphasis added)); *Gryczan*, 283 Mont. at 449, 942 P.2d at 122 ("[A]ny legislation *regulating* the exercise of a fundamental right must be reviewed under a strict-scrutiny analysis." (emphasis added)).

¶ 22. This requires showing that the Act "is the least onerous path" to achieve its asserted interest. *Montana Democratic Party v. Jacobsen*, 2024 MT 66, ¶ 75, 416 Mont. 44, 545 P.3d 1074. As this Court held, however, HB 121 cannot survive even rational-basis review because it is not "rationally related to a legitimate government interest." PI Op. 38–40; *see Snetsinger*, ¶ 19. Because the Act cannot satisfy this lesser burden, it necessarily cannot survive the strict scrutiny that applies.

To begin, there is no legitimate state interest justifying the Act, and certainly no compelling interest, because it is rooted in bare animus against transgender people. *See U.S. Dep't of Agric. v. Moreno*, 413 U.S. 528, 534 (1973) ("[A] bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest."); *e.g.*, *State v. Noling*, 149 Ohio St. 3d 327, 330, at ¶ 13 (2016) (same); *State v. Limon*, 280 Kan. 275, 290–91 (2005) (same). That is apparent on the face of the Act, which denies recognition of transgender identities by commanding covered entities to disregard "an individual's psychological, behavioral, social, chosen, or subjective experience of gender." HB 121, § 2(12). And statements by HB 121's proponents confirm that the Act is driven by antipathy towards people who do not conform to its restrictive definitions of "sex," *see supra* Background I.B. (Representative Seekins-Crowe describing transgender women as "perverted" and Senator Fuller stating that "reality" does not recognize transgender

identities)—so much so that the Act allows cisgender people to sue for merely having to "encounter[]" transgender people in public spaces, HB 121, § 4.

Defendants' claim that the Act serves to reaffirm "the longstanding meanings" of "sex," "male," and "female," SUF ¶ 101, only underscores the flimsiness of the State's purported interests. Defendants cannot identify any medical or scientific basis for HB 121's restrictive definitions of "sex," "male," and "female." SUF ¶¶ 55–57. Even the State's expert admits that the Act's premise—"there are exactly two sexes, male and female," HB 121, § 2(12)—is wrong, given that "some people may not have a sex" under the Act's definitions. SUF ¶ 95 (Q: "And those individuals can't be, according to your definition of sex, identified as male or female. Correct?" A: "Correct."). The State has no legitimate interest in codifying inaccurate classifications of human beings that "explicitly exclude[]" many Montanans. *Edwards*, Cause No. DV-23-1026, at 11.

Even assuming HB 121 is motivated by a legitimate or compelling interest in protecting women's safety and privacy, it is not narrowly tailored to advance that interest, and in fact does the opposite.

There is no evidence that excluding transgender and intersex people from covered facilities will advance women's safety and privacy at all. As Defendants concede, in passing HB 121, "the Legislature provided no evidence of privacy or safety offenses in covered facilities in Montana," nor evidence that "'transgender or

intersex people have a predisposition toward' privacy or safety offenses." SUF ¶ 105 (quoting State's brief). Indeed, there has *never* been a reported instance of a transgender or intersex person committing a safety or privacy offense in a covered facility in Montana. SUF ¶¶ 104, 108. That is unsurprising. Courts have found that claims that transgender people pose a threat to others simply by using facilities corresponding to their gender identity are "based upon sheer conjecture" and "marked by misconception and prejudice." *Grimm*, 972 F.3d at 614–15 (citation omitted); *Whitaker v. Kenosha Unified Sch. Dist.*, 858 F.3d 1034, 1052 (7th Cir. 2017) (same), *abrogated on other grounds by Kluge v. Brownsburg Comm. Sch. Corp.*, 150 F.4th 792, 810–11 (7th Cir. 2025). And the empirical evidence is overwhelming that ordinances across the country prohibiting discrimination based on gender identity have not affected privacy and safety in public restrooms. SUF ¶ 107 (citing studies).

The purported evidence that the State *does* muster is inapposite. In discovery, when asked for any materials concerning the safety risk posed by transgender people, all Defendants could point to were one blog post by an anonymous author and a California public records request submitted by an unknown person. SUF ¶ 109. Defendants admit that they do not know whether these materials are accurate. SUF ¶ 109. These unverified materials from unidentified sources "are insufficient to raise a genuine issue of material fact." *Styren Farms*, ¶ 10. Ultimately, the State

acknowledges that it "is not aware" of any evidence that HB 121 would be more effective at protecting women than laws that already exist. SUF ¶ 106.

Far from justifying HB 121, the evidence shows that it undermines safety and privacy for all Montanans. The Act requires transgender men who are likely to be perceived as men to use women's restrooms and changing rooms. SUF ¶ 66. This makes using restrooms and changing rooms more fraught for transgender and cisgender people alike. *See, e.g.*, SUF ¶ 58 (Plaintiff McDonald explaining: "I present as a man and if I were to use the women's restroom, it would cause disruption and expose me to harassment and discrimination."). The Act particularly endangers transgender people, who are already disproportionately victimized by harassment and violence in sex-separated spaces. SUF ¶¶ 60–61, 71 (within one-year period, 12% of transgender people were verbally harassed, 1% was physically attacked, and 1% was sexually assaulted when accessing a restroom). Yet HB 121 forcibly outs them every time they use a covered restroom or changing room, effectively painting target signs on their backs. SUF ¶¶ 50, 59. The Legislature gave no consideration to these well-documented harms that the Act would inflict on transgender Montanans. SUF ¶¶ 123, 125–126, 128–129.

Because the Act harms everyone and benefits no one, it is fundamentally illogical and therefore fails rational-basis review.[3] *See Snetsinger*, ¶ 27 (striking down irrational classification on rational-basis review).

As it cannot survive rational-basis review, the Act necessarily fails strict scrutiny and any standard of scrutiny in between. Given the dearth of any evidence that transgender and intersex people have caused harm in covered facilities, Defendants have not met their burden "to *demonstrate* a compelling interest" justifying the Act "by competent evidence." *Wadsworth*, 275 Mont. at 303–04, 911 P.2d at 1174–75 (emphasis in original) (rule failed strict scrutiny where there was no evidence of the problems the rule purported to solve); *Jacobsen*, ¶¶ 102–06 (same). Nor have Defendants established that HB 121 is "the least onerous path that can be taken to achieve the state objective." *Montana Env't Info. Ctr.*, ¶ 61 (citing *Wadsworth*, 275 Mont. at 302, 911 P.2d at 1174). The Legislature did not consider simple, less exclusionary measures for addressing its concerns about privacy and safety, such as installing enclosed restroom stalls. SUF ¶ 36. Moreover, "Montana

[3] Although HB 121 fails even the most deferential version of rational-basis review, lower-tier scrutiny under the Montana Constitution should be more stringent than the federal rational-basis standard given that Article II, Section 4 is more protective than the Fourteenth Amendment and expressly safeguards individual dignity. *See Planned Parenthood II*, ¶ 29; *Walker*, ¶ 73; *e.g.*, *Rodriguez v. Brand W. Dairy*, 2016-NMSC-029, ¶¶ 25, 27 (adopting a heightened rational-basis standard under the state constitution); *Racing Ass'n of Cent. Iowa v. Fitzgerald*, 675 N.W.2d 1, 7–8 (Iowa 2004) (same); *Baker v. State*, 170 Vt. 194, 203 (1999) (same).

law already criminalizes th[e] behavior" the Act claims to address. *Jacobsen*, ¶ 105; SUF ¶¶ 120–22.

II. HB 121 violates Plaintiffs' right to privacy.

The undisputed facts establish that HB 121 infringes the individual Plaintiffs' right to privacy. "[U]nder Montana's Constitution, the right of individual privacy . . . is fundamental." *Planned Parenthood I*, ¶ 22 (citation omitted). That privacy right is "significantly broader" than under the U.S. Constitution. *Armstrong v. State*, 1999 MT 261, ¶¶ 34, 41, 296 Mont. 361, 989 P.2d 364. "It is, perhaps, one of the most important rights guaranteed to the citizens of this State, and its separate textual protection in our Constitution reflects Montanans' historical abhorrence and distrust of excessive governmental interference in their personal lives." *Planned Parenthood I*, ¶ 22 (citation omitted).

Montana courts analyze privacy claims using a two-part test that asks: "(1) [w]hether the person had a subjective or actual expectation of privacy; and, (2) [w]hether society is willing to recognize that expectation as reasonable." *State v. Nelson* (1997), 283 Mont. 231, 239, 941 P.2d 441, 447. Under this test, HB 121 infringes on Plaintiffs' "autonomy privacy" in "making intimate personal decisions or conducting personal activities" without "intrusion," as well as their "informational privacy," which protects them from "dissemination . . . of [their] sensitive information." *Id.* at 241, 941 P.2d at 448 (citation omitted).

A. The Act violates Plaintiffs' autonomy privacy right to use facilities aligned with their gender identity and to make personal decisions.

It is undisputed that individual Plaintiffs have a subjective expectation of autonomy privacy in their decision to use covered facilities that correspond to their gender identity without intrusion. SUF ¶ 76. And society "recognize[s]" that expectation "as reasonable." PI Op. 45; *see Edwards*, Cause No. DV-23-1026, at 20 (recognizing privacy right in "an individual's ability to self-define and make personal choices concerning their identity"); *Marquez v. State*, Cause No. DV 21-873, 2022 WL 4486283, at *8 (Mont. Dist. Ct. Apr. 21, 2022) (holding that a law likely violates the right to privacy when it "compels Plaintiffs to undergo [gender] surgery they may not want or need").[4]

Furthermore, for Plaintiffs, being able to live in alignment with their gender identity is vital to their wellbeing and a core part of many transgender people's medical treatment for gender dysphoria. SUF ¶¶ 5–8 (Plaintiffs' expert explaining the dangers of leaving gender dysphoria untreated). HB 121 therefore also undermines Plaintiffs' autonomy privacy right to "make medical judgments affecting [their] bodily integrity and health." *Armstrong*, ¶ 39.

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[4] *See also*, *e.g.*, *Hill v. Nat'l Collegiate Athletic Assn.*, 7 Cal. 4th 1, 35 (1994) (right to privacy under state constitution protects "interests in making intimate personal decisions or conducting personal activities without observation, intrusion, or interference"); *Allegheny Reprod. Health Ctr. v. Pennsylvania Dep't of Hum. Servs.*, 309 A.3d 808, 901 (Pa. 2024) (similar); *Doe v. Dep't of Pub. Safety*, 444 P.3d 116, 127 (Alaska 2019) (similar).

B. The Act violates Plaintiffs' informational privacy right in their transgender and intersex identities and medical information.

Plaintiffs also have a subjective expectation of informational privacy as to their transgender and intersex identities, which implicate their sensitive medical information. SUF ¶ 77. Montana courts have recognized that a "person's transgender identity" is "a profoundly private piece of information in which a transgender person has a reasonable expectation of privacy." *Marquez v. State*, Cause No. DV 21-873, at *5; *see also In re M.T.*, 106 Cal. App. 5th 322, 339–41 (2024) (holding that "[a] transgender person . . . has a privacy interest in concealing their transgender identity" and citing supporting case law from several states). And every person has a reasonable expectation of privacy in their anatomy, genetics, and medical history. *See Nelson*, 283 Mont. at 241, 941 P.2d at 448.

The undisputed evidence shows that HB 121 violates the individual Plaintiffs' right to informational privacy in two principal ways. First, HB 121 compels the disclosure of Plaintiffs' transgender or intersex status. The Act requires transgender men who are likely to be perceived as men to use women's facilities and transgender women who are likely to be perceived as women to use men's facilities. HB 121, § 3(2); *see* SUF ¶ 66. In doing so, the Act "outs" transgender people, stripping them of any meaningful choice about disclosing their transgender status or the intimate details of their gender-affirming medical care. SUF ¶ 50. The same is true for intersex people, whose perceived gender may not align with their birth-assigned sex.

Second, the Act will publicly "out" transgender and intersex people through the enforcement lawsuits it authorizes. Under HB 121, whenever one person sees someone in a restroom or changing room whom they perceive to be the "wrong sex," they can sue. *See* HB 121, § 4. The Act thus effectively invites the public to question individuals' gender identity and sexual anatomy in court filings for all to see. Because the sex of the person alleged to be using the "wrong" facility would be a central issue in the ensuing lawsuit, their anatomy, genetics, and medical history would "necessarily be subject to inquiry." PI Op. 42–43; SUF ¶ 78. Worse still, as described by Defendants, the methods used to determine the person's sex would be deeply invasive—including biopsies and ultrasounds "to find out what gametes they have." SUF ¶ 79.

Since the Act violates Plaintiffs' fundamental right to privacy, it must survive strict scrutiny to comply with the Montana Constitution. For the reasons discussed above, it cannot. *See supra* Argument Part I.C.

III. HB 121 violates Plaintiffs' right to pursue life's basic necessities.

The undisputed facts show that the Act burdens individual Plaintiffs' "inalienable rights … of pursuing life's basic necessities." Mont. Const. art. II, § 3. The Act not only denies Plaintiffs necessary access to restrooms consistent with their gender identity, it also prevents many of them from pursuing employment and education, thus impeding their ability to secure basic necessities.

Access to restrooms and other sex-separated facilities consistent with one's gender identity for purposes of bowel movements, urination, and menstruation care is required to maintain one's health and well-being. It is therefore a basic necessity. *See Grimm*, 972 F.3d at 625 (Wynn, J., concurring) (noting that bathrooms are "basic necessities"); *Whitnack v. Douglas Cnty.*, 16 F.3d 954, 958 (8th Cir. 1994) ("[R]easonably adequate sanitation and the ability to eliminate and dispose of one's bodily wastes . . . are basic identifiable human needs."). The State admits that "access to restroom facilities is a basic necessity for all human beings." SUF ¶ 51.

HB 121 denies this basic necessity by barring Plaintiffs from restrooms that align with their gender identity. SUF ¶¶ 20–23. As a result, Plaintiffs face serious threats to their safety and dignity when seeking to use restrooms. SUF ¶¶ 50, 58–60. The threat to Plaintiff Reddington's health is particularly acute due to a medical condition that sometimes requires her to hastily access a restroom. SUF ¶ 52. For Plaintiffs, being forced to use restrooms inconsistent with their gender identity is so uncomfortable and humiliating that they will forgo spending time in public spaces to avoid it. SUF ¶¶ 53, 67.

Because the Act makes using covered facilities untenable for transgender and intersex people, many of them who work in public buildings would not be able to maintain their jobs and many who attend public schools or universities would not be able to continue their education. *See, e.g.*, SUF ¶ 53. The Act thus further violates

Plaintiffs' constitutional right to secure, through employment and education, "the most basic of life's necessities, such as food, clothing, and shelter," and "other essentials," "including health and medical insurance." *Wadsworth*, 275 Mont. at 299, 911 P.2d at 1172 (recognizing that "the opportunity to pursue employment is . . . necessary to enjoy the right to pursue life's basic necessities").

IV. HB 121 violates Plaintiffs' due process rights.

The undisputed facts demonstrate that HB 121 is unconstitutionally vague as to regulated entities like Missoula County and intersex Montanans like Plaintiff John Doe. Montana's Due Process Clause requires that "[a] statute must be drawn with sufficient clarity and definiteness to inform persons of ordinary intelligence what actions are proscribed." *City of Whitefish v. O'Shaughnessy* (1985), 216 Mont. 433, 440, 704 P.2d 1021, 1025; *see* Mont. Const. art. II, § 17. "A statute is void on its face if it fails to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden," and vague as applied if it fails to "provide[] a person with actual notice" or "minimal guidelines to law enforcement" regarding what conduct is forbidden. *State v. Dugan*, 2013 MT 38, ¶ 67, 369 Mont. 39, 303 P.3d 755 (citation and internal quotation marks omitted).

A. HB 121 is unconstitutionally vague because it does not give regulated entities notice of how to comply with the law.

HB 121 is unconstitutionally vague on its face and as applied to Missoula County because it exposes regulated entities to onerous litigation and liability for non-compliance while offering no notice of how to comply.

Under the Act, a regulated entity can be sued every time an individual, "while accessing a restroom or changing room designated for use by the individual's sex, encounters another individual of the opposite sex," where the entity: "(a) provided the other individual permission to use" the facility, or "(b) failed to take reasonable steps to prohibit the other individual from using" the facility. HB 121, § 4(1). But the Act says nothing about what "reasonable steps" regulated entities must take or what it means for them to provide "permission to use" a facility. SUF ¶¶ 80–83. The Act does not specify, for example, whether or how Missoula County must verify the birth-assigned sex of every individual before allowing access to its restrooms.

Regulated entities, including Missoula County, testified that they did not know how to comply with HB 121 when the Legislature was considering the bill. SUF ¶ 88. Missoula County is particularly concerned about the Act's lack of clarity because it may put the County in conflict with federal law, such as the Americans with Disabilities Act, SUF ¶ 91, and other legal obligations, such as the obligation to respect Montanans' right to privacy, *see supra* Argument Part II. Yet the State has

not supplied regulated entities with any guidance on how to comply with HB 121 or how the State intends to enforce it. SUF ¶¶ 85–86.

Even the State and the Act's sponsor admit that they do not know what the "reasonable steps" mandate requires. The State testified it "is not aware" of how a regulated entity should comply with HB 121. SUF ¶ 84 (Q: "How would a covered entity ensure that someone is not entering a restroom designated for someone of the opposite sex?" A: "That's really up to the covered entity. They'd have to decide how to enforce it." . . . Q: "[I]s the State aware of what covered entities would need to do?" A: "The State is not aware."). Representative Seekins-Crowe also cannot define "reasonable steps," and instead "leave[s] it to the court[s] to determine" what "reasonable steps" are required. SUF ¶ 87.

These admissions confirm that the Act "fails to give a person of ordinary intelligence" either "fair notice" or "actual notice" of what "conduct is forbidden." *Dugan* at ¶ 67 (citation and internal quotation marks omitted).

B. HB 121 is unconstitutionally vague because its definitions do not account for intersex people.

HB 121 is also unconstitutionally vague on its face and as applied to John Doe and other intersex Montanans because its definitions of "female" and "male" exclude intersex people entirely, making it unclear whether they can use *any* covered facilities. The Act recognizes "exactly two sexes, male and female," which, supposedly, are unambiguously "determined by . . . biological and genetic

indication[s].” HB 121, § 2(12). But intersex people are born with sex traits or reproductive anatomy that are neither only “male” nor only “female.” SUF ¶¶ 9, 12. So the Act “do[es] not accurately define [intersex people’s] . . . sex.” *Edwards*, Cause No. DV-23-1026, at 20–21 (addressing identical definitions in 2023’s SB 458); *see* SUF ¶ 12 (Plaintiffs’ expert explaining that “HB 121’s definitions do not account for the full range of naturally occurring human biological variation”).

As a result, intersex Montanans like John Doe do not know whether HB 121 requires them to use covered facilities designated for men or women—or whether they are allowed to use covered facilities at all. Mr. Doe was born with both male and female sex traits. SUF ¶ 99. The Act requires people with male sex traits to use men’s facilities and people with female sex traits to use women’s facilities. SUF ¶¶ 26–35. That leaves Mr. Doe in limbo: “As this law is written, I’m not supposed to be [in the men’s restroom], but I’m also not supposed to be in the women’s restroom, so I don’t know where I’m supposed to go.” SUF ¶ 100.

The State asserts that the Act’s application to intersex people is clear because it provides that “[a]n individual who would otherwise fall within [its definitions of female or male], but for a biological or genetic condition, is [female or male].” HB 121, § 2(4), (7). Appellants’ Opening Br. 14. But this provision is itself vague because it neither explains what “biological or genetic condition” means nor how intersex people can determine whether they would be “female” or “male” “but for”

that condition. SUF ¶¶ 16–17, 19. Defendants' own expert testified that some intersex people cannot be categorized as "male" or "female" under HB 121's definitions. SUF ¶ 95; *see Edwards*, Cause No. DV-23-1026, at 5 (State admitting that definitions identical to HB 121's "might not squarely apply" to intersex people.).

The State's concessions are dispositive. Its Rule 30(b)(6) representative stated, "I don't know about intersex people or what bathroom they would use [under HB 121]." SUF ¶ 96. That the State cannot even say how the Act applies to intersex people reflects that it gives ordinary Montanans no "fair" or "actual notice" of how to comply before subjecting them to arbitrary enforcement and covered entities to potentially ruinous liability. *Dugan*, ¶ 67.

CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant summary judgment for Plaintiffs on all counts; declare HB 121 unconstitutional; and permanently enjoin Defendants, as well as their agents, employees, representatives, and successors, from enforcing HB 121, directly or indirectly.

Dated: April 3, 2026

Respectfully submitted,

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CERTIFICATE OF COMPLIANCE

Pursuant to the Court's order of March 26, 2026, *see* Doc. 107, the undersigned certifies that this brief was prepared using a proportionally spaced typeface of 14 points and does not exceed 35 pages in length, excluding the brief's title page, table of contents, and certificate of compliance.

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Appearances continued on next page

**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual; and MISSOULA COUNTY, Plaintiffs, vs. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Dept. No. 1 Hon. Leslie Halligan DV-32-2025-282 **DECLARATION OF ROBIN TURNER**

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DECLARATION

I, Robin Turner, submit the following Declaration:

1. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.
2. I am over eighteen years of age and am competent to make this Declaration.
3. I am Montana Staff Attorney at Legal Voice, and counsel to the Plaintiffs in the above-captioned case.
4. Attached to this filing are Exhibits 1-32.
    a. Attached as Exhibit 12 is a true and correct copy of discovery documents produced by Plaintiff John Doe.
    b. Attached as Exhibit 19 is a true and correct copy of discovery documents produced by Intervenor-Defendant Kerri Seekins-Crowe.
    c. Attached as Exhibit 20 is a true and correct copy of discovery documents produced by Intervenor-Defendant Kerri Seekins-Crowe.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 3rd day of April, 2026, in Missoula, Montana.

/s/ Robin Turner
Robin Turner
Counsel for Plaintiffs

EXHIBIT 1

AN ACT PROVIDING FOR PRIVACY IN CERTAIN RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS; REQUIRING THAT COVERED ENTITIES DESIGNATE MULTI-OCCUPANCY RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS FOR THE EXCLUSIVE USE OF MALES OR FEMALES; REQUIRING THAT INDIVIDUALS USE RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS DESIGNATED FOR THEIR SEX; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; PROVIDING REMEDIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Purpose. The purposes of [sections 1 through 4] are to:

(1) reaffirm the longstanding meanings of the terms "sex", "male", and "female" in law; and

(2) preserve women's restrooms, changing rooms, and sleeping quarters for women in facilities where women have traditionally been afforded privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by men.

Section 2. Definitions. For the purposes of [sections 1 through 4], the following definitions apply:

(1) "Changing room" means a room or area in which an individual may be in a state of undress in the presence of others, including a locker room or shower room.

(2) "Correctional center" means a facility that houses individuals charged with or convicted of a criminal offense and that is designed, constructed, or operated by the department of corrections.

(3) "Covered entity" means a correctional center, a juvenile detention facility, a local domestic violence program, a public building, or a public school.

(4) "Female" means a member of the human species who, under normal development, has XX chromosomes and produces or would produce relatively large, relatively immobile gametes, or eggs, during her

life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is female.

(5) "Juvenile detention facility" means a short-term detention center, a youth detention facility, including a regional detention facility, or a secure detention facility that is under contract with the state or a subdivision of the state.

(6) "Local domestic violence program" means a shelter or safe home for victims of domestic violence that is funded by the Family Violence Prevention and Services Act grant program established in 44-7-401.

(7) "Male" means a member of the human species who, under normal development, has XY chromosomes and produces or would produce small, mobile gametes, or sperm, during his life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is male.

(8) "Multi-occupancy" means a space that is designed for use by multiple individuals simultaneously.

(9) "Public building" means a building that is owned or leased by a public agency as defined in 18-1-101 and that is open to the public, including but not limited to:

(a) a building that is used for educational, office, or institutional purposes; or

(b) a library, museum, school, hospital, auditorium, dormitory, or university building.

(10) "Public school" means a noncharter public school or a public charter school as those terms are defined in 20-6-803.

(11) "Restroom" means a room that includes one or more toilets or urinals.

(12) "Sex" means the organization of the body parts and gametes for reproduction in human beings and other organisms. In human beings, there are exactly two sexes, male and female, with two corresponding types of gametes. The sexes are determined by the biological and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, behavioral, social, chosen, or subjective experience of gender.

(13) "Sleeping quarters" means a room with one or more beds and in which more than one

individual is housed overnight.

Section 3. Safety and privacy in covered entities. (1) A covered entity shall designate each multi-occupancy restroom, changing room, or sleeping quarters for the exclusive use of females or males.

(2) A restroom, changing room, or sleeping quarters within a covered entity that is designated for females or males may be used only by members of that sex. Except as provided in subsection (4), an individual may not enter a restroom, changing room, or sleeping quarters that is designated for females or males unless the individual is a member of the designated sex.

(3) A covered entity shall take reasonable steps to provide individuals with privacy from members of the opposite sex in designated restrooms, changing rooms, and sleeping quarters.

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

(a) to perform custodial services or maintenance;

(b) to render medical assistance;

(c) to render law enforcement assistance; or

(d) to provide services or render aid during a natural disaster or declared emergency or if necessary to prevent a serious threat to good order and safety.

(5) (a) For any activity or event authorized by a public school during which students share sleeping quarters, a student may not be required to share sleeping quarters with a member of the opposite sex unless the other individual is a member of the student's family, such as a parent, guardian, sibling, or grandparent.

(b) In any other facility or setting in a public school where an individual may be in a state of undress in the presence of others, school personnel shall provide separate, private areas designated for use by individuals based on their sex. Except as provided in subsection (4), an individual may not enter a private area unless the individual is a member of the designated sex.

(6) This section may not be construed to prohibit a covered entity from:

(a) adopting policies necessary to accommodate individuals protected under the Americans with Disabilities Act of 1990 or young children or elderly persons in need of assistance;

(b) establishing single-occupancy restrooms, changing rooms, or sleeping quarters or family

restrooms, changing rooms, or sleeping quarters; or

(c) redesignating a multi-occupancy restroom, changing room, or sleeping quarters designated for exclusive use by one sex to a designation for exclusive use by the opposite sex.

Section 4. Remedies. (1) An individual who, while accessing a restroom or changing room designated for use by the individual's sex, encounters another individual of the opposite sex in the restroom or changing room has a private cause of action for declaratory and injunctive relief, nominal damages, and any other appropriate relief against the covered entity that:

(a) provided the other individual permission to use a restroom or changing room designated for the opposite sex; or

(b) failed to take reasonable steps to prohibit the other individual from using the restroom or changing room designated for the opposite sex.

(2) An individual who is required by a covered entity to share sleeping quarters with an individual of the opposite sex has a private cause of action for declaratory and injunctive relief, nominal damages, and any other appropriate relief against the covered entity.

(3) (a) All civil actions brought pursuant to this section must be initiated within 2 years after the violation occurred.

(b) An individual aggrieved under this section who prevails in court may recover reasonable attorney fees and costs from the offending covered entity.

Section 5. Codification instruction. [Sections 1 through 4] are intended to be codified as a new part in Title 50, chapter 4, and the provisions of Title 50, chapter 4, apply to [sections 1 through 4].

Section 6. Severability. If a part of [this act] is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 7. Effective date. [This act] is effective on passage and approval.

- END -

I hereby certify that the within bill,

HB 121, originated in the House.

_____

Chief Clerk of the House

_____

Speaker of the House

Signed this _____day

of_____, 2025.

_____

President of the Senate

Signed this _____day

of_____, 2025.

HOUSE BILL NO. 121

INTRODUCED BY K. SEEKINS-CROWE, E. BYRNE, L. DEMING, N. DURAM, S. FITZPATRICK, J. FULLER, J. GILLETTE, S. GIST, G. HERTZ, S. KELLY, S. KLAKKEN, G. KMETZ, B. LER, K. LOVE, S. MANESS, R. MARSHALL, T. MCGILLVRAY, B. MITCHELL, F. NAVE, G. OBLANDER, G. OVERSTREET, A. REGIER, M. REGIER, V. RICCI, J. SCHILLINGER, C. SCHOMER, L. SCHUBERT, T. TEZAK, M. THIEL, Z. WIRTH, C. GLIMM, D. LENZ, M. NOLAND, B. USHER, J. HINKLE

AN ACT PROVIDING FOR PRIVACY IN CERTAIN RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS; REQUIRING THAT COVERED ENTITIES DESIGNATE MULTI-OCCUPANCY RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS FOR THE EXCLUSIVE USE OF MALES OR FEMALES; REQUIRING THAT INDIVIDUALS USE RESTROOMS, CHANGING ROOMS, AND SLEEPING QUARTERS DESIGNATED FOR THEIR SEX; PROVIDING DEFINITIONS; PROVIDING EXCEPTIONS; PROVIDING REMEDIES; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

EXHIBIT 2

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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA	Cause No. DV 32-2025-282 Hon. Leslie Halligan

REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual, and MISSOULA COUNTY, *Plaintiffs*, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	**DECLARATION OF PLAINTIFF CASEY PERKINS**

I, Casey Perkins, declare as follows:

1. I am a transgender woman and one of the Plaintiffs in this case. I submit this Declaration in support of Plaintiffs' Motion for Summary Judgment in this matter.
2. I reside in Helena, Lewis & Clark County, Montana. I am a single parent.
3. I currently work as a License Examiner for the Montana Department of Labor and Industry (DLI) in the Employment Standards Division. I have worked for DLI since December 2015. My understanding is that HB 121 applies to DLI buildings.

4. I was assigned the gender designation of male at birth, but my gender identity is female. I began living and presenting as the woman I know myself to be during the COVID-19 pandemic, meaning I left in-person work with the outward appearance of a man and returned to in-person work as a woman.
5. My boss at the time was supportive. DLI Human Resources created a unisex restroom for me in DLI's former location at 1805 Prospect Ave in Helena. DLI has since moved locations.
6. DLI's current location at 301 South Park Avenue in Helena previously had a unisex restroom on the fifth floor, which I used. However, in the summer of 2023, that unisex restroom flooded and was permanently closed. There is a remaining unisex single-occupancy restroom in the building basement, but it is five floors down from where I work and very time-consuming and inconvenient to access.
7. There are two multi-stall restrooms on the fourth floor of the building, which is the floor I work on. These restrooms are gender designated. I will use the women's multi-stall restroom if my floor is empty, typically early in the morning. Otherwise, I do not use the restroom at work. I typically work half days at DLI and I "hold it" until my shift has ended and I go home for the

day. In an emergency situation, I would use the fourth-floor restrooms, but it is not worth the hassle to do so regularly.

8. Although I typically do not use the restroom while at work unless it is an emergency situation, HB 121 would not even give me the option of using the restroom corresponding to my gender identity. I would not feel safe using the men's restroom. It would be demeaning and uncomfortable, and it would out me as a transgender woman. I'm scared that I would face harassment and maybe even violence.

9. I like to take my child to Memorial Park, a public park located on Lyndale Avenue in Helena. My understanding is that HB 121 applies to this park.

10. Memorial Park hosts events, holds a playground, and hosts ice skating in the winter. The restrooms at Memorial Park are multi-stall and separated by gender. I am most comfortable using the women's restroom, which aligns with my gender identity.

11. HB 121 would make it very difficult for me and my child to spend time in a public space. Like everyone else in Montana, I need to go to public places like the DMV, the library, city hall, the park, and government offices. Often, I need to spend several hours in these spaces, which means I need to use the restroom.

12. I deserve to be treated fairly and allowed to meet my basic needs in the restroom or changing room that I belong in. But this law requires me to use men's restrooms, which is humiliating and will out me as transgender to strangers whenever I use a public restroom, because I present as a woman. I do not feel safe or comfortable using men's restrooms as a transgender woman. This means I may have no choice but to stop spending time in public spaces because of HB 121.

13. I do not want to avoid using public spaces or forego using bathroom facilities while in public spaces.

I, Casey Perkins, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Signed on March 31, 2026 in Helena, Lewis & Clark County.

/s/ Casey Perkins
Casey Perkins

EXHIBIT 3

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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA	Cause No. DV 32-2025-282 Hon. Leslie Halligan

REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual, and MISSOULA COUNTY, *Plaintiffs*, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	**DECLARATION OF PLAINTIFF JOHN DOE**

I, John Doe, hereby declare as follows:

1. I am a Plaintiff in this action. I am over 21 years of age, have personal knowledge of the facts contained in this declaration, and am competent to testify about them.

2. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

3. I have lived in Montana for over 40 years and currently reside in Missoula, Missoula County.

4. I was assigned the sex designation of male at birth, but I am intersex, meaning I meet the criteria for male gender, female gender, and

unknown gender in different ways. I have been diagnosed with de la Chapelle syndrome, which is one of many intersex possibilities, and means that I have two X chromosomes and the X chromosome inherited from my father is SRY-positive. The SRY protein is typically located on a Y chromosome and directs the development of sexual characteristics. I have not had my gametes tested, but individuals with de la Chapelle syndrome are typically found to produce no sperm cells.

5. I have both male genitalia and breast tissue. My body is not capable of producing the testosterone level that is typically associated with men and is more in line with the testosterone level of women. I use hormone replacement therapy to raise my testosterone levels in order to have a normal libido, develop muscle mass, increase focus, and treat depression.

6. As I understand it, HB 121 states that "in human beings, there are exactly two sexes, male and female," which are "determined by the biological and genetic indication of male or female," including chromosomes, gonads, and internal and external genitalia.

7. But there are a variety of ways in which physical sex-related traits—including external genitalia, internal reproductive organs, chromosomes, and/or hormone production and response—can differ from the narrow, binary definitions of "male" and "female" in HB 121.

8. For example, I was born with traits that do not fit within either the definition of "male" or the definition of "female" in HB 121. It appears there is no place for me in HB 121's classification of human beings. I believe HB 121 denies my existence as an intersex citizen of the state.

9. I live as a man and identify as demi-male. My status as an intersex person is a private and personal piece of information and my gender identity is a private and personal decision.

10. Because I identify as male, I typically use restrooms designated for men and have never encountered a problem doing so. Using men's restrooms allows me to attend to my personal needs with dignity and safety.

11. I expect and value my privacy while using restroom facilities in public spaces.

12. I regularly visit the Missoula Public Library for an ongoing gaming group, where I play social deduction and board games with both friends and members of the public. My understanding is that HB 121 applies to public libraries.

13. Our gaming group usually meets on the third or fourth floors of the library. The only restrooms on the fourth floor are multi-stall and designated by gender.

14. At the library, I regularly use the men's restrooms to attend to my

basic needs, as that corresponds with my gender identity.

15. Under HB 121, I am not sure if I could continue to use the men's restrooms at the Montana Public Library. In fact, I am not sure if I can use any gender-designated restrooms at all, because I do not conform to the law's definition of either "female" or "male."

16. If I were to continue using the library's men's restroom, under HB 121 I may not be using the correct facilities because I am not "male" under the law's definition, which could subject me to harassment and the library to legal exposure.

17. If I were to use the library's women's restroom, under HB 121 I may not be using the correct facilities because I am also not "female" under the law's definition. And other patrons are likely to perceive me as male, which could subject me to harassment or worse, and the library to legal exposure.

18. I also regularly visit the University of Montana campus to attend events, plays, and movies, and visit the University bookstore. I attend concerts at the Adams Center stadium, which is a University facility. My understanding is that HB 121 applies to University of Montana facilities.

19. While at the University and the Adams Center, I use the multi-stall men's restrooms to attend to my basic needs, as that corresponds with my

gender identity.

20. Under HB 121, I am not sure if I could continue to use the men's restrooms at the University of Montana. I do not know if I can use any gender-designated restrooms at all, because I do not conform to the law's definition of either "female" or "male."

21. If I were to continue using the University's men's restrooms, under HB 121 I may not be using the correct facilities because I am not "male" as the law defines it, which could subject me to harassment and the University to legal exposure.

22. If I were to use the University's women's restroom, under HB 121 other patrons are likely to perceive me as male, which could subject me to harassment or worse, and the University to legal exposure.

23. My spouse and I like to unwind at Splash Montana, which is a water park located at Playfair Park and owned by the City of Missoula. My understanding is that HB 121 applies to Splash Montana.

24. We enjoy using the park on recreation nights for adults only. I use the men's changing room at Splash Montana as that corresponds with my gender identity.

25. If I were to continue using Splash Montana's men's changing room, under HB 121 I may not be using the correct facilities, which could

subject me to harassment and the City of Missoula to legal exposure.

26. In all public spaces, I seek to live my life in safety and with dignity.

27. I have never encountered any problems when using bathrooms facilities that correspond to the gender I identify with.

28. Because of the threats of harassment and violence against transgender and intersex individuals, I am especially mindful of my privacy when using public facilities. I am also very concerned about making others uncomfortable by using the restroom that corresponds with my gender identity.

29. I do not want to avoid using public spaces or forego using bathroom facilities while in public spaces.

30. My status as an intersex person is something I consider private and that I share only when and where I choose.

31. I want to follow Montana law, but medical science defines me as intersex, and I simply have no idea how I can follow HB 121 when I do not fit into its binary gender definitions.

I, John Doe, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Signed on March 31, 2026 in Missoula, Missoula County, State of Montana.

/s/ *John Doe*
John Doe

EXHIBIT 4

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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA	Cause No. DV 32-2025-282 Hon. Leslie Halligan

REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual, and MISSOULA COUNTY, *Plaintiffs*, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	**DECLARATION OF PLAINTIFF JANE DOE**

I, Jane Doe, declare as follows:

1. I am a Plaintiff in this action. I am over 21 years old, have personal knowledge of the facts contained in this declaration, and am competent to testify about them. I have been granted permission to use a pseudonym in this case.

2. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

3. I understand that HB 121 requires me to use restrooms, changing rooms, and sleeping quarters designated for the sex I was assigned at birth, regardless of my gender identity, and applies to public facilities, including my

workplace and public spaces I often visit.

4. I was born and raised in Helena, Lewis and Clark County, Montana, and I currently reside there.

5. My sex assigned at birth was male, but I identify as a woman. I have experienced discomfort surrounding my assigned sex and have had symptoms of gender dysphoria since I was in middle school. By the time I was in college, I understood that I was transgender. I have been diagnosed with gender dysphoria.

6. I transitioned when I was 22 years old and began living as the woman I know myself to be. I have worked with medical and mental health providers to help me bring my physical appearance and presentation into alignment with my gender identity. I have been taking feminizing hormone therapy as part of the treatment for my gender dysphoria since January of 2022.

7. I am a graphic designer in the Montana State Print & Mail Department, Government Services Division, where I have worked for nearly two and a half years. My day-to-day duties include utilizing templates for every agency and department's business card printing and other frequent print job needs, preparing sent files to be printed and produced, designing materials such as brochures and logos from scratch, as well as cleaning and maintaining mailing lists of protected personal information used to mail important documents such as vehicle renewal postcards or important tax information.

8. I work in a State Print & Mail Department warehouse at 1698 A St, Helena, MT 59601. My understanding is that HB 121 applies to the warehouse.

9. The warehouse is split into two halves. One half holds the print shop, which is a one-level warehouse space. The other half of the building is divided into two floors and holds office spaces. My cubicle is in the office portion of the building.

10. There are three restroom locations in the warehouse I work in. Upstairs in the office portion, there are two gender-designated single-occupancy bathrooms. Downstairs in the office portion, there are gender-designated multi-stall bathrooms. The shop floor has one unisex bathroom.

11. I most often use the women's single-occupancy bathroom upstairs. I also use the women's multi-stall bathroom downstairs when the bathroom upstairs is unavailable. I use the women's bathroom because it aligns with my gender identity and doing so protects my privacy and dignity.

12. I started using the women's bathroom during my transition. I have never had any problems related to my use of the women's bathroom at work.

13. I don't use the single unisex restroom on the shop floor because it is often occupied. I would not feel comfortable using that space knowing that the unisex bathroom is in high demand. The shop floor bathroom is also significantly farther from my office than the gender-designated bathrooms that I use.

14. Outside of work, I enjoy visiting public parks. I visit parks that are run by the State of Montana as well as parks run by local municipalities.

15. I have been to Giant Springs State Park in Great and Sluice Boxes State Park, both places where I used the public women's restroom with no issues. I plan to continue to visit Montana's state parks.

16. My understanding is that HB 121 will apply to these public parks.

17. At state parks and in other public spaces, I use the women's bathroom when there is a choice. This affords me privacy and dignity. I have not had any issues using the women's restrooms at public parks.

18. I value my privacy and safety when I use public bathroom facilities. I know that transgender people face harassment and violence in public, and especially in bathrooms, so I am very careful when using public bathrooms. I try not to draw any attention to myself and get in and out of the bathroom as quickly as possible.

19. I have faced discrimination for being trans in both my professional and personal life. My transgender identity is private and personal to me, and being outed to a stranger causes me anxiety because I do not know if the stranger will discriminate against me based on my transgender status. I am very well aware of the kind of discrimination and humiliation that transgender people commonly face.

20. In my personal life, most of my family has effectively disowned me because I am trans, and in the past one of my parents kicked me out of my home. I know that if my family can treat me like that, people who do not know me could be even more cruel. I currently do everything in my power to avoid situations where I might face violence or discrimination, as I know that it is very common for transgender people to experience these consequences of people learning they are transgender.

21. All I seek is to live my life safely and with dignity, and to be treated equally with everyone else when I am in public.

22. But HB 121 makes that impossible for me. It forces me to make an awful choice.

23. If I were to use the men's bathroom, as HB 121 requires me to do, it would not only be humiliating, but also dramatically increase the risk that I will face harassment and violence, because I do not live or present as a man. It would out me as a transgender person to any stranger who sees me in the bathroom. It could also affect my relationships with my co-workers. This would make me feel very uncomfortable and anxious as I go about my day.

24. If I were to continue using the women's restroom, not only would I be violating HB 121, but I would put my job at risk. I would open my employer up to liability under HB 121 and potentially give them a reason to terminate my

employment.

25. If HB 121 remains in effect, I would also not feel comfortable or safe using the men's bathroom at public parks, so I would visit them less or stop going to them at all.

26. I simply cannot avoid using public bathrooms. It is not realistic for me to be at my office for hours and hours without access to bathroom facilities. This would be hugely uncomfortable and perhaps lead to health issues. I am not sure how I would be able to continue working in the Montana State Print & Mail Department under HB 121.

27. I feel like by adopting HB 121, the State of Montana is telling me that I don't deserve the same dignified treatment as other Montanans and that I am not welcome in public spaces.

I, Jane Doe, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Signed on March 31, 2026 in Helena, Lewis & Clark County.

/s/ *Jane Doe*
Jane Doe

EXHIBIT 5

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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA	Cause No. DV 32-2025-282 Hon. Leslie Halligan

REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual, and MISSOULA COUNTY, *Plaintiffs*, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	**DECLARATION OF PLAINTIFF KASANDRA REDDINGTON**

I, Kasandra Reddington, declare as follows:

1. I am a Plaintiff in this action. I am over 21 years of age. I have personal knowledge of the facts contained in this declaration, and I am competent to testify about them.

2. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

3. I understand that HB 121 requires me to use restrooms, changing rooms, and sleeping quarters that are designated for the sex I was assigned at birth,

regardless of my gender identity, and applies to public facilities, including my workplace and state facilities I visit, such as public parks.

4. I am a Montana resident. I currently reside in Helena, Lewis and Clark County.

5. I was assigned a sex designation of male when I was born, but I identify as agender and transfeminine, which means I identify as more feminine than masculine, but not as a specific gender.

6. I am currently a full-time state employee working at Helena College as the College's Accessibility Services Coordinator. Helena College is a two-year public educational institution within the Montana University System.

7. My understanding of HB 121 is that it applies to Helena College.

8. Helena College has two campuses: The Donaldson Campus is located at 1115 N. Roberts Street in Helena and the Airport Campus is located at 2300 Airport Road in Helena.

9. I have worked at Helena College for eight years. My job has two components. First, I run the day-to-day operations of the Accessibility Services Office. I meet with students to determine and provide disability accommodations. I also coordinate with faculty, staff, and the college cabinet to ensure that student accessibility needs are met. Second, I am an academic advisor with the TRIO program, where I connect disadvantaged students with services.

10. My office is in the East End Advising Office on Donaldson Campus. The Donaldson Campus is a three-story building that holds campus administration and classes for humanities, cosmetology, and nursing programs. Most of Helena College's student events happen on Donaldson Campus. Additionally, many members of the public come to Donaldson Campus for community education and community events.

11. When I am at the Donaldson Campus, I use the restrooms closest to my office, which are multi-stall and separated by gender. These restrooms are used by employees, students, and members of the public. I use the women's restroom, which aligns with my gender identity. Doing so allows me to attend to my personal needs with privacy and dignity. I have never had any issues in my workplace related to my use of a restroom consistent with my gender identity.

12. My work building also has one single-occupancy restroom, but it is farther away from my office than the multi-stall restroom I use. I would need to walk past two multi-stall women's restrooms before I reach the single-occupancy restroom. Because of a health issue, I often must use the restroom urgently and might not be able to get to the single-occupancy restroom in time to use it. The single-occupancy restroom used to be a men's room and is still commonly used by male students and staff given that history. This is another reason I am less comfortable waiting for this restroom.

13. I occasionally travel to the University of Montana–Missoula campus for work. This campus has several multi-stall restrooms designated by gender, and those are my only restroom options.

14. Additionally, about once a month, my employment requires me to work at Helena College's Airport campus. I use space in the building foyer as my office during these visits.

15. There are no single-stall restrooms at the Airport campus. All restrooms there are multi-stall and segregated by gender. These restrooms are used by employees, students, and members of the public.

16. At the Missoula Campus and the Airport campus, I use the women's restrooms, which align with my gender identity and allow me to attend to my personal needs with privacy and dignity. I have never had any issues related to my use of a restroom at these campuses consistent with my gender identity.

17. Outside of work, I enjoy visiting Montana state public parks, which I understand will also be regulated by HB 121. My favorite public park is Spring Meadow Lake State Park, which is an urban, day-use park on Helena's western edge. I visit Spring Meadow Lake State Park very often—several times each month. I use the multi-stall and gender-segregated restrooms. There are also single-use pit toilets, but like most people I know, I prefer to use the multi-stall restrooms

with modern plumbing because they are cleaner, more accessible, and more user-friendly. I have not had an issue using women's multi-stall restrooms at state parks.

18. At state parks and in other public spaces, I use the restroom that aligns with my gender identity, allowing me to attend to my personal needs with dignity and safety.

19. I expect and value my privacy while using restroom facilities in public spaces. Because I am transgender, I have had my life and safety threatened numerous times, both online and in person. I have been harassed and sexually harassed. I have been denied jobs. I have been denied healthcare access by a provider. I have faced the loss of family, friends, and relationships. Given this, I tend to be extremely cautious and try to keep my head down when I use public restrooms.

20. Early in my transition, I still used the men's restroom in multiple places. When I did, I was confronted in those restrooms and asked to use the women's restroom. Although this is less of a problem for me now that I use women's restrooms, I still minimize use of public restrooms because I'm scared of the risk of discrimination and conflict.

21. In all public spaces, I seek to live my life in safety and with dignity.

22. If HB 121 remains in effect, I will be forced into an impossible situation.

23. If I were forced to use the men's multi-stall bathroom, which does not align with my gender identity, I fear that I would have to face the intrusive questions and harassment I received early in my transition. I am also concerned that I would be outed as a transgender woman and experience violence.

24. If I continue to use the women's restroom, I potentially threaten the workplace I love and the service I provide to the student community, because someone could sue the College under HB 121. I am concerned about the challenges faced by my workplace and the College's ability to serve students.

25. If I had to start using the single-stall restroom in the Donaldson Campus building where I work, it would be inconvenient because it is farther from my office than the women's restroom. Also, as I explained above, I often must use the restroom urgently because of a medical issue, so I am very concerned that I would not have time to get to the single-stall restroom when I need it. The problem becomes worse if the single-stall restroom is occupied by someone else, as I would then have to backtrack and go to the men's restroom.

26. Another problem is that in some of my workplaces, such as the Airport Campus, there are only multi-stall, gender-segregated restrooms, so I would be required to use the men's restroom under HB 121.

27. Using a men's restroom would dramatically impact my safety. It would out me to any stranger, dramatically increasing the risk that I would face

violence and malicious identification. It would also affect my relationships with students and co-workers. This would make me much more uncomfortable and unsafe when I am just trying to go about my day.

28. Occasionally, my employment requires work trips. Sometimes, these trips are to other Montana University System campuses. In June 2024, I traveled to Montana State University-Bozeman for a conference. We had the conference on campus, and I stayed in the dorms. I requested and received a single room assignment.

29. In the future, I could be asked to attend a conference with housing on-campus. My requests for single rooms have been granted in the past but may or may not be granted in the future.

30. If my request for a single room is not granted, I would be required to share a room with another co-worker. I would be more comfortable sharing a sleeping room with another female. Under HB 121, that would not be possible.

31. If HB 121 remains in effect, I would also not be able to enjoy the state parks because I would not feel comfortable or safe being required to use the men's restrooms there.

32. I understand the point of HB 121's regulation of places like public colleges and state parks is to make it impossible for me to continue using multi-

stall bathrooms that align with my gender identity. Under HB 121, even if I don't face formal punishments or consequences for using bathrooms aligned with my gender identity, I fear that doing so will lead to invasive questioning, harassment, and unwanted attention because HB 121 tells the public that I don't belong there.

33. I also do not want to avoid using public spaces or forego using bathroom facilities while in public spaces. It is not realistic for me to be in public places, including my office and recreational areas, for a full working day and recreating for several hours without access to bathroom facilities. It would be painful and could lead to infections and other physical harm. I also do not think it would be fair to expect me to do that. My cisgender colleagues and neighbors do not have to deal with this humiliation and physical suffering just to be in public spaces.

34. I feel like by adopting HB 121, the State of Montana is telling me that I am not a valued state employee and member of the community.

I, Kasandra Reddington, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Signed on March 31, 2026, in Helena, Lewis & Clark County.

/s/ *Kasandra Reddington*
Kasandra Reddington

EXHIBIT 6

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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA	Cause No. DV 32-2025-282 Hon. Leslie Halligan

REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual, and MISSOULA COUNTY, *Plaintiffs*, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	**DECLARATION OF PLAINTIFF SPENCER MCDONALD**

I, Spencer McDonald, declare as follows:

1. I am a Plaintiff in this action. I have personal knowledge of the facts set forth in this declaration and could and would testify competently to those facts if called as a witness.

2. I submit this declaration in support of Plaintiffs' Motion for Summary Judgment.

3. I understand that Montana House Bill 121 (HB 121) will apply to state buildings, local government buildings, public parks, and other places owned and operated by the State.

4. I live in Missoula, Missoula County. At the time this lawsuit was filed, I lived in Helena, Lewis and Clark County, where I was attending college.

5. I am a transgender man. I came out as a transgender man over three years ago. Every day, I know that when I look in the mirror, I continue to love and recognize the face and body that looks back at me. Transitioning saved my life. Because of my transition, everything in my life has improved. I am kinder, more determined, outgoing, friendly, and courageous, all because I am finally home.

6. My status as a transgender man is something that I consider private. I should have the right to share that information when, where, and with whom I choose.

7. At the time this lawsuit was filed, I worked as a legislative session intern for the Montana Democratic Party. My work duties included supporting legislators, completing policy research, and following the directives of full-time staff. To complete these duties, I was expected to be present in any committee hearing room, office, or legislator space in the Capitol.

8. I was working in the Montana Capitol building at the time the lawsuit was filed, and HB 121 impacted my use of the restrooms in that building.

9. My desk was in the basement of the Capitol building, in a room known as the Democrat "bullpen."

10. The nearest restrooms to my office are two single-occupancy, non-gender designated restrooms in the basement. Outside these restrooms, there is a sign designating the hallway for staff only. However, members of the public use these restrooms along with legislators and staff members. These restrooms are typically in high demand.

11. There is one additional set of single-occupancy bathrooms in the Capitol. They are in the Senate Leadership Offices. The entrance is not in the public hallway. You must enter the Senate Leadership offices to even access the hallway where those restrooms are located. While they are technically public, I did not feel comfortable using those restrooms, not only because I was an intern, but also because the leadership of the Senate was pushing HB 121 and other bills that attack my community.

12. The remainder of the public restrooms in the Capitol building are multi-stall and gender designated.

13. When I was at my desk in the basement, I used a single-occupancy restroom. When the single-occupancy restroom was in use, or when I was in other areas of the Capitol building, I used the multi-stall restrooms designated for men, because they aligned with my gender identity. I never had any problems related to using the male restrooms in the Capitol building.

14. My job often required me to be present near the House of Representative's chamber on the third floor of the Capitol building. The nearest restroom was a multi-stall men's restroom on the fourth floor above the chamber, so I used that restroom as well.

15. Under HB 121, the State could force me to use the women's restroom. I would be concerned about my safety and peace if I had to do that. I present as a man and if I were to use the women's restroom, it would cause disruption and expose me to harassment and discrimination. Additionally, using the women's bathroom would out me as transgender.

16. I watched the Senate Judiciary hearings on HB 121. One of the bill's proponents spoke about her fear of sharing a restroom with men. An opponent of the bill then described recent harassment they had experienced in the women's restroom due to their appearance. I anticipate that I would experience similar harassment if I were forced to use the women's restroom.

17. I left my internship position after the 2025 Legislative session. I moved to Missoula in the summer of 2025, after graduation from college. I then began working at a private business.

18. I expect that I will use spaces covered by HB 121 in the future.

19. I am a lifelong Montanan who enjoys the beauty of the outdoors. In the summer, I enjoy camping and recreating at Canyon Ferry Lake State Park. I often

use campgrounds at Canyon Ferry with my friends. The campgrounds at my favorite campsite have multi-stall, gender-designated restrooms. I would not feel safe or comfortable using the men's multi-stall restrooms, as HB 121 requires me to do.

20. HB 121 would make it very difficult for me to spend time in a public space. I am an avid football fan and like to attend games at the University of Montana. I need to go to the DMV, the library, city hall, and government offices just like every other Montanan. I sometimes need to spend several hours in these spaces and need access to restrooms. I deserve to be treated fairly and allowed to meet my basic needs in the restrooms that I belong in. This law will force me to make painful decisions and potentially withdraw from spending time in public spaces that I love, as well as prevent me from taking care of necessary affairs that I can only conduct in public buildings.

21. By adopting HB 121, the State of Montana is telling me that my presence and work are not valued.

I, Spencer McDonald, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

Signed on March 31, 2026 in Missoula, Missoula County.

/s/ *Spencer McDonald*
Spencer McDonald

EXHIBIT 7

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MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE	Dept. No. 1 DV-32-2025-282

DOE, an individual; JOHN DOE, an individual; and MISSOULA COUNTY, Plaintiffs, vs. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	**DECLARATION OF CHRISTIAN LOUNSBURY, MISSOULA COUNTY**

I, Christian Lounsbury, declare as follows:

1. I am the Chief Administrative Officer for Missoula County.
2. I am the Rule 30(b)(6) designee for Missoula County in this litigation and submit this Declaration as a representative of the County.
3. Missoula County joined this lawsuit on July 31, 2025, after determining that there was significant uncertainty as to how to comply with House Bill 121, and whether implementation could result in the County being out of compliance with other local, state, and federal obligations. The

County was also concerned that HB 121 would have negative impacts on the County and its staff.

4. Missoula County is responsible for 115 "covered entities" regulated by HB 121. *See* HB 121 § 2(3). Approximately half of the total covered entities have multi-occupancy restrooms. A spreadsheet containing the covered entities impacted is attached to this Declaration as Exhibit A.
5. Missoula County's most publicly accessed facilities are the Missoula County Historic Courthouse, Missoula County Annex, Missoula County Health Department, Missoula City-County Public Library, the historical museum at Fort Missoula, the Missoula County Fairgrounds, Missoula County Rocky Mountain Garden and Exploration Center, and the Missoula County Detention Facility. All of these high-use buildings have multi-occupancy restrooms. The Missoula County fairgrounds have public changing rooms at the ice rink, and the Missoula County Detention Facility has staff changing rooms.
6. Missoula County is concerned about several harms it will suffer as a result of HB 121.
7. First, given the lack of clarity provided by HB 121, Missoula County does not know how to comply with the statute and is unable to properly assess the risk that it will be deemed to be non-compliant. HB 121

requires the County to "take reasonable steps to provide individuals with privacy from members of the opposite sex in designated restrooms, changing rooms, and sleeping quarters." HB 121 § 3(3); *see id.* § 4(1)–(2). But HB 121 does not say anything about what those "reasonable steps" are.

8. Second, even basic steps Missoula County may need to take as part of complying with HB 121 would impose significant costs. Based on some initial research Missoula County undertook concerning the most basic compliance measures—converting multiple-occupancy bathrooms into single-occupancy bathrooms by removing old locks and adding new locks and doors—the costs for implementing these basic measures for just seven buildings would exceed $25,000 and significantly lessen restroom availability.

9. Third, Missoula County is also concerned that following HB 121 will put the County out of compliance with other laws and regulations. For example, the International Building Code, which both the State of Montana and Missoula County have adopted for building code enforcement, requires a certain number of restrooms based on the type of building and the level of public access/use of the building. If Missoula County were to modify a building pursuant to HB 121, the changes may

take the building out of compliance with the building code. As a result, the building permit to make the changes could be denied, and Missoula County could be fined for completing work and failing to pass inspection or could be subject to the withholding of a certificate of occupancy.

10. Missoula County Detention Center standards also require compliance with sanitation and restroom requirements created by the State of Montana. The federal Prison Rape Elimination Act imposes its own requirements for the provision of sanitary facilities in correctional facilities.

11. The Americans with Disabilities Act also has restroom requirements, which include turning space diameters, toilet position, signage, locks, etc. Violations of the ADA result in fines and penalties.

12. Missoula County also has an obligation under the Montana Constitution to respect its residents' fundamental right to privacy.

13. Fourth, Missoula County faces potentially significant litigation and liability under HB 121 for alleged non-compliance—a problem that is exacerbated by HB 121's vague standards and exposes Missoula County and its taxpayers to the risk of damages and the certainty of increased legal fees. Under Section 4 of HB 121, any person could sue one of the County's covered entities any time they believe they have "encounter[ed]

another individual" in a "restroom or changing room designated for the opposite sex" or when they "share sleeping quarters with an individual of the opposite sex." Under these provisions, if there are 20 people in a covered restroom who encounter someone they believe to be the "wrong" sex there, the County could face 20 separate lawsuits. Thus, Missoula County would certainly need to expend significant funds to defend against HB 121 enforcement actions—whether they are meritorious or not—as well as potential fees for plaintiffs in the event plaintiffs prevail.

14. Given the large number of individuals utilizing Missoula County's public restrooms and changing rooms on any given day and that claims can be brought up to two years in the future, defending claims (to the extent defense is even an option) will require significant time commitments from Missoula County's legal team and staff, all at taxpayer expense.

15. Finally, Missoula County employs transgender individuals. The County is concerned that compliance with HB 121 will inflict harm on the County's employees at work, including increased risks of harassment, abuse, and physical violence. These harms not only undermine the employees' dignity and wellbeing but will also make it more difficult for Missoula County to retain, support, and hire transgender individuals.

I, Chris Lounsbury, declare under penalty of perjury that the foregoing is true to the best of my knowledge and belief.

DATED this 31st day of March in Missoula, Montana.

/s/ Chris Lounsbury
Chris Lounsbury
Rule 30(b)(6) Designee,
Plaintiff Missoula County

EXHIBIT A

Loc #	Bldg #	Name	Address	City	State	ZIP	Yr Built	# Stories	Sq Ft
1	A	Courthouse & Annex	200 W. Broadway	Missoula	MT	59802	1908	4	85,370
2	A	Health Department	301 W. Alder	Missoula	MT	59802	1974	2	27,904
3	A	Library	301 E. Main	Missoula	MT	59802	2020	5	42,672
4	B	Fair - Floriculture/Elections #15	1101 South Ave. W.	Missoula	MT	59801	1965	1	4,230
4	C	Fair - Commercial #13	1101 South Ave. W.	Missoula	MT	59801	1916	2	13,450
4	D	Fair - Office #12	1101 South Ave. W.	Missoula	MT	59801	1960	1	3,240
4	E	Fair - Parimutual enclosed #9	1101 South Ave. W.	Missoula	MT	59801	1964	1	2,160
4	F	Fair - Grandstands #10 and #11	1101 South Ave. W.	Missoula	MT	59801	1958	1	12,431
4	G	Fair - Parimutual Annex open #6	1101 South Ave. W.	Missoula	MT	59801	1970	1	3,672
4	H	Fair - Bleachers portable	1101 South Ave. W.	Missoula	MT	59801	2004	1	200
4	I	Fair - Restrooms #19	1101 South Ave. W.	Missoula	MT	59801	1959	1	2,924
4	J	Fair - Culinary #16	1101 South Ave. W.	Missoula	MT	59801	1935	1	4,850
		Fair - Shop #36	1101 South Ave. W.	Missoula	MT	59801			
4	K	Fair - Llama Barn #34	1101 South Ave. W.	Missoula	MT	59801	1988	1	7,000
4	L	Fair - Hockey Rink enclosed #24 + Butler Blg	1101 South Ave. W.	Missoula	MT	59801	2004	1	42,516
4	M	Fair - Hockey Rink open #26	1101 South Ave. W.	Missoula	MT	59801	1998	1	26,565
4	N	Fair - Home Arts #35	1101 South Ave. W.	Missoula	MT	59801	1979	1	5,400
4	O	Fair- Horse Stalls	1101 South Ave. W.	Missoula	MT	59801	2018	1	32,700
4	P	Fair - New Concessions	1101 South Ave. W.	Missoula	MT	59801	2020	1	4200
4	Q	Fair - New Maintenance Building B41	1101 South Ave. W.	Missoula	MT	59801	2021	2	4300
5	A	Roads - Offices	6089 Training Drive	Missoula	MT	59802	1998	1	7,120
5	B	Roads - Shop	6089 Training Drive	Missoula	MT	59802	1998	1	11,200
5	C	Traffic Control	6089 Training Drive	Missoula	MT	59802	1998	1	2,400
5	D	Vehicle Storage	6089 Training Drive	Missoula	MT	59802	1998	1	12,000
5	E	Welding Shop	6089 Training Drive	Missoula	MT	59802	1998	1	2,400
5	F	Garage Shelter	6089 Training Drive	Missoula	MT	59802	1998	1	15,600
5	G	Fuel Island	6089 Training Drive	Missoula	MT	59802	1998	1	1,394
5	H	Equipment Storage	6089 Training Drive	Missoula	MT	59802	1976	1	9,350
5	I	Paint Storage	6089 Training Drive	Missoula	MT	59802	1996	1	600
6	A	Grants Buildiing	223 W. Alder	Missoula	MT	59802	2014	1	5,189
7	A	Larchmont Shop	3200 Old Fort Rd.	Missoula	MT	59804	1981	1	2,400
7	B	Larchmont Club House	3200 Old Fort Rd.	Missoula	MT	59804	1993	1	7,556

7	C	Larchmont Restroom	3200 Old Fort Rd.	Missoula	MT	59804	1984	1	216
8	A	Lolo Pump Station	1755 Lakeside Dr.	Missoula	MT	59847	1971	1	1,808
8	B	Lolo Treatment Plant	1755 Lakeside Dr.	Missoula	MT	59847	1971	1	1,257
9	A	Main Museum Bldg 322	3400 Captain Rawn Way	Missoula	MT	59804	1911	2	13,200
9	B	Sentry Box	3400 Captain Rawn Way	Missoula	MT	59804	1941	1	36
9	C	Rootcellar	3400 Captain Rawn Way	Missoula	MT	59804	1908	1	1,600
9	D	NCO Quarters	3400 Captain Rawn Way	Missoula	MT	59804	1878	1	1,841
9	E	Carriage House	3400 Captain Rawn Way	Missoula	MT	59804	1880	1	270
9	F	Homestead Cabin	3400 Captain Rawn Way	Missoula	MT	59804	1900	1	1,000
9	G	H.C. Outhouse	3400 Captain Rawn Way	Missoula	MT	59804	1900	1	20
9	H	Grant Creek School	3400 Captain Rawn Way	Missoula	MT	59804	1907	1	540
9	I	St. Michaels Church	3400 Captain Rawn Way	Missoula	MT	59804	1863	1	600
9	J	ADC Barracks	3400 Captain Rawn Way	Missoula	MT	59804	1941	1	2,700
9	K	Sentry Box	3400 Captain Rawn Way	Missoula	MT	59804	1941	1	36
9	L	Storage Warehouse	3400 Captain Rawn Way	Missoula	MT	59804	1940	1	4,200
9	M	Trolley Barn	3400 Captain Rawn Way	Missoula	MT	59804	2007	1	2,064
9	N	Speeder Shed	3400 Captain Rawn Way	Missoula	MT	59804	2007	1	242
9	O	Drummond Depot	3400 Captain Rawn Way	Missoula	MT	59804	1910	1	1,700
9	P	Depot Outhouse	3400 Captain Rawn Way	Missoula	MT	59804	1910	1	30
9	Q	Education Cabin	3400 Captain Rawn Way	Missoula	MT	59804	1998	1	360
9	R	Storage Cabin	3400 Captain Rawn Way	Missoula	MT	59804	1998	1	367
9	S	Restrooms	3400 Captain Rawn Way	Missoula	MT	59804	1998	1	825
9	T	Tipi-Burner	3400 Captain Rawn Way	Missoula	MT	59804	2006	1	3,136
9	U	Equipment Barn	3400 Captain Rawn Way	Missoula	MT	59804	1995	1	4,410
9	V	Sawmill	3400 Captain Rawn Way	Missoula	MT	59804	1990	1	4,800
9	W	Timber Building	3400 Captain Rawn Way	Missoula	MT	59804	1980	1	540
9	X	Sliderock Lookout	3400 Captain Rawn Way	Missoula	MT	59804	1933	1	100
9	Y	Miller Creek Guard Cabin	3400 Captain Rawn Way	Missoula	MT	59804	1910	1	270
9	Z	Gazebo	3400 Captain Rawn Way	Missoula	MT	59804	1999	1	256
9	AA	Train and Trolleys	3400 Captain Rawn Way	Missoula	MT	59804	1930	1	2,870
9	AB	Forest Service Bldg - T1	3400 Captain Rawn Way	Missoula	MT	59804	1940	2	11,683
10	A	Sheriffs Restroom	5225 U.S. Hwy 10 W	Missoula	MT	59802	1987	1	64
10	B	Sheriffs Classroom	5225 U.S. Hwy 10 W	Missoula	MT	59802	1985	1	817

10	C	Sheriffs Storage	5225 U.S. Hwy 10 W	Missoula	MT	59802	1987	1	64
11	A	Rural Initiatives Office	317 Woody St.	Missoula	MT	59802	1920	2	4,416
12	A	9 Mile Garage	Nine Mile Rd.	Seeley	MT	59868	1986	1	1,440
13	A	Community Center	6811 MT-83	Condon	MT	59826	1939	1	1,836
14	A	Library	6811 MT-83	Condon	MT	59826	1977	1	1,190
15	A	Community Center	10011 Stitt St.	Clinton	MT	59825	1950	1	4,406
16	A	Speedway Apartments	510 Speedway	E. Missoula	MT	59802	1939	2	2,259
17	A	Roads Shop	2285 Airport Rd.	Seeley Lake	MT	59868	1997	1	5,717
18	A	Sheriffs	143 Shop Lane	Seeley Lake	MT	59868	1981	1	1311
19	A	Communication Site	University Mountain	Missoula	MT	59802	1975 n/a		0
19	B	Communication Site	Point 6	Missoula	MT	59802	1975 n/a		0
19	Bb	Communication Site add to Point 6	Charter Blg Purchase add to Point 6					1	300
19	C	Communication Site	Blanchard	Missoula	MT	59802	1975 n/a		0
19	D	Communication Site	Point 118	Missoula	MT	59802	1975 n/a		0
19	E	Communication Site	Ellis	Missoula	MT	59802	1975 n/a		0
19	F	Communication Site	Pierce Lake	Seeley Lake	MT	59868	2005 n/a		0
19		Communication Site	Miller Pk	Missoula	MT	59802	2008 n/a		0
20	A	Extension Office	2825 Santa Fe Ct.	Missoula	MT	59802	1970 n/a		3,000
21	A	Youth Court	311 Woody St.	Missoula	MT	59802	1920	2	4,500
22	A	Detention Center	2340 Mullan Rd.	Missoula	MT	59802	1999	1	129,000
22	B	Secure Storage Warehouse	2340 Mullan Rd.	Missoula	MT	59802	2011	1	27,000
23	A	Risk Management	438 W. Spruce	Missoula	MT	59802	1920	2	2,683
24	A	Warehouse Building	2147 Ernest Ave.	Missoula	MT	59802	1977	1	23,200
25	A	Partnership Health Center	323 W. Alder	Missoula	MT	59802	1999	2	11,738
26	A	LaLond Homestead	5404 W. Harrier	Missoula	MT	59802	1905	2	1,800
26	B	LaLond Barn	5404 W. Harrier	Missoula	MT	59802	1905	2	1,200
27	A	Art Museum and Park	335 North Pattee	Missoula	MT	59802			
28	A	Animal Shelter	6700 Butler Creek Rd	Missoula	MT	59802	2003	1	3,369
29	A	PHC/Creamery Building	401 Railroad St. W	Missoula	MT	59802	1914	2	35,344
30	A	Seeley Refuse Office	2698 Woodworth Rd.	Seeley Lake	MT	59868	2005	1	625
31	A	County Administration	199 West Pine	Missoula	MT	59802	1968	2	18,190
32	A	PHC/Lowell School Clinic	1150 Sherwood St.	Missoula	MT	59802	2013	1	2,494
33	A	PHC/Poverello location	1110 West Broadway	Missoula	MT	59802	2015	2	

34	A	Search & Rescue Bldg.	143 Shop Rd. Seeley	Seeley Lake			2015	2	3,780
35	A	Junk Vehicle Shop	820 Deschamps Lane	Missoula			2015	1	3,080
36	A	PHC/Seeley Clinic	3050 HWY 83					1	
37	A	PHC/Superior Clinic	1208 6th Avenue East, Superior					2	
38	A	5-Plex Concession Building at FMRP	3025 South Avenue West	Missoula	MT	59804	2018	2	2,709
38	B	Inclusive Playground Restroom at FMRP	3005 South Avenue West	Missoula	MT	59804	2018	1	413
38	C	Dog Park Vault Toilet at FMRP	3251 Fort Missoula Road	Missoula	MT	59804	2018	1	
38	D	Maintenance Building at FMRP	3219 Fort Missoula Road	Missoula	MT	59804	2018	1	3,920
38	E	Inclusive PG Picnic Shelter at FMRP	3005 South Avenue West	Missoula	MT	59804	2018	1	1,566
38	F	Existing Tennis/Pickleball Restroom at FMRP	3219 Fort Missoula Road	Missoula	MT	59804	2004	1	520
38	G	Existing Shelter at the Greens FMRP	3231 Fort Missoula Road	Missoula	MT	59804	2011	1	700
39	A	Community & Planning Services	127 E. Main St.	Missoula	MT	59802			
40	A	Elections Center	140 N. Russell	Missoula	MT	59802	1976	3	7711
40	B	Training Warehouse	119 N. Russell	Missoula	MT	59802	1976	1	7700
			444 W. Alder St.	Missoula	MT	59802	1895	2	1376
		Freighthouse Building	306 Railroad St. W	Missoula	MT	59802			
		Federal Building - US Post Office/Courthouse	200 E Broadway St	Missoula	MT	59802			
		Rocky Mountain Gardens & Exploration Center	1075 South Ave. W.	Missoula	MT	59804	2023	2	28000
		Sheriff's Office	2415 Mullan Rd	Missoula	MT	59802		1	8190

EXHIBIT 8

MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY

CASEY PERKINS, et al., *Plaintiffs*, v. STATE OF MONTANA, et al., *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	Cause No. DV 32-2025-282 Dept. 1 - Hon. Leslie Halligan **DECLARATION OF DR. RANDI ETTNER IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

EXPERT DECLARATION OF DR. RANDI C. ETTNER, Ph.D.

I, Dr. Randi C. Ettner, declare as follows:

1. I submit this expert declaration based on my personal knowledge.

2. I have been retained by counsel for Plaintiffs as an expert in connection with the above-mentioned litigation. Specifically, I have been asked by Plaintiffs' counsel to provide my expert opinion regarding the risks and harms that would result from requiring transgender individuals to conform to their birth-assigned sex when using public restrooms and other covered facilities, and Defendants' experts' oversimplification of intersex variations.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion.

I. SUMMARY OF OPINIONS

4. Gender dysphoria is a serious medical condition resulting from an incongruence between

an individual's gender identity and other aspects of their sex, causing clinically significant distress or impairment in functioning. Evidence-based treatment focuses on alleviating this distress by supporting the individual in aligning their physical characteristics and lived experience with their gender identity.

5. It will often not be possible to determine an individuals' transgender status based on their appearance alone. Requiring these individuals to use bathrooms, changing rooms or sleeping quarters based on their sex assigned at birth would effectively discloses their transgender status.

6. Some individuals would fall under neither definition of "Male" or Female" in Montana's HB 121.

II. BACKGROUND AND QUALIFICATIONS

7. 1. I am a licensed clinical and forensic psychologist with a specialization in the diagnosis, treatment, and management of gender diverse conditions. I received my doctorate in psychology (with honors) from Northwestern University. I am a Fellow and Diplomate in Clinical Evaluation of the American Board of Psychological Specialties, and a Fellow and Diplomate in Trauma/Post-Traumatic Stress Disorder. I have been on the medical staff of Weiss Memorial Hospital in Chicago and Lutheran General Hospitals.

8. I have evaluated, diagnosed, and/or treated over 3,000 individuals with gender incongruity.

9. I have published four books related to the treatment of individuals with gender incongruity, including the medical text titled Principles of Transgender Medicine and Surgery (co-editors Monstrey & Eyler; Routledge 2007), and the Second Edition (co-editors Monstrey & Coleman; Routledge, 2016). I am currently under contract to publish the Third Edition of this text. In addition, I have authored numerous articles in peer-reviewed journals regarding the provision

of health care to the transgender population.

10. The World Professional Association for Transgender Health (WPATH) is an international association of more than 2,500 medical and mental health professionals specializing in the treatment of gender diverse people that promulgates the Standards of Care (SOC) for the treatment of gender incongruity worldwide. I was Secretary and served as a member of the Board of Directors of WPATH for more than a decade.

11. I am a co-author of WPATH's Standards of Care for the Health of Transsexual, Transgender and Gender Nonconforming People, Version 7 (WPATH SOC-7), published in 2012, and the WPATH Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 (WPATH SOC-8), published in 2022. For SOC-8, I was the co-lead for the chapter on "Applicability of the Standards of Care to People Living in Institutional Environments."

12. As an expert on the treatment of gender conditions, I provide training to medical professionals on health care for people with gender dysphoria. I have also been a consultant to policy makers, as well as the Centers for Medicare and Medicaid and the State of Illinois.

13. I have served as a member of the University of Chicago Gender Board, and am on the editorial boards of Transgender Health and the International Journal of Transgender Health.

14. I have been an invited guest at the National Institutes of Health to participate in developing a strategic research plan to advance the health of sexual and gender minorities, and was invited to address the Director of the Office of Civil Rights of the United States Department of Health and Human Services regarding the medical treatment of gender dysphoria. I received a commendation from the US Congress House of Representatives recognizing my work.

15. I have lectured throughout North America, Europe, South America, and Asia on topics related to gender dysphoria and have given grand rounds on gender dysphoria at university

hospitals. I have been a consultant to news media and have been interviewed as an expert on gender conditions for hundreds of television, radio, and print outlets throughout the country.

16. I have been retained as an expert regarding gender dysphoria and the treatment of gender dysphoria in multiple court cases and administrative proceedings, and repeatedly qualified as an expert.

17. A true and accurate copy of my Curriculum Vitae is attached hereto as Exhibit A. A bibliography of the materials reviewed in connection with this declaration is attached hereto as Exhibit B. The sources cited therein are authoritative, scientific, peer-reviewed publications. I generally rely on these materials when I provide expert testimony, and they include the documents specifically cited as supportive examples in particular sections of this declaration. The materials I have relied on in preparing this declaration are the same type of materials that experts in my field of study regularly rely upon when forming opinions on the subject.

18. I have not met or spoken with the Plaintiffs for purposes of this declaration. My opinions are based solely on the information I have been provided by Plaintiffs' attorneys, the materials referenced in the Bibliography as Exhibit B and cited herein, and my extensive experience studying gender dysphoria and in treating transgender patients.

Previous Testimony

11. In the last four years, I have testified as an expert at trial or by deposition in the following cases:

- *Casey Perkins v. State of Montana*, No. DV-32-2025-282 (D. Montana);
- *Wagoner v. Dahlstrom*, No. 3:18-cv-00211-RRB (D. Alaska);
- *X.A. v. Matawska-Susitna Borough School District*, No. 3PA-24-01525 CI (D. Alska);

- *Bernier v. Turbocam*, No. 1:23-cv-00523-LM-AJ (D. NH);
- *Shawntee Levy v. Robert Green*, No. TDC-18-1291(D. Md.);
- *Cordellioné v. Comm'r, Indiana Dep't of Corr.*, No. 3:23-cv-135-RLY-CSW, 2024 WL 4333152 (S.D. Ind. Sept. 17, 2024);
- *Soneeya v. Turco*, 717 F. Supp. 3d 132 (D. Mass. 2024);
- *Levy v. Green*, No. 18-1291-TDC, 2024 WL 3090367 (D. Md. June 21, 2024);
- *D.T. v. Christ*, 552 F. Supp. 3d 888 (D. Ariz. 2021);
- *Zayre-Brown v. North Carolina Dep't of Public Safety*, No. 3:22-cv- 00191, 2024 WL 410243 (W.D.N.C. Feb. 2, 2024);
- *Roe v. Herrington*, No. 4:20-cv-00484-JAS, 2023 WL 5759590 (D. Ariz. Aug. 10, 2023);
- *Diamond v. Ward*, No. 5:20-cv-00453, 2022 WL 3221224 (M.D. Ga. Aug. 9, 2022);
- *Stillwell v. Dwenger*, No. 1:21-cv-1452-JRS-MPB, 2021 WL 12323941 (S.D. Ind. June 7, 2021);
- *Letray v. City of Watertown*, 718 F. Supp. 3d 192 (N.D.N.Y.);
- *C.P. v. Blue Cross Blue Shield of Illinois*, No. 3:20-cv-06145-RJB, 2021 WL 12192011 (W.D. Wash. Nov. 2, 2021);
- *Gilbert v. Dell Technologies*, 415 F. Supp.3d 389 (S.D.N.Y. 2019);
- *Kadel v. Folwell*, 620 F. Supp. 3d 339 (M.D.N.C. 2022);
- *Iglesias v. Connor*, No. 19-cv-0415-RJN, 2021 WL 4943739 (S.D. Ill. Oct. 22, 2021);
- *Monroe v. Wexford Health Sources, Inc.*, No. 18-CV-01052 (S.D. Ill. Sept. 2, 2021);

- *Singer v. Univ. of Tennessee Health Sciences Ctr.*, No. 2:19-cv-02431- JPM-cgc, 2021 WL 3412445 (W.D. Tenn. Aug. 4, 2021);
- *Morrow v. Tyson Fresh Meats, Inc.*, No. 6:20-cv-02033, 2021 WL 7285897 (N.D. Iowa Aug. 13, 2021);
- *Claire v. Florida Dep't of Mgmt. Servs.*, 504 F.Supp.3d 1328 (N.D. Fla. 2020);
- *Williams v. Allegheny Cnty*, No. 2:17-cv-01556-3 MJH, (W.D. Pa. 2021);
- *Gore v. Lee*, No. 3:19-CV-00328, 2023 WL 4141665 (M.D. Tenn. June 22, 2023);
- *Eller v. Prince George's Cnty. Public Sch.*, 580 F. Supp. 3d 154 (D. Md. 2022);
- *Monroe v. Baldwin*, No. 18-CV-00156-NJR-MAB, 2019 WL 2409572 (S.D. Ill. June 7, 2019);
- *Ray v. Acton*, No. 2:18-cv-00272, 2020 WL 11222226 (S.D. Ohio Jan. 9, 2020);
- *Edmo v. Idaho Dep't of Corr.*, 358 F.Supp.3d 1103 (D. Idaho 2018).

Compensation

19. I am being compensated for my work on this matter at a rate of $400.00 per hour for preparation of declarations and expert reports and $600 per hour for testimony. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I may provide.

III. EXPERT OPINIONS

a. Sex and Gender Identity

20. At birth, infants are assigned a sex, typically male or female, based solely on the appearance of their external genitalia. For most people, that assignment turns out to be accurate, and their birth-assigned sex matches that person's actual sex.

21. Gender identity is a person's inner sense of belonging to a particular sex, such as male

or female. All individuals possess a gender identity, whether or not it aligns with the sex assigned at birth. It is a deeply felt and core component of human identity, and is typically detectible by self-disclosure in adolescents and adults.

22. Transgender is an umbrella term encompassing anyone who feels some incongruity between their birth-assigned sex and their gender identity.

23. When there is divergence between one's birth-assigned sex and gender identity, one's gender identity is paramount and the primary determinant of an individual's sex designation. Developmentally, identity is the overarching determinant of the self-system, influencing personality, a sense of mastery, relatedness, and emotional reactivity, across the life span. It is also the foremost predictorof satisfaction and quality of life. Psychologist Eric Erickson defined identity as "the single motivating force in life."

24. The only difference between transgender people and cisgender people is that the latter have gender identities that are consistent with their birth-assigned sex whereas the former do not.

b. Gender Dysphoria and Its Treatment

25. Gender dysphoria is the clinically significant distress or impairment of functioning that can result from the incongruence between a person's gender identity and their birth-assigned sex. Gender dysphoria is a serious medical condition associated with severe and unremitting emotional pain from the incongruity between various aspects of one's sex. It is codified in the *International Classification of Diseases* (10th revision: World Health Organization), the diagnostic and coding compendia for mental health and medical professionals, and the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders* Fifth Edition (DSM-5). People diagnosed with gender dysphoria have an intense and persistent discomfort with their assigned sex.

26. Once a diagnosis of gender dysphoria is established, individualized treatment should be initiated. Without treatment, individuals with gender dysphoria experience anxiety, depression, suicidality and other attendant mental health issues and are often unable to adequately function in occupational, social, or other areas of life.

27. The recommended treatment for gender dysphoria involves interventions that aim to bring an individual's body and gender expression into alignment with their gender identity to eliminate their distress.

a. Importance of Social Transition

28. Gender transition is the process through which a person begins bringing their outer appearance and lived experience into alignment with their gender identity. Social transition is the most important, and sometimes the only, aspect of transition that transgender people undertake. Changes often associated with a social transition include changes in clothing, name, pronouns, hairstyle as well as beginning to use sex-separated facilities consistent with their gender identity.

29. Social role transition has an enormous impact in the treatment of gender dysphoria. An early seminal study emphasizes the importance of aligning presentation and identity. Greenberg and Laurence (1981) compared the psychiatric status of individuals with gender dysphoria who had socially transitioned with those who had not. Those who had socially transitioned showed "a notable absence of psychopathology" compared to those who were still living in their birth-assigned sex.

30. The goal of proper treatment is to align the person's body and lived experience with their existing, fixed gender identity. Treatment promotes congruence between identity and physical appearance, thereby alleviating dysphoria, and enabling the individual to be recognized by others in a manner consistent with their gender.

b. The Forced Outing of Transgender Individuals

31. Many individuals with gender dysphoria take significant steps to align their physical characteristics, voice, mannerisms and overall appearance with their gender identity. As a result, it is often not possible to determine their sex assigned at birth based on appearance alone.

32. Requiring these individuals to use bathrooms, changing rooms or sleeping quarters based on their sex assigned at birth effectively discloses their transgender status, as it signals that their assigned sex differs from their lived and presented sex. This involuntary disclosure constitutes a significant invasion of privacy and may implicitly reveal sensitive medical information about the individual. This loss of privacy is psychologically harmful; removing the ability to control when, how and to whom such personal information is disclosed. The involuntary disclosure of an individual's transgender status also places the individual at greater risk of harassment or abuse.

c. Intersex Individuals

33. Intersex people are born with reproductive anatomy or other sex traits that do not uniformly correspond with the traits typically relied upon to deem an individual "female" or "male."

34. I have reviewed HB 121's definition of "male" and "female".

35. Some individuals would fall under neither definition because, among other reasons, their chromosomal patterns, gonadal structures, hormonal profiles, or external anatomy do not align in a manner consistent with the statute's categorical framework. This includes individuals with differences of sex development (DSDs), such as androgen insensitivity syndrome, congenital adrenal hyperplasia, or 5-alpha reductase deficiency; individuals with atypical chromosomal patterns such as XXY, XO, or mosaicism; and individuals whose physiology has been altered

through medical or surgical treatment, including hormone therapy or the removal of reproductive organs. As a result, the bill's definitions do not account for the full range of naturally occurring human biological variation.

36. Most individuals who do not fall within HB 121's definition of male or female do not require medical treatment.

I declare under penalty of perjury under the laws of the state of Montana that the foregoing is true and correct.

Dated this 2 day of April, 2026 in Evanston, Illinois.

Dr. Randi C. Ettner

Dr. Randi C. Ettner

Exhibit A

RANDI ETTNER, PHD
1214 Lake Street
Evanston, Illinois 60201
847-987-3433

POSITIONS HELD

Clinical Psychologist
Forensic Psychologist
Fellow and Diplomate in Clinical Evaluation, American Board of Psychological Specialties
Fellow and Diplomate in Trauma/PTSD
President, New Health Foundation Worldwide
Past Secretary, World Professional Association for Transgender Health (WPATH)
Chair, Committee for Institutionalized Persons, WPATH
Global Education Initiative Committee Curriculum Development, WPATH
University of Minnesota Medical Foundation: Leadership Council
Psychologist, Center for Gender Confirmation Surgery, Weiss Memorial Hospital
Adjunct Faculty, Prescott College
Editorial Board, *International Journal of Transgender Health*
Editorial Board, *Transgender Health*
Television and radio guest (more than 100 national and international appearances)
Internationally syndicated columnist on women's health issues
Private practitioner
Adjunct Medical staff; Department of Medicine: Weiss Memorial Hospital, Chicago, IL
Advisory Council, National Center for Gender Spectrum Health
Global Clinical Practice Network; World Health Organization
Harvard Law School LGBTQ Clinic Leadership Council

EDUCATION

PhD, 1979	Northwestern University (with honors) Evanston, Illinois
MA, 1976	Roosevelt University (with honors) Chicago, Illinois
BA, 1969-73	Indiana University Bloomington, Indiana Cum Laude Major: Clinical Psychology; Minor: Sociology
1972	Moray College of Education Edinburgh, Scotland International Education Program
1970	Harvard University Cambridge, Massachusetts Social Relations Undergraduate Summer Study Program in Group Dynamics and Processes

CLINICAL AND PROFESSIONAL EXPERIENCE

2017-2025	Psychologist: Weiss Memorial Hospital Center for Gender Confirmation Surgery
	Consultant: Walgreens; Tawani Enterprises; Starbucks, Rush University Medical Center
	Private practitioner: clinical and forensic practice
2013	Instructor, Prescott College: Gender-A multidimensional approach
	ICD-11 Member of International Working Group
2011	Consultant to Wisconsin Public Schools
2010	President New Health Foundation Worldwide
2000	Instructor, Illinois School of Professional Psychology
1995-present	Supervision of clinicians in counseling gender non-conforming clients
1993	Post-doctoral continuing education with Dr. James Butcher in MMPI-2 Interpretation, University of Minnesota
1992	Continuing advanced tutorial with Dr. Leah Schaefer in psychotherapy
1983-1984	Staff psychologist, Women's Health Center, St. Francis Hospital, Evanston, Illinois
1981-1984	Instructor, Roosevelt University, Department of Psychology: Psychology of Women, Tests and Measurements, Clinical Psychology, Personal Growth, Personality Theories, Abnormal Psychology
1976-1978	Research Associate, Cook County Hospital, Chicago, Illinois, Department of Psychiatry
1975-1977	Clinical Internship, Cook County Hospital, Chicago, Illinois, Department of Psychiatry
1971	Research Associate, Department of Psychology, Indiana University
1970-1972	Teaching Assistant in Experimental and Introductory Psychology Department of Psychology, Indiana University
1969-1971	Experimental Psychology Laboratory Assistant, Department of Psychology,

Indiana University

INVITED PRESENTATIONS AND GRAND ROUNDS

Evolution of Transgender Prisoners' Access to Health Care Behind Bars: 25 Years of Expert Witness Experience Using the WPATH SOC (Versions5-8). WPATH 28th Scientific Symposium, Lisbon, Portugal, 2024. Ettner, R. and Brown, G.

Clinical Perspectives and the Experience of Transgender Prisoners Federal Death Penalty Strategy Session, 2023

IGEN POLITICS intergenerational politics podcast; July, 12, 2023 Episode 199; Apple Podcast, Spotify, YouTube

Working with Transgender Clients National Employment Lawyers Association, St. Louis, MO, 2023

Shifting Sands: Challenges in Providing Surgical Care American Society of Reconstructive Microsurgery, Miami, FL 2023

The Standard of Care for Institutionalized Persons WPATH 27th Scientific Symposium, Montreal, Canada 2022

Healthcare for Transgender Prisoners Rush University, Department of Plastic and Reconstructive Surgery, Chicago, IL 2022

Sexual Function: Expectations and outcomes for patients undergoing gender-affirming surgery. Whitney, N., Ettner, R., Schechter, L. Rush University, Department of Plastic and Reconstructive Surgery, Chicago, IL 2022

Care of the Older Transgender Patient, Weiss Memorial Hospital, Chicago, IL, 2021

Working with Medical Experts, The National LGBT Law Association, webinar presentation, 2020

Legal Issues Facing the Transgender Community, Illinois State Bar Association, Chicago, IL, 2020

Providing Gender Affirming Care to Transgender Patients, American Medical Student Association, webinar presentation, 2020

Foundations in Mental Health for Working with Transgender Clients; Center for Supporting Community Development Initiatives, Vietduc University Hospital, Hanoi, Vietnam, 2020

Advanced Mental Health Issues, Ethical Issues in the Delivery of Care, Development Initiaves, Vietduc University Hospital, Hanoi, Vietnam, 2020

What Medical Students Need to Know about Transgender Health Care, American Medical Student Association, webinar presentation, 2019

The Transgender Surgical Patient, American Society of Plastic Surgeons, Miami, FL 2019

Mental health issues in transgender health care, American Medical Student Association, webinar presentation, 2019

Sticks and stones: Childhood bullying experiences in lesbian women and transmen, Buenos Aires, 2018

Gender identity and the Standards of Care, American College of Surgeons, Boston, MA, 2018

Expectations of individuals undergoing gender-confirming surgeries Schechter, L., White, T., Ritz, N., Ettner, R. Buenos Aires, 2018

The mental health professional in the multi-disciplinary team, *pre-operative evaluation and assessment for gender confirmation surgery,* American Society of Plastic Surgeons, Chicago, IL, 2018; Buenos Aires, 2018

Navigating transference and countertransference issues, WPATH Global Education Initiative, Portland, OR; 2018

Psychological aspects of gender confirmation surgery International Continence Society, Philadelphia, PA 2018

The role of the mental health professional in gender confirmation surgeries, Mt. Sinai Hospital, New York City, NY, 2018

Mental health evaluation for gender confirmation surgery, Gender Confirmation Surgical Team, Weiss Memorial Hospital, Chicago, IL 2018

Transitioning; Bathrooms are only the beginning, American College of Legal Medicine, Charleston, SC, 2018

Gender Dysphoria: A medical perspective, Department of Health and Human Services, Office for Civil Rights, Washington, D.C, 2017

Multi-disciplinary health care for transgender patients, James A. Lovell Federal Health Care Center, North Chicago, IL, 2017

Psychological and Social Issues in the Aging Transgender Person, Weiss Memorial Hospital, Chicago, IL, 2017

Psychiatric and Legal Issues for Transgender Inmates, USPATH, Los Angeles, CA, 2017

Transgender 101 for Surgeons, American Society of Plastic Surgeons, Chicago, IL, 2017

Healthcare for transgender inmates in the US, Erasmus Medical Center, Rotterdam, Netherlands, 2016

Tomboys Revisited: Replication and Implication; Amsterdam, Netherlands, 2016

Orange Isn't the New Black Yet- Care for incarcerated transgender persons, WPATH symposium, Amsterdam, Netherlands, 2016

Can two wrongs make a right? Expanding models of care beyond the divide, Amsterdam, Netherlands, 2016

Foundations in mental health; WPATH Global Education Initiative, Chicago, IL 2015

Role of the mental health professional in legal and policy issues, WPATH Global Education Initiative, Chicago, IL 2015

Healthcare for transgender inmates; WPATH Global Education Initiative, Chicago, IL 2015

Children of transgender parents; WPATH Global Education Initiative; Atlanta, GA, 2016

Transfeminine genital surgery assessment: WPATH Global Education Initiative, Columbia, MO, 2016

Foundations in Mental Health; WPATH Global Education Initiative; Ft. Lauderdale, FL, 2016; Washington, D.C., 2016, Los Angeles, CA, 2017, Minneapolis, MN, 2017, Chicago, IL, 2017; Columbus, Ohio, 2017; Portland, OR, 2018; Cincinnati, OH, 2018, Buenos Aires, 2018.

Role of the forensic psychologist in transgender care; WPATH Global Education Initiative, Minneapolis, MN, 2017; Columbus, Ohio, 2017.

Pre-operative evaluation in gender affirming surgery-American Society of Plastic Surgeons, Boston, MA, 2015

Gender affirming psychotherapy; Fenway Health Clinic, Boston, 2015

Transgender surgery- Midwestern Association of Plastic Surgeons, Chicago, 2015

Assessment and referrals for surgery-Standards of Care- Fenway Health Clinic, Boston, 2015

Adult development and quality of life in transgender healthcare- Eunice Kennedy Shriver National Institute of Child Health and Human Development, 2015

How do patients choose a surgeon? WPATH Symposium, Bangkok, Thailand 2014

Healthcare for transgender inmates- American Academy of Psychiatry and the Law, Chicago, 2014

Supporting transgender students: best school practices for success- American Civil Liberties Union of Illinois and Illinois Safe School Alliance, 2014

Addressing the needs of transgender students on campus- Prescott College, Prescott, AZ, 2014

The role of the behavioral psychologist in transgender healthcare – Gay and Lesbian Medical Association, 2013

Understanding transgender- Nielsen Corporation, Chicago, 2013

Grand Rounds: Evidence-based care of transgender patients- North Shore University Health Systems, University of Chicago, Illinois, 2011

Care of the aging transgender patient University of California San Francisco, Center for Excellence, 2013

Grand Rounds: *Evidence-based care of transgender patients* Roosevelt-St. Vincent Hospital, New York, 2011

Grand Rounds: *Evidence-based care of transgender patients* Columbia Presbyterian Hospital, Columbia University, New York, 2011

Hypertension: Pathophysiology of a secret. WPATH symposium, Atlanta, GA, 2011

Exploring the Clinical Utility of Transsexual Typologies- Oslo, Norway, 2009

Children of Transsexual Parents-International Association of Sex Researchers, Ottawa, Canada, 2005

Children of Transsexual Parents- Chicago School of Professional Psychology, Chicago, 2005

Gender and the Law- DePaul University College of Law, Chicago, Illinois, 2003

Family and Systems Aggression against Providers, WPATH Symposium, Ghent, Belgium 2003

Children of Transsexual Parents-American Bar Association annual meeting, New York, 2000

Grand Rounds: Gender Incongruence in Adults, St. Francis Hospital, 1999.

Gender Identity, Gender Dysphoria and Clinical Issues:

WPATH Symposium, Bangkok, Thailand, 2014
Argosy College, Chicago, Illinois, 2010
Cultural Impact Conference, Chicago, Illinois, 2005

Weiss Hospital, Department of Surgery, Chicago, Illinois, 2005

Resurrection Hospital Ethics Committee, Evanston, Illinois, 2005

Wisconsin Public Schools, Sheboygan, Wisconsin, 2004, 2006, 2009

Rush North Shore Hospital, Skokie, Illinois, 2004

Nine Circles Community Health Centre, University of Winnipeg, Winnipeg, Canada, 2003

James H. Quillen VA Medical Center, East Tennessee State University, Johnson City, Tennessee, 2002

Sixth European Federation of Sexology, Cyprus, 2002

Fifteenth World Congress of Sexology, Paris, France, 2001

Illinois School of Professional Psychology, Chicago, Illinois 2001

Lesbian Community Cancer Project, Chicago, Illinois 2000

Emory University Student Residence Hall, Atlanta, Georgia, 1999

Parents, Families and Friends of Lesbians and Gays National Convention, Chicago, Illinois, 1998;

In the Family: Psychotherapy Network National Convention, San Francisco, California, 1998;

Evanston City Council, Evanston, Illinois 1997;

Howard Brown Community Center, Chicago, Illinois, 1995;

YWCA Women's Shelter, Evanston, Illinois, 1995;

Center for Addictive Problems, Chicago, 1994

Highland Park Early Child Development Program, Highland Park, IL 1994

Psychosocial Assessment of Risk and Intervention Strategies in Prenatal Patients- St. Francis Hospital, Center for Women's Health, Evanston, Illinois, 1984; Purdue University School of Nursing, West Layette, Indiana, 1980

Psychonueroimmunology and Cancer Treatment- St. Francis Hospital, Evanston, Illinois, 1984

Psychosexual Factors in Women's Health- St. Francis Hospital, Center for Women's Health, Evanston, Illinois, 1984.

Grand Rounds: Sexual Dysfunction in Medical Practice- St. Francis Hospital, Dept. of OB/GYN, Evanston, Illinois, 1990

Sleep Apnea - St. Francis Hospital, Evanston, Illinois, 1996; Lincolnwood Public Library, Lincolnwood, Illinois, 1996

The Role of Denial in Dialysis Patients - Cook County Hospital, Department of Psychiatry, Chicago, Illinois, 1977

PUBLICATIONS

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PROFESSIONAL AFFILIATIONS

University of Minnesota Institute for Sexual and Gender Health–Leadership Council

American College of Forensic Psychologists

World Professional Association for Transgender Health

WPATH GEI SOC 8 Certified Member

New Health Foundation Worldwide

World Health Organization (WHO) Global Access Practice Network

TransNet national network for transgender research

American Psychological Association

American College of Forensic Examiners

Society for the Scientific Study of Sexuality

Screenwriters and Actors Guild

Phi Beta Kappa

AWARDS AND HONORS

University of Minnesota, Institute for Sexual and Gender Health; 50 *Distinguished Sex and Gender Revolutionaries* award, 2021

Letter of commendation from United States Congress for contributions to public health in Illinois, 2019

WPATH Distinguished Education and Advocacy Award, 2018

The Randi and Fred Ettner Transgender Health Fellowship-Program in Human Sexuality, University of Minnesota, 2016

Phi Beta Kappa, 1972

Indiana University Women's Honor Society, 1970-1972

Indiana University Honors Program, 1970-1972

Merit Scholarship Recipient, 1970-1972

Indiana University Department of Psychology Outstanding Undergraduate Award Recipient, 1970-1972

Representative, Student Governing Commission, Indiana University, 1970

Sponsor 2nd International Trans Studies Conference

LICENSE

Clinical Psychologist, State of Illinois, 1980

Exhibit B

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EXHIBIT 9

MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY

CASEY PERKINS, et al., *Plaintiffs*, v. STATE OF MONTANA, et al., *Defendants*, and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	Cause No. DV 32-2025-282 Dept. 1 - Hon. Leslie Halligan **DECLARATION OF DR. CYNTHIA CALKINS IN SUPPORT OF PLAINTIFFS' MOTION FOR SUMMARY JUDGMENT**

EXPERT DECLARATION OF DR. CYNTHIA CALKINS, Ph.D.

I, Dr. Cynthia Calkins, pursuant to § 1-6-105, MCA, declare as follows:

1. I am submitting this expert declaration in support of Plaintiffs' Statement of Undisputed Facts for Plaintiffs' Motion for Summary Judgment in this case. This expert declaration is based on my personal knowledge.

2. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation. Specifically, I have been asked by Plaintiffs' counsel to address the nature and patterns of sexual crimes, including the manner and locations in which sexual crimes most commonly occur—and, as relevant to this litigation, the manner and locations in which sexual crimes do not commonly occur.

3. I have actual knowledge of the matters stated herein. If called to testify in this matter, I would testify truthfully and based on my expert opinion.

I. SUMMARY OF OPINIONS

4. There is no evidence to support the assertion that transgender-inclusive bathroom policies put women and girls at increased risk.

5. There is no data-based evidence that indicates that transgender people commit sex crimes at a higher rate than cisgender people.

6. Requiring transgender people to use bathrooms and other covered facilities corresponding to their sex assigned at birth will not increase public safety.

7. To design effective laws that seek to limit sexual offenses, it is important to rely on facts, not speculation, as to where sexual offenses occur. Laws that rely on stereotypes of people who commit sex offenses do not necessarily reduce the occurrence sex crimes. Because some restroom restriction laws are animated by stereotypes, they target transgender people, even though

there is no evidence that these laws will reduce sex crimes and may expose transgender people to harm.

II. BACKGROUND AND QUALIFICATIONS

a. Qualifications

8. I am a licensed clinical forensic psychologist with expertise on the location of where sex crimes occur.

9. I am currently employed at John Jay College of Criminal Justice as a tenured Professor. My office address is: Dr. Cynthia Calkins, John Jay College of Criminal Justice, 524 W. 59th Street, New York, NY 10019.

10. I received my doctorate in clinical forensic psychology from the University of Nebraska-Lincoln in 2003 and a Master of Legal Studies from the University of Nebraska-Lincoln, Law College in 2002. As part of my doctoral training, I completed a year of clinical work at the Florida Mental Health Institute (FMHI) in Tampa, Florida. I completed my postdoctoral work in Melbourne, Australia, teaching at Monash University and doing clinical work at the Victorian Institute of Forensic Mental Health.

11. I have published extensively in the area of sexual violence. I have 50 publications in peer-reviewed research journals, which represent the gold standard for knowledge in our field. I am also one of the few experts in my field with specific expertise on the location of sex crimes, having published numerous articles related to where sex crimes occur.[1]

[1] These publications include, but are not limited to, Calkins, C., Colombino, N., Matsuura, T., & Jeglic, E. (2015). Where do sex crimes occur? How an examination of sex crime location can inform policy and prevention. *International Journal of Comparative and Applied Criminal Justice, 39,* 99-112; Dominguez, S. Jeglic, E., Calkins, C., & Kaylor, L. (2024). Frotteurism and exhibitionism: an updated examination of their prevalence, impact on victims, and frequency of reporting. *Journal of Sexual Aggression*, 1–18; Colombino, N., Mercado, C.C., & Jeglic, E.L.

12. I have published four books: 1) *Sexual Violence: Evidence Based Policy and Prevention*; 2) *Protecting your Child from Sexual Abuse: What You Need to Know to Keep Your Kids Safe*; 3) *New Frontiers in Offender Treatment: The Translation of Evidence-Based Practices to Correctional Settings*; and 4) *Handbook of Issues in Criminal Justice Reform in the United States*. The *Sexual Violence: Evidence Based Policy and Prevention* book uses data to show how stereotyped notions of offenders and media bias have contributed to the development of some ill-conceived policies purporting to address sex crimes.

13. I am the co-director of the Sex Offender Research Lab, a group at John Jay dedicated to establishing empirical evidence for use in sexual crime policy and sex crime prevention. I have served as the principal investigator on two large grants from the National Institute of Justice, both of which addressed issues related to sexual offending. One of these addressed the identification of situational risk factors for sexual abuse in institutional settings, such as the Catholic Church. The other, using a large sample of offenders, addressed risk assessment and the management of sexual offenders.

14. As a licensed clinical psychologist in New York State, I supervise students in the John Jay College doctoral program on the clinical assessment and treatment of offender populations.

15. I have an active clinical practice where I perform evaluations of individuals charged or convicted of sexual offenses. Over the course of my career, I have evaluated or treated approximately 500 people charged or convicted of sex offenses.

(2009). Situational aspects of sexual offending: Implications for residence restriction laws. *Justice Research and Policy, 11,* 27-43.

16. I am a member of the American Psychological Association (APA). I am also on the editorial board of Psychology, Crime, and Law and the American Psychological Association's (APA) Judicial Notebook section of the APA Monitor, and serve as an ad hoc reviewer for numerous other scientific journals, such as Sexual Abuse.

17. I supervise both Master's and Doctoral student research. I have served on more than 30 doctoral committees at John Jay and have been involved in the master's level work of at least an additional 50 students. Many of these theses and dissertations relate to the field of sexual offending.

18. I have presented on topics related to sexual violence at national and international conferences.

19. I keep up with the research that others publish, engage with experts in the field through conferences, consultations, and editorial board responsibilities, and participate in a range of other professional activities. My opinions here represent the prevailing consensus in the scientific community to which I belong.

20. A true and accurate copy of my Curriculum Vitae is attached hereto as Exhibit A. A bibliography of the materials reviewed in connection with this declaration is attached hereto as Exhibit B. The sources cited therein are authoritative, scientific, peer-reviewed publications. I generally rely on these materials when I provide expert testimony, and they include the documents specifically cited as supportive examples in particular sections of this declaration. The materials I have relied on in preparing this declaration are the same type of materials that experts in my field of study regularly rely upon when forming opinions on the subject.

21. I have not met or spoken with the Plaintiffs for purposes of this declaration. My opinions are based solely on the information I have been provided by Plaintiffs' attorneys, the materials referenced in the Bibliography as Exhibit B and cited herein.

b. Previous Testimony

22. I regularly provide expert testimony to the courts in matters involving individuals convicted of sex offenses. I have also testified on seven occasions as a Frye expert at trial related to the general acceptance of paraphilia diagnoses in the Supreme Court of the State of New York, County of New York, the Supreme Court of the State of New York, County of Kings, the Supreme Court of the State of New York, County of Nassau, and the Supreme Court of the State of New York, County of Wyoming.

c. Compensation

23. I am being compensated for my work on this matter at a rate of $525 per hour for trial and trial preparation work and $400 per hour for all other work. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I may provide.

III. EXPERT OPINIONS

a. Where Sex Crimes Occur

24. Most sex offenses occur in residential settings. Fewer than 7% of the 405 cases examined in my 2009 study as to the geographical location of sex crimes took place in a public setting, including but not limited to public restrooms. 82% of the time, sexual offenses occurred in a private residential setting.

25. In theory, offenders already have the opportunity to commit sex crimes in public restrooms or public changing areas But the evidence shows that these locations are not a common location for offenses, whether contact or non-contact in nature.

26. In the four studies that I have conducted that contribute to this body of research, none have shown public restrooms to be a common place where offenders access victims. In my 2011 study of 1,557 instances of sex crime, none took place in a public restroom or locker room.

b. Who Commits Sex Crimes

27. Most sex crimes are committed by someone known to the victim, not a stranger. A victimization survey from the Montana Board of Crime Control, for example, showed that 91.7% of sexual assault victims knew their offender

28. Moreover, official records or data tend to overrepresent the percentage of sexual offenses cases committed by strangers. This is because the sexual offenses perpetrated by an intimate partner or family member are least likely to be reported, while those committed by a stranger perpetrator are most likely to be reported.

29. There are no empirical data to suggest that transgender people commit sex crimes at a rate higher than that of cisgender people. Thus, there is no evidentiary support for the claim that imposing restrictions on bathroom access for transgender people that do not apply to cisgender people will reduce the incidence of sexual offenses.

c. Transgender People Face Greater Victimization

30. In fact, transgender people suffer from much higher rates of sexual victimization than the rest of the population.

31. Transgender and intersex individuals are at increased risk of physical and sexual victimization compared to cisgender individuals.

32. National data reveal that almost half (47%) of transgender people have experienced sexual assault in their lifetime. Research shows transgender individuals to be much more likely to experience sexual assault than cisgender males and females.

33. Requiring transgender people to use bathrooms and other covered facilities corresponding to their sex assigned at birth will not decrease sexual violence against cisgender women because the majority of sexual violence against women occurs in private locations and is committed by someone they know, and is not committed by transgender people.

34. Requiring transgender people to use bathrooms and other covered facilities corresponding to their sex assigned at birth may harm transgender and intersex individuals by making them vulnerable to ridicule, physical assault, and/or sexual violence.

I, Cynthia Calkins, declare under penalty of perjury under the laws of the state of Montana that the foregoing is true and correct.

Dated this 1st day of April, 2026 in Montclair, NJ.



Dr. Cynthia Calkins

Exhibit A

Curriculum Vitae

Cynthia Calkins, Ph.D.

John Jay College of Criminal Justice
524 W. 59th Street
10.65.11NB Department of Psychology
Office: (212) 484-1111 Cell: (347)585-3730
Email: ccalkins@jjay.cuny.edu

CURRENT POSITION

Full Professor (2016 – present)
Associate Professor (2010-2015)
Assistant Professor (2005-2009)
Department of Psychology, John Jay College of Criminal Justice, New York, NY

Licensed Clinical Psychologist in New York State: License #18320-1

EDUCATION

2003 **Doctor of Philosophy**
University of Nebraska-Lincoln, Psychology Department
Area of Study: Clinical Psychology/Psychology-Law concentration
Dissertation: Decision-making about volitional impairment in the sexual predator commitment context

2002 **Masters of Legal Studies**
University of Nebraska-Lincoln, Law College

1997 **Masters of Arts**
University of Nevada, Las Vegas, Psychology Department
Area of Study: Clinical Psychology
Thesis: The effectiveness of Court Appointed Special Advocates (CASAs) to assist in permanency planning
1997 '*Outstanding Thesis in Psychology'* Award

1995 **Bachelor of Arts**
State University of New York at Buffalo
Major: Psychology

PREVIOUS ACADEMIC POSITIONS

2004-2005 **Lecturer**, Monash University
Department of Psychological Medicine, Melbourne Australia

AREA OF RESEARCH AND CLINICAL SPECIALIZATION

Data based approaches to sex offense risk, sex crime policy, and sexual violence prevention.

FEDERAL GRANT REPORTS

1. *Identifying individual and situational risk factors for child sexual abuse in institutional settings: Implications for public safety and primary prevention.*
   Research report submitted to the National Institute of Justice in 2013.
   PI: Cynthia Calkins Mercado

2. *Sex offender management, treatment, and civil commitment: An evidence based analysis aimed at reducing sexual violence.*
   Research report submitted to the National Institute of Justice in 2011.
   PIs: Cynthia Calkins Mercado and Elizabeth Jeglic

BOOKS

1. Jeglic, E., & **Calkins, C**. (2022). *Handbook of Issues in Criminal Justice Reform in the United States.* New York: Springer Publications.

2. Jeglic, E., & **Calkins C**. (2018). *New Frontiers in Offender Treatment: The Translation of Evidence-Based Practices to Correctional Settings*. New York: Springer Publications.

3. Jeglic, E., & **Calkins C**. (2018). *Protecting Your Child from Sexual Abuse: What You Need to Know to Keep Your Kids Safe.* New York: SkyHorse Publishing.

4. Jeglic, E., & **Calkins, C**. (2016). *Sexual Violence: Evidence Based Policy and Prevention*. New York: Springer Publications.

5. Sullivan, L. (2009). *SAGE Glossary of the Social and Behavioral Sciences*. Thousand Oaks, CA; Sage. (Associate Editors: **Cynthia Calkins** & Karen Terry).

PEER REVIEWED RESEARCH PUBLICATIONS

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49. Callahan, P., Jeglic, E., & **Calkins C**. (2025). Intellectual ability and sexual recidivism risk assessment: Comparing predictive accuracy in an incarcerated U.S. sample. *Sexual Abuse, 37, 181-214.*

48. Graham, N., **Calkins, C**., & Jeglic, E. (2025). Other Specified Paraphilic Disorder: patterns of use in Sexually Violent Predator evaluations. *Sexual Abuse*, 37, 309-338

47. Fraga Dominguez, S., Jeglic, E. L., **Calkins, C**., & Kaylor, L. (2024). Frotteurism and exhibitionism: an updated examination of their prevalence, impact on victims, and frequency of reporting. *Journal of Sexual Aggression*, 1–18. https://doi.org/10.1080/13552600.2024.2352403

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45. Winters, G. M., Colombino, N., Schaaf, S., **Calkins, C.,** & Jeglic, E. L. (2023). Survivor Perspectives of Preventing Child Sexual Abuse: A Multi-level Approach. *Victims & Offenders*, *19*(5), 865–887. https://doi.org/10.1080/15564886.2023.2174231

44. Ladis, I., Abrams, D., & **Calkins, C**. (2023). Differential associations between guilt and shame proneness and religious coping styles in a diverse sample of young adults. *Journal of Interpersonal Violence, 38,* 670-697.

43. Allan, C. Winters, G. M., Grydehøj, R. F., Jeglic, E. L., **Calkins, C**. (2023). Perspectives of re-entry and desistance: A comparison of individuals convicted of general and sexual offenses. *Journal of Offender Rehabilitation.*

42. Jeglic, E., **Calkins, C**., et al. (2023). The nature and scope of educator misconduct in K-12. *Sexual Abuse*, *35*, 188-213.

41. Kirk-Provencher, Spillane, N., Jeglic, E., & **Calkins, C.** (2021). The use of substances in sexual offending in a United States sample. *Psychiatry, Psychology, and Law, 29,* 53-67.

40. Perillo, A., **Calkins, C**., & Jeglic, E.L. (2021). Evaluating selection for Sexually Violent Predator commitment: A comparison of those committed, not committed, and nearly committed. *Psychology, Public Policy, and Law, 27*, 98-111.

39. Winters, G.M., Colombino, N., Schaaf, S., Laake, A.L.W., Jeglic, E., & **Calkins, C**. (2020). Why do child sexual abuse victims not tell anyone about their abuse? An exploration of factors that prevent and promote disclosure. *Behavioral Sciences & the Law, 38,* 586-611.

38. Lee, S., Hanson, R.K., **Calkins, C**., & Jeglic, E. (2020). Paraphilia and antisociality: Motivations for sexual offending may differ for American Whites and Blacks. *Sexual Abuse: A Journal of Research and Treatment, 32,* 335-365.

37. Winters, G., **Calkins, C**., Greene-Colozzi, E., & Jeglic, E. (2019). Mental abnormalities in Sexually Violent Predator evaluations: Ethical use of paraphilic disorder diagnoses. *Journal of Forensic Psychology Practice.*

36. Schaaf, S., Jeglic, E., **Calkins, C**., Raymaekers, L., & Leguizamo, A. (2019). Examining ethno-racial related differences in child molester typology: An MTC:CM3 approach. *Journal of Interpersonal Violence*, 34, 1683-1702.

35. Amrom, A., **Calkins, C.,** & Fargo, J. (2019). Between the pew and the pulpit: Can personality measures help identify sexually abusive clergy? *Sexual Abuse: A Journal of Research and Treatment, 31,* 686-706.

34. Dominguez, S.F., Jeglic, E.L., **Calkins, C**., & Leguizamo, A. (2018). Are Latinos who commit sexual offenses different? A closer examination of characteristics and offense patterns. *Sexual Abuse: A Journal of Research and Treatment, 30, 846-868.*

33. Falkenbach, D., Foehse, A., Jeglic, E., **Calkins, C**., & Raemakers, L. (2019). Sexual abuse within employment settings: A comparison of work-related, intra- and extra-familial child molesters. *Sexual Abuse: A Journal of Research and Treatment, 31, 524-542.*

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31. Winters, G.M., Jeglic, E.L., **Calkins, C.,** & Blasko, B. (2017). Sex offender legislation and social control: An examination of sex offenders' expectations prior to release. *Journal of Criminal Justice Studies, 30, 202-222*. http://dx.doi.org/10.1080/1478601X.2017.1299894

30. Perillo, A.D., *Laake, A.L.W., & **Calkins, C**. (2017). Understanding sexually abusive clergy as a unique offender subgroup: Risk-based comparisons across the course of offending. *International Journal of Forensic Mental Health*, 16, 58-68. doi: 10.1080/14999013.2016.1236304

29. DeGue, S., Fowler, K., & **Calkins, C**. (2016). Deaths Due to Use of Lethal Force by Law Enforcement: Findings from the National Violent Death Reporting System, 17 U.S. States, 2009-2012. *American Journal of Preventive Medicine, 51,* 173-187.

28. Clark, S., Jeglic, E.L., & **Calkins, C.**, & Tatar, J. (2016). More than a nuisance: The prevalence and consequences of frotteurism and exhibitionism. *Sexual Abuse: A Journal of Research and Treatment, 28,* 3-19.

27. **Calkins, C**., Fargo, J., Jeglic, E., & Terry, K. (2015). Blessed be the children: A case-control study of sexual abuse in the Catholic Church. *Behavioral Sciences and the Law, 33,* 580-594.

26. Ramirez, S., Jeglic, E., & **Calkins, C**. (2015). A examination of the relationship between childhood abuse, anger, and violent behavior among a sample of sex offenders. *Health and Justice Journal, 3,* 1-10.

25. **Calkins, C.,** Colombino, N., Matsuura, T., & Jeglic, E. (2015). Where do sex crimes occur? How an examination of sex crime location can inform policy and prevention. *International Journal of Comparative and Applied Criminal Justice, 39,* 99-112. doi:10.1080/01924036.2014.973047

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23. *Perillo, A.D., Spada, A.H., **Calkins, C.**, & Jeglic, E. (2014). Examining the scope of questionable diagnostic reliability in Sexually Violent Predator (SVP) evaluations. *International Journal of Law and Psychiatry, 2,* 190-197. doi: 10.1016/j.ijlp.2013.11.005

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Journal of Law and Psychiatry, 34, 160-167. doi:10.1016/j.ijlp.2011.04.002

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15. Colombino, N., **Mercado, C.C**., & Jeglic, E.L. (2009). Situational aspects of sexual offending: Implications for residence restriction laws. *Justice Research and Policy, 11,* 27-43.

14. Chajewski, M., & **Mercado, C.C.** (2009). An evaluation of sex offender residency restrictions in rural, urban and county-wide jurisdictions. *Criminal Justice Policy Review, 20,* 44-61.

13. Terry, K.J., **Mercado, C.C.,** & Perillo, A. (2008). Priests who abuse and were abused: Understanding victimization in the Catholic Church. *Victims and Offenders, 3,* 412-422.

12. Robilotta, S., **Mercado, C.C.,** & DeGue, S. (2008). Application of the polygraph examination in the assessment and treatment of Internet sex offenders. *Journal of Forensic Psychology Practice, 8,* 383-393.

11. **Mercado, C.C**., Alvarez, S., & Levenson, J. (2008). The impact of specialized sex offender legislation on community re-entry. *Sexual Abuse: A Journal of Research and Treatment, 20,* 188-205.

10. **Mercado, C.C**., Tallon, J.A, & Terry, K.J. (2008). Persistent sexual abusers in the Catholic Church: An examination of characteristics and offenses patterns. *Criminal Justice and Behavior, 35,* 629-642.

9. Perillo, A.D., **Mercado, C.C.,** & Terry, K.J. (2008). Repeat offending, victim gender, and extent of victim relationship in Catholic Church sexual abusers: Implications for risk assessment. *Criminal Justice and Behavior, 35,* 600-614.

8. **Mercado, C.C.**, & Ogloff, J.R.P. (2007). Risk and the preventive detention of sex offenders in Australia and the United States. *International Journal of Law and Psychiatry, 30,* 49-59.

7. **Mercado, C. C.**, Bornstein, B.H., & Schopp, R.F. (2006). Decision-making about volitional impairment in Sexually Violent Predators. *Law and Human Behavior, 30,* 587-602.

6. Boothroyd, R.A., **Mercado, C.C.**, Poythress, N.G., Christy, A., & Petrila, J. (2005). Clinical outcomes of defendants in mental health court. *Psychiatric Services, 56,* 829-834.

5. **Mercado, C.C.,** Schopp, R.F., Bornstein, B.H. (2005). How might mental health professionals understand sex offender volitional impairment? Conceptualizing "inability to control" following the *Hendricks* and *Crane* decisions. *Aggression and Violent Behavior: A Review Journal, 10,* 289-309.

4. Elbogen, E.B., **Mercado, C.C.**, Tomkins, A.J., & Scalora, M.J. (2002). Perceived relevance of factors for violence risk assessment: A survey of clinicians. *International Journal of Forensic Mental Health, 1,* 37-48.

3. **Mercado, C.C.,** Elbogen, E.B., Scalora, M.J., & Tomkins, A.J. (2001). Judgments of dangerousness: Are sex offenders assessed differently than civil psychiatric patients? *Psychiatry, Psychology, and Law, 8,* 146-153.

2. **Mercado, C.C.**, & Scalora, M.J. (2001). Child molestation: Factors related to level of violence. *Journal of Threat Assessment, 1,* 21-34.

1. **Calkins, C.A.,** & Millar, M. (1999). The effectiveness of Court Appointed Special Advocates to assist in permanency planning. *Child and Adolescent Social Work Journal, 1(2),* 37-45.

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48. **Calkins, C.,** & Feldgun, N. (2024, September). Did sex shaming lead to the death penalty? *APA Monitor on Psychology's Judicial Notebook.*

47. **Calkins, C**. (2024, January/February). Is the right to bear arms absolute? *APA Monitor on Psychology's Judicial Notebook.*

46. **Calkins, C**. (2023, July/August). How relevant is an eating disorder in a capital case? *APA Monitor on Psychology's Judicial Notebook.*

45. **Calkins, C.,** & Egamino, J. (2023; January). Do we lack standards for determining propensity for violence in firearms cases? *APA Monitor on Psychology's Judicial Notebook.*

44. Kirk-Provencher, K. T. & **Calkins, C**. (2023). Sexual aggression: Child pornography. In T. K. Shackelford (ed.), *Encyclopedia of Sexual Psychology and Behavior*. Springer Nature.

43. **Calkins, C**., & Lynch, S. (2022). What tactics can be used to catch online predators? *APA Monitor on Psychology's Judicial Notebook.*

42. Abrams, D., & **Calkins, C**. (2021). Can we fairly select a jury in high-profile cases? *APA Monitor on Psychology's Judicial Notebook*

41. **Calkins, C.,** & Abrams, D. (2020). Just how private are treatment records? *APA Monitor on Psychology's Judicial Notebook*

40. Abrams, D., Bonagura, A., & **Calkins, C**. (2020). Sexual Violence in Religious Institutions. In R. Geffner, V. Vieth, V. Vaughan-Eden, A. Rosenbaum, L. Hamberger, J. White, & B. Geffner (Eds.). *Handbook of Interpersonal Violence Across the Lifespan.* New York City: Springer Publishing.

39. **Calkins, C.,** & Abrams, D. (2019). Can words alone lead to suicide? *APA Monitor on Psychology's Judicial Notebook, 50(11), 27.*

38. **Calkins, C.** (2019). Can a state abolish the insanity defense? *APA Monitor on Psychology's Judicial Notebook.*

37. Winters, G.M., **Calkins, C.**, Jeglic, E.L., & Schneider, J. (2019). Recidivism and the Sexually Violent Predator (SVP) population. *Sexually violent predators: A clinical science handbook*. Editors: W.T. O'Donohue and D.S. Bromberg. Springer

36. Beattey, R.A., & **Calkins C**. (2018). Court asked to re-evaluate whether diagnosis should be based solely on expert opinion. *APA Monitor on Psychology's Judicial Notebook.*

35. **Calkins, C.**, & Beattey, R.A. (2018). How many years are equivalent to life without parole? *APA Monitor on Psychology's Judicial Notebook.*

34. Beattey, R.A., & **Calkins, C**. (2018). The legal system follows the empirical evidence on eyewitness IDs. *APA Monitor on Psychology's Judicial Notebook.*

33. **Calkins, C.**, & Beattey, R. (2017). Can sex offenders be incarcerated for being homeless? *APA Monitor on Psychology's Judicial Notebook.*

32. **Calkins, C.**, & Jeglic, E. (2017, April/May). Sexual violence prevention: Can outcomes improve while costs are cut? *Sex Offender Law Report*, 18, 37-44.

31. Laake, A., & **Calkins C**. (2017). Rape Culture. *The Sage Encyclopedia of Psychology and Gender*. K. Nadal (Ed.). Thousand Oaks, CA: Sage Publications.

30. Laake, A., & **Calkins C**. (2017). Death by Cop. *The Sage Encyclopedia of Psychology and Gender.* K. Nadal (Ed.). Thousand Oaks, CA: Sage Publications.

29. Laake, A., & **Calkins C**. (2017). Sexual offenders. *The Sage Encyclopedia of Psychology and Gender*. K. Nadal (Ed.). Thousand Oaks, CA: Sage Publications.

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27. Laake, A., & **Calkins, C.** (2017). Sex offenders. *The Sage Encyclopedia of Abnormal and Clinical Psychology*. Thousand Oaks, CA: Sage Publications.

26. Beattey, R.A., & **Calkins, C.** (2016, November). Changing science does not necessarily change the law. APA Monitor on Psychology's Judicial Notebook, *47(10),* 44.

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21. Beattey, R.A., & **Calkins, C.** (2015). Get that man a psychologist. *APA Monitor on Psychology's Judicial Notebook, 46(3),* 26.

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12. **Mercado, C.C**., Merdian, H.L, & Egg, R. (2011). The Internet and sexual offending: An international perspective, In D. Boer, Eher, R., Craig, L., Miner, M.H., & Pfafflin, F. (Eds.), *International Perspectives on Sexual Offending.* New Jersey: John Wiley & Sons, Ltd. DOI: 10.1002/9781119990420.ch27

11. Perillo, A., & **Mercado, C.C.** (2010). Assessment and treatment of sexual offenders. In P. Chauhan (Ed.), *Mental Health Issues in Forensic Psychology.* New York: Mc-Graw-Hill

10. Jeglic, E., Maile, C., & **Mercado, C.C.** (2010). Treatment of offender populations: Implications for risk management sand community reintegration. *Rethinking Corrections.* Sage. (L. Gideon & H. Sung, Eds).

9. **Mercado, C.C**. (2009, Summer). Are residence restrictions an effective way to reduce the risk posed by sex offenders? *American Psychology-Law Society (APLS) Newsletter.*

8. Colombino, N., & **Mercado, C.C**. (2009). Do sex offenders meet victims in places where children congregate? An analysis of sex offender perpetration patterns. *Sex Offender Law Report.*

7. **Mercado, C.C.** (2008). Sex offender treatment. In B. Cutler (Ed.), *Encyclopedia of Psychology and Law.* Sage Publications.

6. **Mercado, C.C**., & Bornstein, B.H. (2008). Does proximity to schools tempt former sex offenders? *APA Monitor on Psychology's Judicial Notebook, 39(8),* 22.

5. Chajewski, M., & **Mercado, C.C**. (2008). An analysis of sex offender residency restrictions in Newark, New Jersey. *Sex Offender Law Report, 9,* 1, 11-15 .

4. **Mercado, C.C.** (2006). Detención preventiva de los abusadores sexuales: Una perspectiva comparativa de ley. *Pensamiento Psicológico, 7,* 7-14. (Reprinted from *Sex Offender Law Report, 7(4),* pp. 51-54, by C.C. Mercado, 2006).

3. **Mercado, C.C.,** & Bornstein, B.H. (2006). Expert testimony in insanity cases. *APA Monitor on Psychology's Judicial Notebook, 37(10),* 59-61.

2. **Mercado, C.C.** (2006). Comparative law perspective of the preventive detention of sex offenders. *Sex Offender Law Report, 7(4),* 51-54.

1. Elbogen, E.B., **Mercado, C.C.**, Tomkins, A.J., & Scalora, M.J. (2001). Clinical practice and violence risk assessment. In D. Farrington, C.R. Hollin, & M. McMurran (Eds.), *Sex and Violence: The psychology of crimes and risk assessment.* Reading, England: Harwood Academic

BOOK REVIEWS

Mercado, C.C. (2009). Review of M.L. Hidalgo (2007) *Sexual Abuse and the Culture of Catholicism: How Priests and Nuns become Perpetrators.* New York: The Haworth Maltreatment and Trauma Press. In *Journal of Trauma and Dissociation, 10,* 224-226.

SCHOLARLY WORK UNDER REVIEW OR IN CONTRACT

N/A

GRANTS AWARDED

2015 **Office for the Advancement of Research (OAR) Senior Scholar Release** (one course release to complete book project, *Sexual Offending: Evidence-Based Legislation and Prevention*

2014 **Forensic Psychology Research Initiative (FPRI), $5000**
Title: What works with sex offenders? Guiding sex crime policy through an examination of factors associated with desistance.
PI: Cynthia Calkins

2014 **Office for the Advancement of Research (OAR) Seed Money Program, $1500**

Title: Desistance among sex offenders
PI: Cynthia Calkins

2013 **CUNY Collaborative Incentive Research Grant Program, $29,479**
Title: The economics of sex crime policy and the reduction of sexual recidivism
PIs: Elizabeth Jeglic, Cynthia Calkins, & Partha Deb

2013 **PSC-CUNY Award Program, $6000**
Title: What works to keep communities safe? Guiding sex crime policy through an examination of the desistance process
PI: Cynthia Calkins

2011 **John Jay College Collaborative Research Award, $8000**
Title: An Examination of the Criminal Careers of Sex Offenders
PIs: Cynthia Calkins Mercado, Elizabeth Jeglic, & Lila Kazemian

2009-2013 **National Institute of Justice (NIJ) 2009-IJ-CX-0036, $283,651**
Title: Identifying Situational and Individual Risk Factors for Child Sexual Abuse in Institutional Settings: Implications for Public Safety and Primary Prevention
PI: Cynthia Calkins Mercado

2008 **CUNY Collaborative Incentive Research Grant Program, $39,963**
Title: Sex Offender Management, Treatment, and Civil Commitment: An Empirical Analysis of Four Sex Offender Populations 2
PIs: Cynthia Calkins Mercado, Elizabeth Jeglic, & Steve Zeidman

2008 **John Jay College Scholarly Excellence Award** (equivalent of two course releases)

2008 **John Jay College Research Assistance Program, $1000**

2007-2010 **National Institute of Justice (NIJ) GMS 2007-IJ-CX-0037, $296,656**
Title: Sex Offender Management, Treatment, and Civil Commitment: An Evidence Based Analysis Aimed at Reducing Sexual Violence
PIs: Cynthia Calkins Mercado & Elizabeth Jeglic

2007 **John Jay College Forensic Psychology Research Institute (FPRI), $5000**
PIs: Cynthia Calkins Mercado & Elizabeth Jeglic

2007 John Jay College Research Assistance Program, $1000

2007 PSC-CUNY Research Grant, $4500

2006 John Jay College Forensic Psychology Research Institute (FPRI), $2460

2006 PSC-CUNY Research Grant, $4700

1999-2003 University of Nebraska-Lincoln Warden Research and Travel Award, $3000

2001 American Psychology-Law Society (AP-LS)/Division 41 Grants-In-Aid, $500

EDITORIAL/REVIEWING SERVICE

Editorial Board

Psychology, Crime, & Law
Judicial Notebook, APA Monitor

Ad Hoc Manuscript Reviewer

Sexual Abuse: A Journal of Research and Treatment
Law and Human Behavior
Psychology, Public Policy, and Law
Journal of Quantitative Criminology
Journal of Offender Rehabilitation
International Journal of Offender Therapy and Comparative Criminology
Journal of Forensic Psychology Practice
Journal of Research in Crime & Delinquency
International Journal of Comparative and Applied Criminal Justice

EXPERT WITNESS WORK

Varick Street Immigration Court – 2018 to present

In The Matter of the Application of The State of New York v. Jose R. for Civil Management Pursuant to Mental Hygiene Law Article 10. Supreme Court of the State of New York, County of Orange.

08/04/2025: Testified in hearing related to mental abnormality
03/11/2026: Testified in hearing related to risk of re-offense

U.S.A. v. Wayne Morgan, Southern District of NY (1:20-cr-00543-GHW)

The People of the State of New York v. James M. Harrington, Supreme Court of the State of New York, Wyoming County

Testified in Frye Hearing regarding general acceptance of Piquerism before Judge Terrence Parker (6 February 2026).

The People of the State of New York v. Ronald S., Supreme Court of the State of New York, Nassau County

Testified in Frye Hearing regarding general acceptance of diagnosis of other specified paraphilic disorder (OSPD-nonconsent) before Judge Robert A. McDonald (31 August 2018)

The People of the State of New York v. Jerome A, State of New York v. Nicholas T., and State of New York v. Gary K., Supreme Court of the State of New York, County of New York

Testified in Frye Hearing regarding general acceptance of diagnosis of unspecified paraphilic disorder before Judge Daniel Conviser (26 September 2017)

The People of the State of New York v. Ralph Paladino, Supreme Court of the State of New York, County of New York

Testified in Frye Hearing regarding general acceptance of diagnosis of hebephilia before Judge Daniel Conviser (18 February 2016)

The People of the State of New York v. Kareem Miller, Supreme Court of the State of New York, County of New York

Testified in Frye Hearing regarding general acceptance of diagnosis of Paraphilia OSPD-nonconsent before Judge Daniel Conviser (24 November 2015)

The People of the State of New York v. Jason Cheatham, Supreme Court of the State of New York, Count of Kings

Testified in Frye Hearing regarding general acceptance of diagnosis of Paraphilia OSPD-nonconsent before Judge Dineen A. Riviezzo (6 October 2015)

The People of the State of New York v. Harry Mercado, Supreme Court of the State of New York, Count of Kings

Testified in Frye Hearing regarding general acceptance of diagnosis of hebephilia before Judge Dineen A. Riviezzo (27 May 2015)

INVITED TALKS

Calkins, C. (2026). Child abuse prevention month: Documentary discussion. Jacobi Medical Center, Bronx, NY.

Calkins, C.. (2025). Clinical evaluations of child pornography offenders. University of New Mexico Health Sciences Law and Mental Health series.

Mercado, C.C. (2011, October). From theory to practice: The implementation of sex offender residence restrictions across rural, suburban, and urban areas. National Institute of Justice (NIJ) Crime Mapping Research Conference, Miami FL.

Mercado, C.C. (2006, July). Avances en Psiocologia Forense. Pontificia Universidad Javeriana, Cali, Colombia.

RESEARCH PRESENTATIONS – LAST FIVE YEARS ONLY

Collie, E., Jeglic, E., & **Calkins, C.** (2025, March). The criminal trajectory of paraphilic noncontact sexual offenders: An exploratory study in an incarcerated United States sample. Poster presented at the annual American Psychology-Law Society Conference in Puerto Rico.

Abrams, D., & **Calkins, C**. (2022, March). Examining the prevalence and psychopathological correlates of paraphilic interests in a non-clinical sample. Poster presented at the annual American Psychology-Law Society (AP-LS) Conference.

RESEARCH ASSOCIATE – 2005-2012

Child sexual abuse in the Catholic Church: Understanding the causes and context of the problem. (PI: Dr. Karen Terry)

MEMBER EXPERT ADVISORY PANEL – Fall 2008

National Institute of Justice (NIJ), Sex offender management and sex offender residence restrictions panel

PROFESSIONAL MEMBERSHIPS

American Psychology-Law Society (AP-LS), Division 41
Association for the Treatment of Sexual Abusers (ATSA)
International Association for the Treatment of Sexual Abusers (IATSO)

AWARDS

2015 **Fay Honey Knopp Award** (along with Dr. Elizabeth Jeglic) from the New York State Association for the Treatment of Sexual Abusers (NYS ATSA) and NYS Alliance of Sex Offender Service Providers. The Fay Honey Knopp Award is given to those who work in sexual abuser treatment or research and whose work positively impacts offenders.

CLINICAL WORK AND CONSULTING

2016 – present **Psychologist, Private Practice**
Evaluations of risk, primarily with individuals charged with sexual offenses. Evaluations of cognitive and mental health functioning for clients involved in immigration proceedings. Expert consultation in matters related to abuse in institutional settings and the locations of sex crimes.

2016 – 2020 **Clinician Evaluator, MedAvante-Prophase**
Administer as well as blindly review, score, and provide feedback to site raters regarding standardized structured and semi-structured diagnostic and severity assessments, including the Montgomery-Asberg Depression Rating Scale (MADRS).

2005– 2017 **Trainer, "Managing Situations Involving Mentally Disturbed Persons"**
New York City Police Department Training Program
Funded by a grant to the CUNY Research Foundation

Provide training for NYPD Recruits, Sergeants, and Emergency Services Unit officers and other law enforcement agencies on mental illness and interacting with emotionally-disturbed persons.

2004-2005 **Psychologist, Psychosexual Treatment Program**
Victorian Institute of Forensic Mental Health Service (*Forensicare*), Melbourne, Australia
Facilitated individualized treatment for a community-based sex offender population and performed court-ordered pre-sentence evaluations

CLINICAL TRAINING

2002-2003 **APA-Accredited Clinical Psychology Internship Program**
***Louis de la Parte* Florida Mental Health Institute (FMHI)**
University of South Florida, Tampa, FL
Internship Director: Richard Weinberg, Ph.D.
Rotations: 1) Mobile Crisis Response Team, 2) DACCO Substance Abusing Mothers with Infants (SAMI) program, 3) Village of Excellence Charter School, 4) Hillsborough County Public Schools, and 5) Mental Health Policy Research

1999-2002 **Psychology Extern, Psychological Consultation Center,** University of Nebraska-Lincoln

2001-2002 Jointly performed forensic evaluations on a consultant basis with **Steven Blum, Ph.D.,** Lincoln, NE

1999-2000	Jointly performed forensic evaluations on a consultant basis with **Scott Bresler, Ph.D.,** Lincoln, NE
2000-2002	**Psychology Extern, Bryan LGH Medical Center West Assessment Team** Child and Adolescent Psychiatric Services, Lincoln, NE
2000-2001	**Psychology Extern, Statewide Forensic Mental Health Service, Sex Offender Services,** Lincoln, NE
1999-2000	**Psychology Extern, Statewide Forensic Mental Health Service, Intensive Care and Observation Program,** Lincoln, NE
1996-1997 NV	**Psychology Extern, Warner Wilson, Ph.D., Private Practice,** Las Vegas,
1996	**Psychology Extern, Clark County Juvenile Courts Psychology Department,** Las Vegas, NV
1996-1997	**Court Appointed Special Advocate (CASA), CASA Program, Eighth Judicial District Court,** Las Vegas, NV
1995	**Psychology Extern, State of Nevada Specialized Adolescent Sex Offender Treatment Program,** Las Vegas, NV

TEACHING EXPERIENCE

Ph.D. Level Courses

Introduction to Forensic Psychology, John Jay College (co-taught with Dr. Diana Falkenbach)

Survey of Psychology and Criminal Justice, John Jay College (co-taught with Dr. Jen Dysart)

Intellectual Assessment, John Jay College

Civil Forensic Psychology, Monash University (co-taught with Dr. James Ogloff)

Criminal Forensic Psychology, Monash University (co-taught with Dr. James Ogloff)

M.A. Level Courses

Evaluation of Sex Offenders, John Jay College
Theories of Personality, John Jay College
Sex Crimes, John Jay College
Developmental Psychology, John Jay College
Psychology and Law, John Jay College
Objective Personality Assessment, John Jay College
Criminal Behavior, John Jay College

B.A. Level Courses

Psychological Foundations of Police Work, John Jay College
Developmental Psychology, John Jay College
Psychology and Law, John Jay College; Monash University
Abnormal Psychology, University of Nebraska-Lincoln
Clinical Psychology, University of Nebraska-Lincoln
Human Sexuality, University of Nebraska-Lincoln

SPECIALIZED INTERNSHIP EXPERIENCE

June 1997 - August 1997 — **Honor's Intern**
Federal Bureau of Investigation (FBI)
Child Abduction and Serial Killer Unit, Quantico, VA

Exhibit B

Bibliography

Basile, K.C., Smith, S.G., Kresnow, M., Khatiwada S., & Leemis, R.W. (2022). *The National Intimate Partner and Sexual Violence Survey: 2016/2017 Report on Sexual Violence*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention

Calkins, C., Colombino, N., Matsuura, T., & Jeglic, E. (2015). Where do sex crimes occur? How an examination of sex crime location can inform policy and prevention. *International Journal of Comparative and Applied Criminal Justice, 39,* 99-112.

Ceelen, M., Dorn, T., van Huis, F. S., & Reijnders, U. J. L. (2019). Characteristics and Post-Decision Attitudes of Non-Reporting Sexual Violence Victims. *Journal of Interpersonal Violence*, *34*(9), 1961–1977.

Chen, J., Khatiwada, S., Chen,M. S., Smith, S. G., Leemis, R. W., Friar, N. W., Basile, K. C., & Kresnow, M. (2023). *The National Intimate Partner and Sexual Violence Survey: 2016/2017 report on victimization by sexual identity.* National Center for Injury Prevention and Control, Centers for Disease Control and Prevention

Clark, S.K., Jeglic, E.L., Calkins, C., and Tatar, J. (2016). More than a nuisance: The prevalence and consequences of frotteurism and exhibitionism. *Sexual Abuse: A Journal of Research and Treatment, 28,* 3-19.

Colombino, N., Mercado, C.C., & Jeglic, E.L. (2009). Situational aspects of sexual offending: Implications for residence restriction laws. *Justice Research and Policy, 11,* 27-43.

Colombino, N., Mercado, C.C., Levenson, J.S., & Jeglic, E. (2011). Preventing sexual violence: Can examination of offense location inform sex crime policy? *International Journal of Law and Psychiatry, 34,* 160-167.

Dominguez, S. Jeglic, E., Calkins, C., & Kaylor, L. (2024). Frotteurism and exhibitionism: an updated examination of their prevalence, impact on victims, and frequency of reporting. *Journal of Sexual Aggression*, 1–18.

Hasenbush, A., Flores, A. R., & Herman, J. L. (2018). *Gender identity nondiscrimination laws in public accommodations: A review of evidence*

regarding safety and privacy in public restrooms, locker rooms, and changing rooms. *Sexuality Research & Social Policy, 16*(2), 70–83.

Grant, J.M., Mottet, L.A., Tanis, J. , Harrison, J., Herman, J.L., and Keisling, M. (2011). *Injustice at Every Turn: A Report of the National Transgender Discrimination Survey,* Washington, DC: National Center for Transgender Equality and National Gay and Lesbian Task Force, accessed October 6, 2016.

Lilienfeld, S.O., & Landfield, K. (2008). Science and pseudoscience in law enforcement: A user-friendly primer. *Criminal Justice and Behavior, 35,* 1215-1230.

Meyer, I. H., Bouton, L. J. A., Maszak-Prato, S., Stemple, L., & Lave, T. R. (2022). *LGBTQ people on sex offender registries in the U.S.* UCLA Williams Institute.

Mitchell K.J, Ybarra M.L., Korchmaros J.D. (2014) Sexual harassment among adolescents of different sexual orientations and gender identities. *Child Abuse and Neglect, 3*8(2):280-295

Montana Board of Crime Control. (n.d.). *The victim-offender relationship* (Victimization report, p. 30).

Morgenroth, T., Axt, J. R., & Westgate, E. C. (2022). What underlies the opposition to trans-inclusive policies? The role of concerns about male violence versus attitudes toward transpeople. *Personality and Social Psychology Bulletin.* DOI: 10.1177/01461672221137201

National Sexual Violence Resource Center. (n.d.). *Sexual violence & transgender / non-binary communities* [Infographic].

Planty, M., Langton, L., Krebs, C., Berzofsky, M., & Smiley-McDonald, H. (2016). Female victims of sexual violence, 1994-2010. Washington, DC: Bureau of Justice Statistics.

Rabinowitz Greenberg, S.R., Firestone, P., Bradford, J.M., & Greenberg, D.M. (2002). Prediction of recidivism in exhibitionists: Psychological, phallometric, and offense factors. *Sexual Abuse: A Journal of Research and Treatment, 14,* 329-347.

Sandler, J.C., Freeman, N.J., & Socia, K.M. (2008). Does a watched pot boil? A time-series analysis of New York State's sex offender registration and notification law. *Psychology, Public Policy, and Law, 14,* 284-302.

Thompson, A., & Tapp, S. N. (2022). *Criminal victimization, 2021* (NCJ 305101). U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Statistics.

Williams, K.S., & Bierie, D.M. (2015). An incident-based comparison of female and male sexual offenders. *Sexual Abuse: A Journal of Research and Treatment, 27*, 235-257.

EXHIBIT 10

In The Matter Of:

Casey Perkins, et al. vs.

State of Montana, et al.

Casey Perkins

February 24, 2026

Lesofski Court Reporting, Inc.

7 West Sixth Avenue, Suite 2C

Helena, MT 59601

406-443-2010

Min-U-Script® with Word Index

MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, and individual; and JOHN DOE, an individual, and MISSOULA COUNTY, Plaintiffs, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants. and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Case No. DV-32-2025-282

DEPOSITION OF CASEY PERKINS

On the 24th of February, 2026, beginning at 8:45 a.m., the deposition of CASEY PERKINS was heard at Lesofski Court Reporting, 7 West Sixth Avenue, Suite 2C, Helena, Montana, before Holly E. Fox, Court Reporter and Notary Public.

***

The following proceedings were had and testimony taken:

* * * * * * * * * * *

CASEY PERKINS,

having been first duly sworn by the Court Reporter, was examined and testified as follows:

EXAMINATION

BY MS. LANSING:

Q Good morning.

A Good morning.

Q Can you please state your name for the record?

A Casey Perkins.

Q Would you please spell that?

A Casey, the legal spelling is C-a-s-e-y. Last name is Perkins, P-e-r-k-i-n-s.

Q What is your occupation?

A I'm a licensed examiner.

Q Where do you work?

A State of Montana.

Q Are you based here in Helena?

A Yes.

Q And without giving me your specific

***

girl?

MS. TURNER: Objection to form.

You can answer.

THE DEPONENT: They were assigned -- their assigned sex at birth was female.

Q (By Ms. Lansing) And how old did you say your child is again today?

A 14.

Q Thank you. Why did you become a plaintiff in this lawsuit?

A Because it was the right thing to do.

Q What do you mean by that?

A Because it basically is an attempt to infringe on trans -- the trans community's and mine's privacy and rights.

Q Let's unpack that. When you say the "trans" community, is that short for transgender?

A Yes.

Q Why do you believe this -- let me back up.

Is it your understanding that this lawsuit challenges House Bill 121 in Montana?

A Yes.

Q Why do you believe that -- or do -- is it -- I'm sorry. Let me rephrase this.

You said you became a plaintiff because it

was the right thing to do, and then you said it was the right thing to do because it was infringing on your privacy and the privacy of the trans community; is that right?

A Of the individuals in the trans community, yes.

Q Why do you say that?

A Because it requires that we out ourselves and opens ourselves up to various harassment.

Q When you say it requires that we "out ourselves," are you talking about the law, HB 121?

A Yes, the bill.

Q How does HB 121 require that you out yourself?

MS. TURNER: Objection; calls for a legal conclusion, form.

You can answer.

THE DEPONENT: Because it would require us to use accommodations that do not align with our identities and who we are.

Q (By Ms. Lansing) What is your identity?

A I am a transgender woman.

Q Let's look at what's been previously marked as Exhibit 2.

Do you recognize this?

***

Q Have you personally experienced that?

A I have not experienced that myself, no.

Q Can you tell me about the instance in Missoula you were talking about?

A The Missoula one was a friend of mine, who was actually assaulted there. I'm trying to remember. Was it -- I don't remember the location that it was at, but they were actually assaulted and had to take a day off from work because they needed to recover from it.

Q Where did this occur?

A That was in Missoula. I don't remember the exact place it happened. I was more concerned with my friend.

Q Was this friend also transgender?

A Most of my friends are, this one included.

Q Have you ever had problems going to the public restroom of your choice?

A Yes.

Q Can you tell me about that?

A It gets wearing when you have people making comments about you being in the wrong area and calling you names when you're simply trying to use facilities.

Q Where were you when you were called names?

A Most commonly, it's at my office, at the state office I work at. It has also been at the Memorial Park here in Helena, when I have used the facilities there. When they're open, which is rare.

Q Are you talking about restrooms at Memorial Park?

A Yes.

Q Do you think there are differences between men and women?

MS. TURNER: Objection to form.

You can answer.

THE DEPONENT: There's difference between everyone. Everyone is unique.

Q (By Ms. Lansing) What differences do you believe there are between men and women?

MS. TURNER: Objection as to form.

You may answer, Casey.

THE DEPONENT: There are literally millions of differences between every individual person.

Q (By Ms. Lansing) Can you get more specific to my question, though?

A I would need two people to compare.

Q Okay. What differences in your opinion are there between cisgender men and cisgender women?

MS. TURNER: Object to form.

***

can just give me a few minutes to review?

A Yep.

Q Thank you.

(Break taken from 9:11 a.m. until 9:13 a.m.)

Q (By Ms. Lansing) I have no further questions for you. Thank you for your time this morning.

MS. TURNER: I have a few questions.

EXAMINATION

BY MS. TURNER:

Q So I'm Robin Turner. I'm your attorney, for the record. So right before we finished this part of the deposition, counsel asked you about Paragraph 8 in your declaration.

Could you go back to that Page 3 of Exhibit 31?

A Yes.

Q Okay. So when you filed this, you wrote:

I will not -- I would not feel safe using the men's restroom.

Do you see that?

A Yes.

Q Okay. Why did you say you would not feel safe using the men's restroom?

A Because the comments that I have been receiving, the insults, the looks, the verbal harassment have almost consistently been from men, is one part of it. The second part of it is I am not a man. I should not be using the men's restroom.

Q Okay. No other questions.

MS. LANSING: Nothing further.

(Deposition concluded at 9:14 a.m.)

(Signature reserved.)

***

C E R T I F I C A T E

STATE OF MONTANA)
ss.
COUNTY OF LEWIS AND CLARK)

I, HOLLY FOX, Freelance Court Reporter and a Notary Public for the State of Montana, do hereby certify:

That I did report the foregoing sworn deposition after having duly sworn the deponent.

IN WITNESS WHEREOF, I have set my hand and seal on this 10th day of March, 2026.

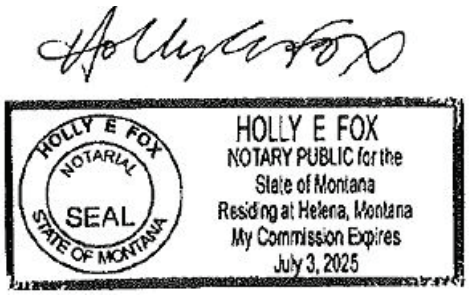


EXHIBIT 11

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER McDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual, and JOHN DOE, an individual, and MISSOULA COUNTY, Plaintiffs, -vs- STATE OF MONTANA; GREGORY GIANFORTE, in his capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Dept No. 1 Cause No. DV-32-2025-282 Hon. Leslie Halligan FOR ATTORNEYS' EYES ONLY

Taken at 1015 Mount Avenue
Missoula, Montana
Wednesday, February 4, 2026 - 1:02 p.m.

D E P O S I T I O N
OF
[redacted]

Reported by Melody Jeffries Peters, RDR, CRR, CRC, Jeffries Court Reporting, Inc., 1015 Mount Avenue, Suite B, Missoula, Montana 59801, (406) 721-1143, Freelance Court Reporter for the State of Montana, residing in Missoula, Montana, jcrcourt@montana.com

APPEARANCES

Robin Turner, Esq.
Legal Voice
P.O. Box 582
Missoula, Montana 59802
rturner@legalvoice.org
appearing on behalf of the Plaintiffs.

Alex Rate, Esq.
Ashlee Rossler, Esq.
Addie Slanger, Paralegal
Abigail Roston, Paralegal
ACLU of Montana
P.O. Box 1968
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rosslera@aclumontana.org
slangera@aclumontana.org
rostona@aclumontana.org
appearing remotely on behalf of the Plaintiffs.

Justin Oliveira, Esq.
Jones Law Firm
115 North Broadway, Suite 410
Billings, Montana 59101
justin@joneslawmt.com
appearing remotely.

Alwyn Lansing
Thane Johnson
Assistant Attorneys General
Rochelle Standish, Paralegal, appearing remotely
Bellemy Morgan, Intern, appearing remotely
Montana Department of Justice
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alwyn.lansing@mt.gov
thane.johnson@mt.gov
appearing on behalf of the Defendants.

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STIPULATIONS

It was stipulated by and between counsel for the parties that the deposition be taken by Melody Jeffries Peters, RDR, CRR, CRC, Freelance Court Reporter and Notary Public for the State of Montana, residing in Missoula, Montana.

It was further stipulated and agreed by and between counsel for the parties that the deposition be taken in accordance with the Montana Rules of Civil Procedure.

It was further stipulated and agreed by and between counsel for the parties that all objections except as to form would be reserved until time of trial, and that said objections would have the same force and effect as if interposed at the time of taking the deposition.

It was further stipulated and agreed by and between counsel for the parties and the witness that the reading and signing of the deposition would be expressly reserved.

WEDNESDAY, FEBRUARY 4, 2026

Thereupon,

[redacted],

a witness of lawful age, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, testified upon his oath as follows:

EXAMINATION

BY MS. LANSING:

Q. Good afternoon.

A. Good afternoon.

Q. Can we start out with you telling us your name, for the record.

A. Yep. My name is [redacted].

Q. Thank you. Have you ever had your deposition taken before?

A. I have.

Q. What were the circumstances of that deposition?

A. I was a union steward, and so it was part of a type -- arbitration case, so just had to go through basically what my side did.

Q. Were you a plaintiff or a defendant or a witness?

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Page 6

A. So I was -- I think I would have been on the Defendant's side in that case.
Q. You were being sued?
A. No. So we were -- No. So it would have been Plaintiff's side. We were on the employees' side against the company.
Q. Okay.
A. And then there was one other deposition I've also done.
Q. What was the other deposition?
A. It was for a criminal case as a witness to a potential stabbing altercation in a restaurant.
Q. Okay. Have you been involved in any other court cases?
A. Not that I can think of, no.
Q. Before we start I'll just go over a few ground rules with you for a deposition. It is not a marathon, so if you need a break at any point, let us know. I'll try to stop at least once an hour to offer you a break, if you need one.
A. Okay.
Q. If you don't understand my question, you can tell me.
Your attorney may object at some point,

Page 7

and you should still answer the question unless she instructs you otherwise. So with that, we'll get started on our questions.
What is your occupation?
A. So I work as a customer service representative [redacted].
Q. Is that here in Missoula?
A. Yes.
Q. Why did you become a Plaintiff in this lawsuit?
A. Because this particular bill has a direct impact on me, and I am confused as to how I need to proceed to follow the law.
Q. I'm going to break down your answer a little bit.
What do you mean this bill has a direct impact on you?
A. So as a person who uses covered entities, like facilities, I need to know which restrooms would be appropriate for me or which changing rooms would be appropriate for me to use.
Q. Okay. What is your understanding of the term "covered entities" that you just used?
A. So my --
MS. TURNER: Object- --

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THE WITNESS: Oop. Sorry.
MS. TURNER: Object to foundation.
But you can answer.
THE WITNESS: Okay.
My understanding is that the covered entities would be facilities like the University of Montana, for example, where I occasionally go for various -- like concerts and whatnot there, as well as like Splash Montana where I like to go to do recreation. It's a county facility.
And then I also use the Montana -- Missoula Public Library, which would also be a covered entity.
Q. (BY MS. LANSING) Where did you get your understanding of the term "covered entity"?
A. In the definition that's in the bill.
(Another individual attempts to join the Zoom conference. Discussion held off the record.)
Q. (BY MS. LANSING) Are you referring to House Bill 121?
A. Yes.
Q. After you said you were a Plaintiff in this lawsuit because it has a direct impact on you, you said that you were -- I believe you said you were confused by the bill.

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Can you tell me why you're confused?
A. Yes. So the definitions within the bill don't fit my particular situation so I don't know how I fit within the bill.
Q. Can you describe what you mean by your particular situation?
A. Yes. I'm intersexed.
Q. How do you define intersexed?
A. So chromosomally XX, so I meet the definition there for female, but phenotypically I express as male.
Q. What do you mean by, phenotypically, you express as male?
A. When I was born, the doctor identified that I have a penis and scrotum and decided that I was a male.
Q. Has any medical professional ever diagnosed you with -- I'm sorry, strike that.
Has a medical professional ever diagnosed you with ambiguous external genitalia?
A. No.
Q. Has any medical provider ever diagnosed you with ambiguous internal genitalia?
A. Not at this time.
Q. What do you mean by "not at this time"?

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here today, to support this statement?
A. Can you define what you mean by "evidence"?
Q. Do you have any facts?
A. I have my opinion and my belief of what could happen, and that's my concern.
Q. So you're concerned about something that could happen; is that fair to say?
A. Correct, yeah. I mean, it also does challenge my personhood because the way that it's written, it says that human beings are a certain definition, and I don't meet that definition, so I'm concerned that also means that I am not legally considered human.
Q. Let's break that down. So how do you think that the law demeans your personhood?
A. Can we look at the bill?
Q. Sure.
A. Okay. So Section 2, where we look at Definitions, so I look at it like it's a -- kind of a logic puzzle, right? So if there's anything that's false in the statement, the whole statement then becomes false.
So a female who is a member of the human species who under normal development has XX

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chromosomes -- that's true for me, I have XX chromosomes -- produces or would produce relatively large -- relatively immobile gametes -- that is false, stop; the rest of the statement is false.
So that also means that a human -- that means that I'm not a human being, based on the way that this is written.
And then if we look at 7, "Male," "Male" means a member of the human species who, under normal development, has XY chromosomes.
False, I don't have XY chromosomes, so I'm not legally defined as male either.
Q. Can you tell me a little bit more about your condition -- your medical condition that you shared a bit about earlier as it relates to gametes?
A. Sure. I don't produce any.
Q. Okay. And you said earlier that you possess male genitalia.
A. I have a penis and I do have testes, but they lack the ability to produce sperm.
Q. Is there a name for your condition?
A. Yes. 46,XX SRY-positive. There's another name for it. And then it's also known as

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de la Chapelle syndrome.
Q. Looking back at paragraph 5 in the Complaint, Exhibit 1 that we looked at before, do you have any facts to support the claim that this law relegates transgender and intersex people to second-class citizenship?
MS. TURNER: Objection. Foundation.
But you can answer.
A. Well, if I'm not human, then there's a whole lot of laws in the state of Montana that wouldn't apply to me, which would, in theory, make me a second-class citizen.
Q. (BY MS. LANSING) Are you an attorney?
A. No.
Q. That sentence also claims that the law exposes transgender and intersex people to heightened risks of harassment and violence.
Are you aware of any heightened risks of harassment and violence to transgender and intersex people caused by this law?
A. Yes.
MS. TURNER: Object.
THE WITNESS: Oh, so sorry.
MS. TURNER: As to form.
A. Yes.

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Q. (BY MS. LANSING) Can you tell me about those?
A. Yeah. I have friends who are transgender, including trans men, and I've used the locker room with them, and I have witnessed them being harassed for having like top surgery scars, for example; having, like, really inappropriate questions asked.
Q. How does that relate to this law, in your opinion?
A. Well, they were at Splash Montana so they were at a covered entity, and in theory, this law is saying that they should use a different restroom or changing room than the one that they were in, which wouldn't be appropriate for them either.
Q. So to make sure I'm understanding what you're saying, can you define the term you just used, "trans men"?
A. Yeah. That would be a person who's transitioned from being female to male, so they have transitioned the way that they dress, their pronouns, their names.
They are on HRT, so they've developed secondary sex characteristics that are common for

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that?
A. No, but nobody's asked me to identify my chromosomes in the bathroom either, but this law does.
Q. Has anyone ever asked you to identify your chromosomes before you go to the restroom?
A. No, but this law does.
Q. But have you experienced, since this law, a time where you wanted to use the restroom and before you could do so, you were asked about your chromosomes?
A. Other than just being teased by friends, no.
Q. So you haven't been harassed as a result of HB 121; is that right?
A. At this time, no.
Q. Looking later in paragraph 83, it says, If the covered entity is sued because another individual perceives John to be using the incorrect restroom, as part of the lawsuit John may be compelled to publicly disclose deeply personal details about his intersex status, medical history, biological traits and gender identity.
Do you see that?

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A. I do, yeah.
Q. Do you have any evidence to support your fear that this may happen?
MS. TURNER: Object as to form.
You can answer.
A. Well, the problem is, is that I don't know if I'm supposed to be in the men's room.
As this law is written, I'm not supposed to be there, but I'm also not supposed to be in the women's restroom, so I don't know where I'm supposed to go, which puts me in a very uncomfortable position of needing to be able to take care of very personal things, like going to the restroom or getting changed to use the swimming pool, for example, and not know where I'm supposed to go.
Q. (BY MS. LANSING) Are you aware of any time when a covered entity under this law has been sued and that lawsuit has led to testimony such as the kind that you're afraid of in this paragraph?
MS. TURNER: Objection. Lacks foundation.
But you can answer.
A. My understanding is that this law is currently on hold so it wouldn't be able to take

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effect currently.
Q. (BY MS. LANSING) So you're not aware of any?
A. There wouldn't be any if there's an injunction on it, is my understanding.
Q. So your answer's no.
A. "No."
Q. This is a fear or a concern that you have?
A. Yeah.
Q. But you don't have any concrete evidence to support that this is actually going to happen; is that right?
MS. TURNER: Objection. It misstates the testimony.
You can answer.
A. Again, I don't know which restroom I'm supposed to use, so if I go off of my chromosomes, I'm going to be in the women's restroom, and I can definitely anticipate being harassed and potentially physically interacted with in a way that would make me fear for my safety.
Q. (BY MS. LANSING) Moving on to paragraph 85, if you could read that to yourself.
A. (Witness complies.) Uh-huh.

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Q. The paragraph begins, John does not want to avoid using public spaces altogether or forego using restrooms while in public spaces.
Why do you believe you would have to do this?
A. Coming back to what I've said multiple times, I don't know which restroom I'm supposed to use, so without this -- This law the way it's written is too narrowly defined and I don't fit within it, which means, based on this law, I don't -- I shouldn't use any of them, and I shouldn't have to not use the restroom if I need to use the restroom.
Q. What is your understanding of what would happen if you were to use the, quote/unquote, wrong restroom under this law?
MS. TURNER: Objection. Foundation. Calls for a legal conclusion.
You can answer.
A. Well, it outlines what to do, but it potentially opens up the spaces that I use that are covered entities to lawsuit for allowing me to use the restroom which we think I'm supposed to use.
So again, I don't know what would

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C E R T I F I C A T E

STATE OF MONTANA)
: ss.
County of Missoula)

I, Melody Jeffries Peters, RDR, CRR, CRC, Freelance Court Reporter and Notary Public for the State of Montana, residing in Missoula, Montana, do hereby certify:

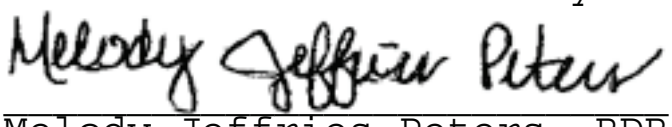
That I was duly authorized to swear in the witness and did report the deposition of [redacted] in this cause;

That the reading and signing of the deposition by the witness have been expressly reserved;

That the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness.

I further certify that I am not an attorney nor counsel of any of the parties; nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 9th day of February, 2026.



Melody Jeffries Peters, RDR, CRR, CRC
Freelance Court Reporter
Notary Public, State of Montana
Residing in Missoula, Montana
My Commission expires: 3/11/2027

EXHIBIT 12

[redacted]

Begin forwarded message:

From: [redacted]
Date: January 8, 2025 at 10:08:09 AM MST
To: Melody.Cunningham@legmt.gov
Subject: HB 121

Representative Cunningham,

This first bill on my radar for this session is HB 121 which seeks to legislate which restrooms transgender people are to use in public.

Firstly, it is rather disgusting that one of the first bills on the floor for this session is one seeking to legislate bathroom useage. Our state has far more important issues to address than a topic that has been settled for a number of years. In 2017, our state tabled a previous attempt to legislate the restroom topic. Unfortunately, our Republican lawmakers feel the need to legislate restroom usage once again.

Within the definitions set forth in this bill, I find myself in an odd position. I am an intersex individual. More specifically, genetically I have two X chromosomes and while I have the outward appearance of male primary and secondary sex characteristics, I have never been able to produce mobile gametes. My endocrine system is oriented to produce higher levels of estrogen than testosterone, as a biological woman's would. My sex is neither male nor female, as confirmed by my primary care physician and genetic testing. I am intersex. I do, however, identify as male in gender and to help present as such require weekly injections of testosterone.

Frankly, under HB 121, I am not entirely sure which restroom your Republican colleagues would require me to use. Should I use the women's restroom because genetically and hormonally (without injections), I am female? Or should I use the men's room because I have a penis? As a person who outwardly appears quite male, I fear I would be quite out of place in the women's restroom and I am certain that any other occupants would be quite ill at ease with me in there.

Now, imagine yourself in the women's restroom. Imagine a trans man, who outwardly appears male walks into the women's restroom just after you. This bill says that is the

restroom he should use, simply because his sex at both was identified as female. Would you be able to know for sure what his sex was simply by looking at him?

All too often, your Republican colleagues want to paint trans people (predominantly trans women) as predators who want access to women and girls in the restroom to assault them. And insist that bills like this are a matter of public safety. Certainly, I will concede that men represent a much higher population of sexual offenders, but this bill doesn't really address that. Unless your colleagues want to do a whole lot of testing before a person can use the restroom, this still invites men into women's spaces as you now have trans men entering the women's restroom as well as potentially cis gender men because we cannot simply look at a person an know their sex. I would contend that if a woman were to see anyone who looks like a man in their restroom they will be upset. Heck, since the restroom topic even became a hot button topic, I have had a number of cisgender women who have a more "butch" appearance (ie short hair, t-shirt, jeans, baseball cap) accosted by both men and women for using the proper restroom.

The bottom line is, bills like this belong in the restroom, swirling around the bottom of the toilet after one flushed, along with our biological waste that it shares so much in common with. I urge you, please vote no on this bill and encourage your colleagues on both sides of the aisle to do the same. Montana does not need our government legislating the bathroom.

Robin Turner

From: [redacted]
Sent: Wednesday, October 1, 2025 10:18 AM
To: Robin Turner
Subject: Fwd: HB 121

[redacted]

Begin forwarded message:

From: "[redacted]
Date: January 16, 2025 at 1:16:38 PM MST
To: Zooey.Zephyr@legmt.gov
Subject: HB 121

Representative Zephyr,

I am a Missourian, though not in your district. Clearly, I know you are against this unnecessary bill, as is my representative, Rep. Cunningham. The reason I am writing you is to better understand what restroom I will need to get used to using with this bill.

I am an intersex individual. I was assigned male at birth due to the presence of a penis. However, I have XX chromosomes; my testes have never produced mobile gametes nor do I produce immobile gametes; my endocrine system is a confusing mess, as without HRT I produce female levels of testosterone and I have higher levels of estrogen. Additionally, I do have gynecomastia, so I do have breast tissue. I am at risk for health issues that typically are found only in women as well as those found in men. I believe, based on the bill's definition, I meet two criteria for male and two for female.

To look at me, people will automatically see a man. A bear of a man, honestly. I have a long beard. Fuzzy all over. If it is illegal for me to use the men's room due to the factors that make me female, I don't think I'd be welcome in the women's room (and the one and only time I had to use the women's or risk making a mess, I felt very uncomfortable there. Like I was doing something very taboo.

I don't know where I fit into the GOP's binary view of the world. Gender wise, I refer to myself as a Demi male. Because I am only sort of male. I do have genital dysphoria (not that you need to know that part, but that has been part of me since I was a wee boy. The bits never felt like they should be there, but I also have never felt like I should be female. Just a man with the other bits).

Anyways, if you could find out from them where I should, I would greatly appreciate it. I don't want to cause you issue, I just feel like you might better understand my concern than my own Rep, bless her.

Sincerely,

[redacted]
he/him/his

[redacted]

From: [redacted]
Date: January 14, 2025 at 10:49:19 AM MST
To: Jedediah.Hinkle@legmt.gov
Subject: HB 121

Representative Hinkle,

As I understand it, during the House Judiciary hearing, you made a comment that the HB 121 was needed to prevent people from "getting off" on bathroom sounds. I would like to understand how preventing transgender people from using a public bathroom that aligns with their gender does that. Based on this line of thought, what it sounds like is you actually want to just ban public toilets, as literally anyone (regardless of gender or sex) could get off on restroom sounds.

You also pointed out that some transwomen are attracted to women, but you have no concern about cis women who may also be attracted to other women being in the same restroom (or for that matter cis gender men who may also be attracted to men being in the same restroom with you). Again, this comment seems to communicate more that you are in favor of simply doing away with all public restrooms.

What I'd like to know, Representative Hinkle, is how it is you think HB 121 should be enforced. Are people supposed to simply accuse anyone who looks like they MIGHT be trans? Because the last time our state legislature entertained a bathroom ban (which was tabled indefinitely) I had many friends who are cis women who choose to wear their hair short and wear "men's" clothes (ie jeans and t-shirt/polo) accosted by other women in the restroom. Imagine for a moment needing to use the restroom and then being accused that you are in the wrong restroom, delaying your need to do your business in there.

For that matter, which restroom should an intersex person like myself use? Should this pass, I do not want to break the law. So, please help me know which one to use. To clarify, I meet two of the criteria for woman and two for men. Thanks to taking HRT, because my endocrine system doesn't produce the proper levels of testosterone, I have a pretty nice beard. Should I use the same restroom as you do? Or should I use the ladies restroom?

All too often, the discussion of restroom bills focuses solely on transwomen. Have you asked any of the women in your life how they would feel to have a transman in the same restroom with them? And, how would the know if he is, in fact, a transman or just a man who “gets off” on hearing bathroom noises? And, considering the higher rates of violence against women (trans or cis) by men, how safe do you think transwomen will be in the men’s room? Or is that the point? That you are hoping that transwomen will experience violence in the restroom to teach them a lesson and put them in their place?

Sincerely,

[redacted]

[redacted]

[redacted]

From: [redacted]
Date: January 14, 2025 at 11:22:31 AM MST
To: Melody Cunningham <melody.cunningham@legmt.gov>
Subject: HB 121

Representative Cunningham,

I am sad to see this bill will advance to the House floor. I am disgusted by many of Representative J. Hinkle's comments during the meeting before the vote. Below you will find an email I sent to him this morning. While I highly doubt he will respond, if this bill passes, I really would like to know which restroom I will legally be required to use given my circumstance of meeting half the definition of man and half the definition of woman in this and similarly worded bills. I asked during last session and no one wanted to weigh in on it.

Sincerely,

[redacted]

Email to Representative J. Hinkle

Representative Hinkle,

As I understand it, during the House Judiciary hearing, you made a comment that the HB 121 was needed to prevent people from "getting off" on bathroom sounds. I would like to understand how preventing transgender people from using a public bathroom that aligns with their gender does that. Based on this line of thought, what it sounds like is you actually want to just ban public toilets, as literally anyone (regardless of gender or sex) could get off on restroom sounds.

You also pointed out that some transwomen are attracted to women, but you have no concern about cis women who may also be attracted to other women being in the same restroom (or for that matter cis gender men who may also be attracted to men being in the same restroom with you). Again, this comment seems to communicate more that you are in favor of simply doing away with all public restrooms.

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All too often, the discussion of restroom bills focuses solely on transwomen. Have you asked any of the women in your life how they would feel to have a transman in the same restroom with them? And, how would the know if he is, in fact, a transman or just a man who "gets off" on hearing bathroom noises? And, considering the higher rates of violence against women (trans or cis) by men, how safe do you think transwomen will be in the men's room? Or is that the point? That you are hoping that transwomen will experience violence in the restroom to teach them a lesson and put them in their place?

Sincerely,

[redacted]

[redacted]

Jan 8 ·

River Segar
Jan 7 ·

Here we go.
... See more



[redacted]

Jan 9 ·

The Western Montana Community Center

Jan 8 ·

🏳️‍⚧️🚨 ACTION ALERT! 🚨🏳️‍⚧️

... See more





[redacted]

Jan 14 ·

During the MT House Judiciary hearing yesterday before their vote on HB 121 (the current version of the restroom bill) Rep Jedediah Hinkle said this bill was necessary because some people "get off" on bathroom noises and that some transwomen are attracted to other women. This sounds more like Rep J. Hinkle is arguing in favor of simply getting rid of public toilets in general and not policing which restroom trans people use.

Mina Toland-Scott and 4 others

5 5

EXHIBIT 13

In The Matter Of:

Casey Perkins, et al. vs.

State of Montana, et al.

Jane Doe

February 24, 2026

Lesofski Court Reporting, Inc.

7 West Sixth Avenue, Suite 2C

Helena, MT 59601

406-443-2010

Min-U-Script® with Word Index

MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, and individual; and JOHN DOE, an individual, and MISSOULA COUNTY, Plaintiffs, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants. and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Case No. DV-32-2025-282

DEPOSITION OF JANE DOE

On the 24th of February, 2026, beginning at 8:00 a.m., the deposition of JANE DOE was heard at Lesofski Court Reporting, 7 West Sixth Avenue, Suite 2C, Helena, Montana, before Holly E. Fox, Court Reporter and Notary Public.

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a negative way, and I wanted to make sure that my voice was heard in opposition to it.

Q You said you felt the law impacted you in a negative way. Let's unpack that. When you say "the law," are you referring to Montana House Bill 121 from the 2025 session?

A I am.

Q Is it your understanding that this lawsuit challenges that law?

A I am.

MS. ROSSLER: Objection to the extent it calls for a legal conclusion.

You can answer.

THE DEPONENT: I am.

Q (By Ms. Lansing) You do understand that?

A Yeah.

Q Why do you feel the law affects you negatively?

A Because I work at a -- I work for the State. Basically that means eight hours a day, I have to go to a building that the law would have -- like, change what bathroom I would be allowed to use in. And even outside of that, things like going to the library and public parks and everything, that would also change what bathroom I would have to go

in. And it feels like I'd be put in a position where I'd either have to obey the law and immediately out myself to strangers or disobey the law and then keep myself secret. And that's kind of a hard decision to make.

Q What do you mean by "out" yourself to strangers?

A I have not been "sir"ed or considered male by people who don't know me for over two years at this point. So by being forced to use the men's restroom, people would immediately know something was up.

Q What do you mean by "people would immediately know something was up"?

A I was disowned for being trans by my family, so I know a lot of people carry negative resentment towards trans people. And I wouldn't feel safe using a men's restroom because, when people see a feminine person using the men's restroom, that doesn't clock in their head about who should be using that restroom.

Q What is your objective in this lawsuit?

A I guess making sure that the law is challenged and a more fair standard is established.

Q In your opinion, what would be a fair

standard?

A I think when it comes to the bathroom thing, it's kind of a social problem that kind of requires social solutions instead of legal solutions. Because, like I said, I -- when I use the women's bathroom, no one notices I'm in there, no one cares, because I look like I belong there. And therefore, forcing me to use a different restroom, it's essentially, like I said, outing me. And as somebody who has faced discrimination before, it -- again, it feels, like, vulnerable and, like, frightening.

Q You said you've faced discrimination before.

Can you tell me about that?

A Like I said, my family disowned me because they're very hardcore Christians and they believe that being trans is, like, a sin in the Bible, and therefore, like, they're like, You're going to go to hell, so we don't want anything to do with you.

Q I am handing you what's previously been marked in this case as Exhibit 2.

A Okay.

Q Do you recognize this?

A I do.

***

C E R T I F I C A T E

STATE OF MONTANA)
ss.
COUNTY OF LEWIS AND CLARK)

I, HOLLY FOX, Freelance Court Reporter and a Notary Public for the State of Montana, do hereby certify:

That I did report the foregoing sworn deposition after having duly sworn the deponent.

IN WITNESS WHEREOF, I have set my hand and seal on this 10th day of March, 2026.

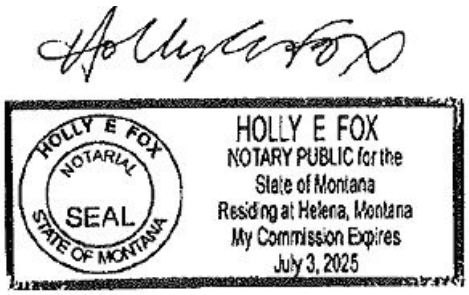


EXHIBIT 14

In The Matter Of:

Casey Perkins, et al. vs.

State of Montana, et al.

Kasandra Reddington

February 24, 2026

Lesofski Court Reporting, Inc.

7 West Sixth Avenue, Suite 2C

Helena, MT 59601

406-443-2010

Min-U-Script® with Word Index

MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, and individual; and JOHN DOE, an individual, and MISSOULA COUNTY, Plaintiffs, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants. and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Case No. DV-32-2025-282

DEPOSITION OF KASANDRA REDDINGTON

On the 24th of February, 2026, beginning at 9:40 a.m., the deposition of KASANDRA REDDINGTON was heard at Lesofski Court Reporting, 7 West Sixth Avenue, Suite 2C, Helena, Montana, before Holly E. Fox, Court Reporter and Notary Public.

***

Q Is that located in Helena?
A Yeah.
Q Are you on probation?
A No.
Q Have you ever been on probation?
A No.
Q Are you on parole?
A No.
Q Have you ever been on parole?
A No.
Q Have you ever been in prison?
A No.
Q Have you ever been in a juvenile detention center?
A No.
Q Are you over 18 years old?
A Yes.
Q Do you have any minor children who are in school?
A No.
Q Why did you become a plaintiff in this lawsuit?
A I became a plaintiff in my lawsuit because I believe that everybody deserves their personal freedom and privacy to use the restroom that best

fits their, you know, expression and identity.

Q What is your understanding of this lawsuit?

MS. ROSSLER: Objection to the extent it calls for a legal conclusion.

You can answer.

THE DEPONENT: My -- I mean, my basic understanding of the law is that people, based off of their original, unamended birth certificate, will be, you know, required or asked either -- you know, through the penalty of fines for the workplace or wherever -- that they should use the restroom that matches their amend -- or their unamended birth certificate as opposed to how they identify and how they express themselves. And also for lodging for state employees and any state-run facility.

Q (By Ms. Lansing) Is it your understanding that this lawsuit is a challenge to Montana House Bill 121?

MS. ROSSLER: Objection; calls for a legal conclusion.

You can answer.

THE DEPONENT: Yes.

Q (By Ms. Lansing) I'm handing you what's previously been marked as Exhibit 2.

Do you recognize this?

A Yes.

Q What is it?

A This is the language for HB 121.

Q Have you read this before?

A I have skimmed through it a couple times.

Q What is your understanding of this law?

A My understanding of the law, you know, as I said previously, is that it, you know, attempts to define sex in a legal way and tries to define who should or should not be using restrooms, lodging accommodations in regards to state funding and state facilities.

Q Why did you specifically want to challenge this law?

A I specifically wanted to challenge this law, I mean, for two reasons. One, you know, I believe that every Montanan should have the right to privacy and freedom. And I also -- this law personally affects me. I work at a state institution full-time. And, I mean, it previously has and would affect where I am and am not allowed to go to the bathroom, would affect lodging on trips. I mean, it affects my very day-to-day of the work life.

Q How does it affect your day-to-day of the work life?

A I mean, where I can go to the bathroom and where I can't. Planning trips and cost for that. Just the day-to-day. I mean, if I travel or if I go somewhere else, oftentimes I am using, you know, state facilities that don't always have gender-neutral restrooms. The bathrooms that I would have to use at Helena College now are on a separate floor and significantly farther than the ones that I have to use. And because of a medical condition, sometimes I have to get to the bathroom very quickly. And so I just worry about my general privacy, health, and safety, especially when I have to use a bathroom that is designated, you know, gender-neutral or would have to use the men's restroom in an emergency because of this bill, which could put my safety at risk.

Q Is it your understanding that this law requires you to use the men's restroom?

MS. ROSSLER: Objection; calls for a legal conclusion.

You can answer.

THE DEPONENT: In my understanding, and from conversations that I have had at my workplace,

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woman. I identify as a trans woman. I identify as agender because I don't really believe in gender as a social -- or I believe gender is a social construct, but I feel more comfortable using the women's restroom.

Q (By Ms. Lansing) Can you define "agender"?

A "Agender" just means without, you know, any sort of strong or conclusive gender identity. I don't strongly feel like I fit into a male or female category, and I just sort of just identify as who I am rather than as, you know, like a label or a box.

Q In your opinion, is gender different from sex?

A Yes.

MS. ROSSLER: Objection to the extent that it calls for an expert opinion.

And you can answer.

THE DEPONENT: Yes, I do believe that.

Q (By Ms. Lansing) How are they different?

A I believe that sex is a complicated biological construct with many variations. And I believe that gender is a social construct based off of culture, history, and many other sociopolitical factors.

Q What do you mean by "gender is a social

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But when I have used the men's restroom in the past, it has caused, you know, threats, significant discomfort, has caused questions, has caused previously, like, workplace conversations, things like that. And so, for me, I know that that is the restroom that is best, safest, and most comfortable for me. But each individual would have to make that choice for themselves. And I think that's an individual question, not a state question.

Q (By Ms. Lansing) Why do you believe the women's restroom is the safest and most comfortable restroom for you?

A Based off my personal experience, like I said. And also, to use the men's restroom, especially like, you know, today, I'm in a dress, I dress more femme. To use a men's restroom would out me to people that I don't know as a trans woman, and could put my safety and my ability at risk, especially as, you know, the violence against trans women is significantly higher than most other populations.

So, like I said, I've had no problems using the women's restroom. I know that there's strong potential, and in the past I've had issues using the men's restroom, so I continue to use the women's

restroom or gender-neutral restroom.

Q What issues have you had using the men's restroom?

A As mentioned -- I don't remember the exact term -- as mentioned in my statement that I submitted for this lawsuit, previously, when I worked MSU-Billings, another state-funded institution, I had been using the men's restroom early in my transition, and I had been physically threatened multiple times. When I had published an article that was sort of talking about my experience in Montana, that had also garnered me death threats if I was going to use, you know, specific restrooms or not. And so just based off of that personal experience.

Q Who threatened you in this these instances?

A That happened over a decade ago. I don't remember names or people. I try not to remember that.

Q So that was before 2025?

A Yes.

Q Have you ever had problems going to the public restroom of your choice?

MS. ROSSLER: Objection; form.

You can answer.

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airport campus, when I go over there occasionally, there is no gender-neutral restroom, which I believe would restrict my access, at least legally. And then in some instances of using a park, I believe that, while this bill was active, it has restricted my ability, if I want to be a good and legal abiding citizen, to use the restroom.

Q Do you have a specific instance where you tried to use a restroom in public in any of these places you just described and you were prevented from doing so?

MS. ROSSLER: Objection; form.

You can answer.

THE DEPONENT: The last time that I remember that I was actually sort of physically pushed out the restroom, as I mentioned in my -- I can't think of what this is called -- as I mentioned in this case, was when I was at MSU-Billings and working there as well, when I was physically intimidated out of using the men's restroom. That would probably be the closest instance.

Q (By Ms. Lansing) How were you physically intimidated out of using the men's restroom?

A Somebody had backed me up against a wall, had threatened to beat me up, and had told me to

never use that the restroom again.

Q Who threatened you?

A It was another student. I don't know who it was.

Q Was it a male or a female?

A It was a male student.

Q Did this occur inside the men's restroom?

A Yes.

Q When did this occur?

A I don't remember the exact date. It probably would have been somewhere around 2016.

Q Since then have you had any problem using the restroom of your choice in public?

MS. ROSSLER: Objection; form.

You can answer.

THE DEPONENT: Not since I started using the women's restroom.

Q (By Ms. Lansing) Have you experienced harassment in the restroom that corresponds to your gender identity?

A No.

Q I want to go back to our discussion about prisons, but change the facts a little bit to juvenile detention centers.

Do you have a different opinion about

whether men and women -- or in the case of juvenile detention centers, minor boys and girls -- should be separated by sex?

MS. ROSSLER: Objection; form, calls for speculation.

You can answer.

THE DEPONENT: I mean, I still, no, don't have strong opinions about that. I don't have thoughts or opinions about prison structure.

Q (By Ms. Lansing) So your opinions don't change when you're thinking about minors in a juvenile detention center?

A No.

Q I want to take a look again at Exhibit 2, the law that you previously had.

Earlier in your testimony you mentioned a fear of having to out yourself; is that right?

A By using the men's restroom. Yes.

Q In your understanding, how or where does HB 121 require you to out yourself?

MS. ROSSLER: Objection; calls for a legal conclusion.

You can answer.

THE DEPONENT: I don't think it verbally would. But, again, I think to see somebody in

makeup and a dress and presenting as I do in the men's restroom to people that I am not familiar with, I think that, one way or another, it would out me as someone who is not a cisgender, heterosexual male.

Q (By Ms. Lansing) In your understanding, where does HB 121 require any public disclosure of one's sex?

MS. ROSSLER: Objection; calls for a legal conclusion.

You can answer.

THE DEPONENT: I mean, in my understanding, as I had mentioned, if I'm required to use the men's restroom and I continue to dress and present as I do, I think that it would be sort of an implied disclosure, if not, you know, an explicit one.

Q (By Ms. Lansing) What do you mean by an "implied disclosure"?

A Again, I think asking somebody who presents, you know, as a woman and expresses and lives as a woman to use the men's restroom, I think would imply that that person, you know, maybe is -- has "male" on their birth certificate or something like that. It would out them in that sense.

Q But it's your understanding that the law

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C E R T I F I C A T E

STATE OF MONTANA)
ss.
COUNTY OF LEWIS AND CLARK)

I, HOLLY FOX, Freelance Court Reporter and a Notary Public for the State of Montana, do hereby certify:

That I did report the foregoing sworn deposition after having duly sworn the deponent.

IN WITNESS WHEREOF, I have set my hand and seal on this 10th day of March, 2026.

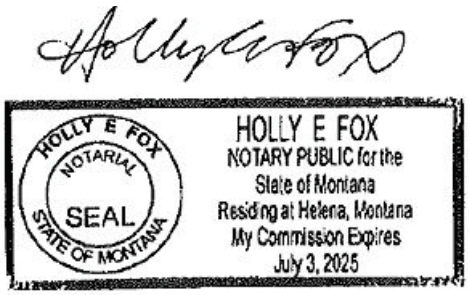


EXHIBIT 15

MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual; and MISSOULA COUNTY,	)	Cause No. DV-32-2025-282
Plaintiffs,	)	
-vs-	)	
STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,	)	
Defendants,	)	
-and-	)	
KERRI SEEKINS-CROWE,	)	
Intervenor-Defendant.	)	

Taken at 1015 Mount Avenue
Suite B
Missoula, Montana
Wednesday, January 21, 2026 - 9:55 a.m.

DEPOSITION OF SPENCER McDONALD

Reported by Emily Brandon, Jeffries Court Reporting, Inc., 1015 Mount Avenue, Suite B, Missoula, Montana 59801, (406) 721-1143, Freelance Court Reporter for the State of Montana, residing in St. Ignatius, Montana, jcrcourt@montana.com

WEDNESDAY, JANUARY 21, 2026

Thereupon,

SPENCER McDONALD,

a witness of lawful age, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, testified upon his oath as follows:

EXAMINATION

BY MR. CLARK:

Q. So, first, I'll have you start by just, please, stating and spelling your name for the record.

A. Spencer McDonald, S-p-e-n-c-e-r, M-c-D-o-n-a-l-d.

Q. And, Spencer, have you ever had your deposition taken before?

A. I have not.

Q. So I'm just going to go through some ground rules before we begin just so we're on the same page for expectations.

So, first, please answer every question verbally. That means don't do any uh-huhs, mms, nonverbal answers. I'd like a clear yes or no answers articulated.

Please do not answer a question until I

***

Q. And when did you receive the ADHD diagnosis?

A. It was either summer of 2023 or 2024. I can't remember.

Q. So the ADHD diagnosis came after the gender dysphoria diagnosis?

A. Correct.

Q. Now, I think we'll turn to the complaint.

In your complaint, you make the contention that other patrons of bathrooms are likely to perceive you as a man. What facts do you have to support that?

MS. TURNER: Object to form. Can you direct Mr. McDonald to where to look?

Q. (BY MR. CLARK) Paragraph 34.

MS. TURNER: Thank you. There you go.

A. Can you -- Sorry. Could you ask the question one more time?

Q. (BY MR. CLARK) What facts do you have to support your contention that other patrons are likely to perceive you as a man?

A. I have a beard, I have short hair, I don't have breasts, I have a deep voice, typically what you see on a man.

***

A. Yes.

Q. How would you describe -- I guess, maybe, typically, what does being outed look like?

A. In this specific instance or just...

Q. Just generally.

A. When somebody tells other people publicly or in conversation or what have you that I was not born a man.

Q. Are you aware that your attorneys in this matter have published your complaint, which in a sense outs you as a transgender man on the internet?

A. The difference is that was my choice.

Q. So that's not what you described as being outed, though, just now.

A. The difference is when it's my choice.

Q. So would you like to redescribe what you believe being outed is?

A. Sure. Yeah, it's -- It's when other people make that decision for you. I don't think my definition really changed, but it's when other people make that definition -- I mean make that decision for you, to disclose private information such as that.

Q. So when you describe yourself as a

transgender man, what does that mean?

A. That means I was assigned female at birth and I no longer identify as such.

Q. And that's referring to your -- When you say "identify," that's like gender/gender identity?

A. Correct.

Q. But does that have anything to do with biological sex or...

A. It could.

Q. And how could it?

A. I'm not an expert, but there's lots of research being done.

Q. In your opinion, how could it?

A. The genes. Who knows.

Q. What do you mean by "the genes"?

A. Our genes could potentially hold something like that. Who knows.

Q. So, in your opinion, like genetic makeup could be -- Can you -- Let's -- Let's go into this.

So, in your opinion, you believe that your DNA, genes, could include both male and female -- I guess I'm confused on what your opinion of that is.

***

A. No.

Q. Have you seen a doctor about being intersex?

A. No.

Q. Have you ever, besides your own personal observations, come across any evidence to indicate that you are intersex?

A. No.

Q. Do you believe yourself today to be intersex?

A. No.

Q. So turning back to the complaint. This is on paragraph 35. Why would you not feel safe or comfortable using multi-stall restrooms designated for women?

A. Because women could encounter me and feel startled and could react poorly.

Q. Do you have any evidence to support that opinion that they would feel startled?

A. I present as a man, so people probably wouldn't expect to see somebody like me in the restroom.

Q. But do you have any evidence of women being startled by your presence?

A. I've never entered the women's restroom

as a transgender man, so no.

Q. How are you able to determine how other people would feel about you, though?

A. Again, there's been instances where even masculine presenting women have been harassed in the women's restroom and been accused of being a man.

Q. But you've never personally experienced that, correct?

A. I did when I was still identifying as a woman. People thought I was a man and told me to get out.

Q. When did this occur?

A. That was sometime in between October of 2021 and May of 2022.

Q. And where did this happen?

A. It was at a restaurant in Helena. I don't remember which restaurant.

Q. Do you know who said this to you?

A. It was a stranger.

Q. And what did they say, again?

A. They said, you shouldn't be in here.

Q. And how did you know that their statement was because of your, you said, what, masculine presentation?

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C E R T I F I C A T E

STATE OF MONTANA)
: ss.
County of Missoula)

I, Emily Brandon, Freelance Court Reporter and Notary Public for the State of Montana, residing in St. Ignatius, Montana, do hereby certify:

That I was duly authorized to swear in the witness and did report the deposition of SPENCER McDONALD in this cause;

That the reading and signing of the deposition by the witness have been expressly reserved;

That the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness.

I further certify that I am not an attorney nor counsel of any of the parties; nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 2nd day of February, 2026.



Emily Brandon
Freelance Court Reporter
Notary Public, State of Montana
Residing in St. Ignatius, Montana
My Commission expires: 5/11/2029

EXHIBIT 16

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER McDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual, and JOHN DOE, an individual, and MISSOULA COUNTY, Plaintiffs, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants. and KERRI SEEKINS-CROWE, Intervenor-Defendant.	CAUSE NO. DV-32-2025-282 Department No. 1 Honorable Leslie Halligan RULE 30(B)(6) DEPOSITION OF MISSOULA COUNTY CORPORATE REPRESENTATIVE CHRISTIAN LOUNSBURY

Taken at 1015 Mount Avenue
Missoula, Montana
Thursday, February 26, 2026 - 9:00 A.M.

Reported by Terra Rohlfs, RPR, Jeffries Court Reporting, Inc., 1015 Mount Avenue, Suite B, Missoula, Montana 59801, (406)721-1143, Freelance Court Reporter and Notary Public for the State of Montana, residing in Hamilton, Montana, jcrcourt@montana.com

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STIPULATIONS

It was stipulated by and between counsel for the respective parties that the deposition be taken by Terra Rohlfs, RPR, Freelance Court Reporter and Notary Public for the State of Montana, residing in Hamilton, Montana.

It was further stipulated and agreed by and between counsel for the respective parties that the deposition be taken in accordance with the Montana Rules of Civil Procedure.

It was further stipulated and agreed by and between counsel for the respective parties that all objections except as to form would be reserved until time of trial, and that said objections would have the same force and effect as if interposed at the time of taking the deposition.

It was further stipulated and agreed by and between counsel for the respective parties and the witness that the reading and signing of the deposition would be expressly reserved.

THURSDAY, FEBRUARY 26, 2026

Thereupon,

CHRISTIAN LOUNSBURY,

a witness of lawful age, having been first duly sworn to tell the truth, the whole truth and nothing but the truth, testified upon his oath as follows:

EXAMINATION

BY MR. JOHNSON:

Q. Please state your name for the record.

A. Sure. My full name is Christian Everett Lounsbury, but I had go by Chris.

Q. How would you like me to address you today? Chris, Mr. Lounsbury, Christian?

A. Chris is fine.

Q. Thank you. And you can call me Thane.

A. Thank you.

Q. Have you ever had your deposition taken?

A. I've been deposed one other time.

Q. So you know the basic gist of the rules?

A. Yes, it was a different deposition than this particular time.

Q. We will go into that deposition shortly, but let me just go through the rules briefly. Please answer verbally.

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A. I requested a copy of the discovery material for me to be able to review, which was provided prior to this, and then I also discussed the kind of nature and format of a 30(b)(6) deposition, as I've never done one before.

Q. (BY MR. JOHNSON) And what is your understanding, not from the conversation, what is your understanding of a 30(b)(6) witness?

A. My understanding is that my job is to represent, to the best of my ability, the knowledge that I have for County operations, the policies of Missoula County, or facilities, our workforce, and those aspects that are part of my job.

Q. And it's my understanding you are the chief administrative officer for Missoula County, how long have you been the chief administrative officer?

A. I have been the chief administrative officer for just under six years, it will be six years in May of this year.

Q. And what did you do prior to being the chief administrative officer?

A. For the five years prior to that I was the chief operating officer for Missoula County. Do you want me to go further back?

Page 11

Q. No, that's good enough for me. What are your duties as chief administrative officer?

A. As the chief administrative officer, I serve as the primary kind of, not legal counsel, but counsel for the Board of County Commissioners. It's my job to enact the policies throughout our organization that are adopted by the Board of County Commissioners, and then provide them with feedback through your administrative departments to the Board of County Commissioners, and then I also formulate our legislative agenda and policies as part of that role, as well.

Q. Who is your direct supervisor?

A. The Board of County Commissioners.

Q. Are you kind of a liaison between the county commissioners and the county attorney's office; is that fair to say?

A. I am designated as the liaison between all elected officials and the Board of County Commissioners.

Q. You're appointed, not elected?

A. Correct, I'm an appointed official.

Q. And you testified that you provided testimony before the legislature on House Bill 121?

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A. We provided written testimony during that House Bill 121 and our legislative lobbyist spoke during the bill.

Q. Okay. Who's your legislative lobbyist, so that we can go back and look at it?

A. Sure. Her name is Jennifer Hensley.

Q. And what was the essence of your written testimony?

A. Our written testimony addressed concerns related to the County related to our inability to implement the bill, the lack of clarity around -- of the provisions of the bill and the impact that it could have to both employees and members of the public accessing our facilities and --

Q. So -- Go ahead.

A. -- including our detention facility.

Q. So you talked about implementation, problems with implementation, what did -- what was the written testimony regarding the problems with the implementation of the bill?

A. The problem with -- in our -- Sorry. In our testimony we talk about the fact that it would be difficult to implement House Bill 121 because we use multi-occupancy restrooms and potential implementation could result in us being out of

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compliance with other requirements in both state and federal law, as well as issues around attempted enforcement of the bill related to single-gender occupancy of a restroom.

Q. And with regard to the problems of implementation, was cost a factor?

A. Cost is one factor, yes.

Q. What were the other factors?

A. The other factor would be that piece of being out of compliance with other existing state and federal laws.

Q. Okay. But if you -- if you construct a single-use bathroom along with the multi-use, would you be in compliance with federal law under those circumstances?

MS. TURNER: Objection to the extent it calls for a legal conclusion. You can answer.

A. Sorry, can you restate the question for me?

Q. (BY MR. JOHNSON) Yes. If you had -- if the County constructed a single-use bathroom along with its multi-use bathrooms, is your position that you would still be out of compliance with other laws that you testified about?

MS. TURNER: Same objection, but you may

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C E R T I F I C A T E

STATE OF MONTANA)
: ss.
County of Ravalli)

I, Terra Rohlfs, RPR, Freelance Court Reporter and Notary Public for the State of Montana, residing in Hamilton, Montana, do hereby certify:

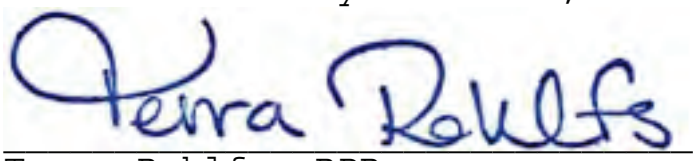
That I was duly authorized to swear in the witness and did report the Rule 30(b)(6) deposition of CHRISTIAN LOUNSBURY in this cause;

That the reading and signing of the deposition by the witness have been expressly reserved;

That the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness.

I further certify that I am not an attorney nor counsel of any of the parties; nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 9th day of March, 2026.



Terra Rohlfs, RPR,
Freelance Court Reporter
Notary Public, State of Montana
Residing in Hamilton, Montana
My Commission expires: 11/4/27

EXHIBIT 17

MONTANA FOURTH JUDICIAL DISTRICT COURT

MISSOULA COUNTY

CASEY PERKINS, ET AL.,

Plaintiffs,

vs.

Cause Number
DV-32-2025-282

STATE OF MONTANA, ET AL.,

Defendants.

and

KERRI SEEKINS-CROWE,

Intervenor
Defendant.

VIDEORECORDED 30(b)(6) DEPOSITION OF THE

STATE of MONTANA

UPON ORAL EXAMINATION OF

IAN GUTIERREZ

THURSDAY, FEBRUARY 12TH, 2026

HELENA, MONTANA

* * * * * * *

Whereupon, the following proceedings were had and testimony taken, to-wit:

* * * * * *

THE VIDEOGRAPHER: This is the videorecorded and videoconferenced deposition of 30(b)(6) representative for the State of Montana, Ian Gutierrez, taken in the Montana Fourth Judicial District Court, Missoula County. Cause Number DV-32-2025-282. Casey Perkins, et al., versus State of Montana, et al., and Kerri Seekins-Crowe, intervenor-defendant.

Today is February 12th, 2026. The time is 9:06 a.m. We are present with the witness at the offices of Fisher Court Reporting at 800 North Last Chance Gulch, Suite 101, Helena, Montana.

The court reporter is Deb Fabritz, and the video operator is Bridger Arthun of Fisher Court Reporting. The deposition is being taken pursuant to notice.

I would now ask the attorneys to identify themselves, who they represent, and whoever else is present. For those attending remotely, please note from where you are appearing.

MR. VANDERGRIFF: Joseph Vandergriff from Covington and Burling, representing the plaintiffs.

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Q. How do you interpret it?
A. It means no information is responsive.
Q. Okay. Is the State aware of any communications or exchanges of data between the State and any federal officials in or outside the State of Montana?
A. The State is not aware of any.
Q. Okay. Is it the State's position that no such communications exist?
A. That would be correct.
Q. Okay. I want to go to -- have you read interrogatory number 9 and the response to that. Let me know when you're finished.
A. Okay.
Q. Okay. Is the State aware of any communications with people other than the attorneys representing the parties in this lawsuit and the court presiding over this lawsuit with which the State has communicated, shared date, information, plans, guidance, or questions concerning the enforcement of HB 121?
A. That would be correct.
Q. Okay. Is it the State's contention that no such communications exist?
A. Yes.

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A. Yes.

Q. Okay. Your -- is your testimony also that the governor relied upon no -- no such documents when deciding whether to sign HB 121?

A. Again, I didn't speak with the governor, so I'm not sure what he did.

Q. Okay.

MR. VANDERGRIFF: And, again, I'm sure you're going to object, but we're going to reserve the right to keep the deposition open to ask someone who's --

MR. JOHNSON: We're going to object.

MR. VANDERGRIFF: Yeah.

BY MR. VANDERGRIFF:

Q. Okay. Did the State create any of these type of documents during the deliberation of HB 121?

A. Not that I'm aware of.

Q. Has the State since the passage of HB 121 created any explanatory documents regarding the meaning of HB 121?

A. Not that I'm aware of.

Q. Okay. So it's your -- I'm going to go back -- sorry. I'm going to go back to the first question.

You said you weren't aware of any

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during the deliberation of HB 121?

MR. JOHNSON: Objection. Foundation.

Go ahead and answer if you know.

THE WITNESS: Again, I -- I'm assuming that the legislature did, but I -- I'm not aware.

BY MR. VANDERGRIFF:

Q. Okay. Is the State aware?

A. No.

Q. Okay. And did the State or any of its representatives rely upon any statistics when evaluating HB 121?

A. No.

Q. Okay. So did the State rely upon any research when evaluating HB 121?

A. No, it did not.

Q. Okay. What interest was the State trying to promote by passing HB 121?

I'm sorry. You can put the exhibit aside.

A. So under the Purpose, the purposes of Section 1 through 4 are to reaffirm the longstanding meanings of the term sex, male, and female in law, and preserve women's restrooms, changing rooms, and sleeping quarters for women in facilities where women have traditionally been afforded privacy and safety from acts of abuse, harassment, sexual assault, and

violence committed by men.

Q. So the State's testimony is that the interests promoted by HB 121 are listed in the Purpose section of the statute?

A. That would be correct.

Q. Okay. I want to go into purpose number 2. How does HB 121 support -- I want to get this directly right -- the safety of women in spaces that they have traditionally been afforded privacy?

MR. JOHNSON: Objection. Calls for a legal conclusion.

Go ahead.

THE WITNESS: I think it's pretty clear the State is trying to preserve women's spaces and keep women safe.

BY MR. VANDERGRIFF:

Q. And how does HB 121 do that?

MR. JOHNSON: Same objection.

THE WITNESS: Again, it -- it's keeping women's spaces women's spaces.

BY MR. VANDERGRIFF:

Q. Okay. And when you say keeping women's spaces women's spaces, do you mean excluding men from women's spaces?

A. The purpose is clear. It's to preserve

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MR. JOHNSON: Objection. Beyond the scope of the topics and calls for a legal conclusion.

THE WITNESS: Again, it says that -- for the topic 3 the State's interests or objectives. The interests isn't the purpose.

BY MR. VANDERGRIFF:

Q. I'm sorry. Before didn't I ask you what the State's interest was, and you -- you stated it was the purpose as is stated in the statute. Correct?

A. Yes.

Q. Okay. Do you have any reason to doubt that abuse is illegal under Montana law?

A. No, I don't have --

Q. Does the State have any reason to doubt that the abuse is under Montana law?

A. No.

Q. I want to go back to -- I want to say 116, which is the law.

A. Oh, Exhibit 116?

Q. Yeah. Then I want to go back to that Section 1 Purpose, Section 2. Is part of the purpose to protect women from harassment under the text of the law?

A. Yes. Do you want me to read it again?

Q. No. That's okay, just as long as we can come to an agreement on that. Similar question as before. To your knowledge, is it illegal to harass someone in a covered entity under Montana law --

MR. JOHNSON: Objection --

BY MR. VANDERGRIFF:

Q. -- outside of HB 121?

MR. JOHNSON: Sorry. Objection. Calls for a legal conclusion. Beyond the scope of the topics.

BY MR. VANDERGRIFF:

Q. You can answer.

A. Again, harassment is in the purpose.

Q. Do you know if it's illegal to harass someone in a covered entity under Montana state law?

MR. JOHNSON: Same objection.

THE WITNESS: Again, I'm assuming if so it would be in the criminal code.

BY MR. VANDERGRIFF:

Q. Do you have any reason to doubt that it is illegal under Montana state law?

A. No.

MR. JOHNSON: Same objection. Can I have a continuing objection? I'll just -- and then I'll shut up.

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deposition -- let me take a step back.

You are not prepared to testify on behalf of the State today whether or not sexual assault is illegal under the Montana criminal code?

A. I think that would be a mischaracterization. I'm assuming it's in the criminal code.

Q. Okay.

A. However, the topic was specifically what purpose or objective would it be, and the purpose is clear. It's the purpose of the statute.

Q. Okay. Do you have any reason to doubt that sexual assault is illegal under Montana State law?

A. No.

Q. Okay. Does the State know if there have been acts of abuse that have occurred in a covered entity? I can break that down more granularly.

Does the State know if there have been acts of abuse that have occurred in the bathroom of a covered entity, say over the last five years?

MR. JOHNSON: Objection. Beyond the scope of the topics.

Go ahead and answer.

THE WITNESS: I'm assuming that we do

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off the record?

MR. JOHNSON: Yes, please.

THE VIDEOGRAPHER: Okay. We'll go off the record. The time is 10:25 a.m.

(Whereupon, a break was then taken.)

THE VIDEOGRAPHER: We are back on the record. The time is 10:27 a.m.

BY MR. VANDERGRIFF:

Q. Okay. What basis does the State have for believing that HB 121 will achieve the purpose of protecting women from the offenses we described before?

A. Again, as I mentioned under the remedy section, the -- the person who is aggrieved has the right to sue the covered entity.

Q. Okay. Is there any -- is the State aware of any evidence that would support that that provision reduces these offenses from happening in covered entities?

A. Not that I'm aware of.

Q. Okay. Is the State aware of any research on whether a provision like that that's in the HB 121 would be effective at reducing the amount of crime in these covered entities?

A. Could -- could you restate your question.
Q. Sure. Similar question I just asked, is the State aware of any research on whether including that civil provision in HB 121 will reduce the amount of offenses or the crimes that are described in the purpose section of happening within covered entities?
A. The State's not aware. I -- I would assume that this provision would help. I mean, there's experts that could testify to the specifics.
Q. Sure. But I'm asking you, to the State's knowledge during this deposition, is there any research that supports that the civil remedies provision in HB 121 will allow it to achieve its stated purpose?
A. Not that I'm aware of.
Q. Okay. But I want to make sure your testimony is that the State is not aware of any of that research as well?
A. Again, I -- I -- I think that there is an expert list, and an expert could speak on that more effectively than I can.
Q. So your contention is that any -- the State support for that contention would be found from their expert witnesses or testimony?
A. Potentially.

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experience of gender is that they identify as female.

A. Well, this bill has nothing to do with transgender people. That's why it's not even in the definition section. The bill is specifically to protect women in women's spaces.

Q. Okay. So my question to you was, is the State aware of any evidence that trans women -- transgender women commit crimes at a higher rate than cisgender women inside of Montana?

A. It wouldn't be relevant because, again, this bill has nothing to do with trans people.

Q. My question to you wasn't if it was relevant. My question was, does the State -- is the State aware of any evidence?

A. Again, the bill has nothing to do with trans people. It's specifically keeping women safe in women's spaces.

Q. So you are not going to testify today regarding the State -- the crime rates committed by transgender women or cisgender women?

A. That's not what I said. I said this bill has nothing to do with trans people.

Q. Okay. Again, my question to you is not what the bill is about or what your opinion of what the lawsuit is about. My question is, is the State

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Q. Okay. Is the State aware of any research that supports that HB 121 is more effective in protecting women's privacy in covered entities than existing law?

A. I'm sorry. Could you repeat that?

Q. Yeah. Is the State aware of any research or data that supports that HB 121 is more effective at protecting women's privacy than existing law?

A. The State is not aware.

Q. So I'm going to refer to topic 6 now on I believe that's Exhibit 1 which is 115.

A. Topic 6?

MR. JOHNSON: Okay.

BY MR. VANDERGRIFF:

Q. Okay. Is the State aware of any instance from January 1, 2020, to present in which a transgender or intersex person committed an act of abuse, harassment, sexual assault, or violence in a covered entity in Montana?

A. Well, I just want to preface that facility under House Bill 121 is -- is correctional centers, which means a facility that houses individuals charged with or convicted of a criminal offense, and then juvenile detention facility under Section 2, Subsection 3. So with that, the Department of

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THE WITNESS: Again, I looked at facilities in Montana, and facilities under the definitions of House Bill 121 are you Department of Correction's facilities.

BY MR. VANDERGRIFF:

Q. Okay. And so you do not know if, for example, from -- in response to my question if an act of violence occurred in a public building since January 2020, by a transgender individual?

MR. JOHNSON: Objection. Beyond the topics.

THE WITNESS: Again, because the topic said facility, I looked at facilities under the Department of Corrections.

BY MR. VANDERGRIFF:

Q. Did you look for an answer of topic 6 under any covered entity that was not a correctional center?

MR. JOHNSON: Same objection.

THE WITNESS: Again, because it was facilities, I only looked at the Department of Correction facilities.

BY MR. VANDERGRIFF:

Q. Okay. And what -- I'm sorry. What was your response regarding to whether or not the State

was aware of acts of violence -- or violence, abuse, sexual harassment, et cetera, that were -- occurred in correctional facility?

A. So the Department of Corrections doesn't categorize its inmates based off of transgender status. It bases their inmates based off of their biological sex. So there is no data that's tracked.

Q. Okay. So short answer to that would be no?

A. Well, the answer would be they don't track that data because they don't identify inmates as transgender. They identify them based off of their biological sex.

Q. So they don't have information regarding how many offenses were committed by transgender individuals?

A. They don't have statistics on it.

Q. Do they have other information on it?

A. You would have to ask the Department of Corrections. I'm not aware.

Q. Okay. So you're not aware -- okay. Is the State aware of any other evidence they would have?

A. The State is not aware. They don't classify based off of transgender status. Again,

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MR. JOHNSON: I'm going to object. I think that exceeds the scope of the topics as well.

MR. VANDERGRIFF: We can move on.

MR. JOHNSON: Okay.

BY MR. VANDERGRIFF:

Q. So did the State perform any research into alternative methods to protect women in covered facilities?

A. The State did not.

Q. Okay. To the State's knowledge, did the state legislature perform any research into alternative methods to protect women in covered facilities?

MR. JOHNSON: Objection. Foundation.

THE WITNESS: I can't speak on behalf of the legislators.

BY MR. VANDERGRIFF:

Q. Sure. So the State isn't aware if the legislature did any research?

A. No.

Q. Okay. Does the State agree that if the installation of enclosed restroom stalls can protect women safety in covered facilities? Sorry. Back up there.

Does the State agree that the installation

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information on that.

Q. Okay. So your testimony is the State has not done any research on to the impact of HB 121 on transgender individuals?

A. That is correct.

Q. Okay. Is the State aware of any data regarding the potential impacts of this law on transgender individuals?

A. Again, transgenders aren't listed in the bill, so no. I am not aware of any information that the State has compiled.

Q. Is the State aware of any information on the impact of the bill on transgender individuals?

A. No, it is not.

Q. Okay. Is the State aware of any data regarding the impact of this bill on intersex individuals?

A. Again, intersex is not listed in the bill. The State is not aware of any.

MR. JOHNSON: And foundation objection as well.

BY MR. VANDERGRIFF:

Q. Okay. Can you go back to 117, which will be labeled Exhibit 3? And go to interrogatory 13. Can you -- sorry. Can you read interrogatory number

13 to yourself and let me know when you're done?
A. Okay.
Q. To the State's knowledge, were there any meetings regarding the potential impacts of HB 121 on the safety, privacy, and well-being of transgender and intersex individuals?
MR. JOHNSON: Objection. Exceeds the scope of the topics.
THE WITNESS: The State's not aware of any.
BY MR. VANDERGRIFF:
Q. Okay. Is the State aware of any research or data -- sorry. I already asked you that.
What steps, if any, did the State take to investigate the impact of House Bill 121 on transgender individuals?
MR. JOHNSON: Objection. Exceeds the scope of the topics.
Go ahead.
THE WITNESS: I'm not sure.
BY MR. VANDERGRIFF:
Q. So you don't know if the State took any steps to investigate the impact of House Bill 121 on trans individuals?
A. When I did preparation, I was told that

the State was not aware of any.

Q. Was not aware of any -- I'm sorry. Can you be more specific?

A. Any research, data, reports, publications, testimony or other documents considered or reviewed.

Q. I appreciate that answer. This question is a little bit different. I'm asking you if the State took any steps to investigate or look for that research, data, or information.

MR. JOHNSON: Same objection.

THE WITNESS: The State is not aware.

BY MR. VANDERGRIFF:

Q. The State is not aware or the State didn't take any steps?

A. I'm not aware that the State took any steps.

Q. Okay. But your testimony -- can we -- can you turn to request for production number 4? It's in that same exhibit. Okay. Can you read request for production number 4 and the response to yourself?

A. Okay.

Q. Okay. What was the response to request for production number 4?

A. It says "No documents responsive to request for production number 4 exists."

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MR. JOHNSON: Same objection.
THE WITNESS: I'm not aware.
BY MR. VANDERGRIFF:
Q. Can you point to -- I'm sorry. Can you go to Section 3(2) -- Section 3 and then subsection 2?
A. Okay.
Q. And read that to yourself.
A. Okay.
Q. Can you also read subsection 3?
A. Okay.
Q. Under Section 3, parentheses 3, is a covered entity required to take reasonable steps to provide individuals with privacy from members of the opposite sex?
A. Yes.
Q. Okay. How would a covered entity ensure that someone is not entering a restroom designated for someone of the opposite sex?
MR. JOHNSON: Objection. Calls for a legal conclusion.
THE WITNESS: That's really up to the covered entity. They'd have to decide how to enforce it.
BY MR. VANDERGRIFF:
Q. Okay. So does the State have any

knowledge of how a covered entity would be required to enforce it?

A. I'm not aware.

Q. You're not aware, but is the -- is the State aware of what covered entities would need to do?

MR. JOHNSON: Objection. Asked and answered.

THE WITNESS: The State is not aware.

BY MR. VANDERGRIFF:

Q. Okay. Has the State prepared any information on how House Bill 121 will be enforced?

A. Not that I'm aware of.

Q. Okay. To your knowledge, has the State prepared any information on how House Bill 121 will be enforced?

A. House Bill 121 is going to be enforced through private causes of action under Section 4 of House Bill 121.

Q. Okay. And so someone bringing a private cause of action under House Bill 121 Section 4 would need to meet the requirements of House Bill 121 Section 4. Is that correct?

MR. JOHNSON: Objection. Calls for a legal conclusion.

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that the State has given regarding how they're going to enact this.

Q. Okay. That would -- okay. Is the State aware -- do any such guidelines exist?

MR. JOHNSON: Objection. Asked and answered.

Go ahead.

THE WITNESS: I'm not aware.

BY MR. VANDERGRIFF:

Q. Is the State aware of any guidelines that have been provided by the State itself to covered entities?

MR. JOHNSON: Objection. Asked and answered. He said, your first answer was the State.

THE WITNESS: The State is not aware.

BY MR. VANDERGRIFF:

Q. Okay. And the State is not aware of how it itself would comply with House Bill 121 with regard to covered entities?

A. I mean, the correctional facilities are already designating people based off of biological sex. I -- I don't think anything is really changing.

Q. So the State is not making any change in response to House Bill 121?

A. For the purpose of detention facilities,

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A. Again, I'm not aware of what the legislature used to get that definition. I'm not aware.

Q. I appreciate that, but I'm asking is the State is aware of the factual basis for the legislature defining female that way?

A. No.

Q. Okay. Can you read the definition of male, which is 7 -- subsection 7?

A. Okay.

Q. So same question, is the State aware of any -- any factual basis to support defining male in that way?

A. Again, I'm not a biologist. I don't know what the legislature used. I'm not aware other than the definition that the legislature put into the statute.

Q. Okay. And is the State aware of any factual basis for the legislature to define it that way?

A. No.

Q. Okay. I want to go back to 117, which is Exhibit -- it's labeled 3, but I wrote 117 on this sticker. You're going to go to rog 20 -- interrogatory 24.

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of all, can you review the definition of male and female to yourself one more time and let me know when you're done?

A. Okay.

Q. So if an individual didn't fit into either of these definitions, what bathroom would they use in a covered entity under HB 121?

MR. JOHNSON: Objection. Calls for a legal conclusion.

THE WITNESS: Well, under Section 3, subsection 2, the statute says "Except as provided in the subsection 4, an individual may not enter the restroom, changing room, or sleeping quarters that is designated for females or males unless the individual is a member of the designated sex."

Q. So my question to you -- I'm sorry if it was unclear -- is if an individual didn't fit within either definition of male or female, what bathroom would they use under HB 121?

MR. JOHNSON: Objection. Calls for a legal conclusion. I think also foundation based upon -- I think you're asking about intersex, and he's not a -- an expert in intersex.

THE WITNESS: Again, I'm not a biologist. I don't know about intersex people or what bathroom

they would use.
BY MR. VANDERGRIFF:
Q. Does the State know what bathroom intersex people would use?
MR. JOHNSON: Objection. Foundation.
THE WITNESS: I'm not a biologist. I can't determine what biological sex an intersex person would fall under.
BY MR. VANDERGRIFF:
Q. Okay. So I'm not asking you to look at any particular individual and analyze their biological sex. I'm just -- I'm asking you if there was an individual who fit within neither the definition of male or female under the statute, which bathroom would they be required to use?
MR. JOHNSON: Objection. Calls for a legal conclusion and foundation.
THE WITNESS: Again, that would be fact specific. I'm not a biologist. I -- I don't know.
BY MR. VANDERGRIFF:
Q. Okay. Are you denying that if an individual fit neither definition, they would not be allowed to use either bathroom under House Bill 121?
MR. JOHNSON: Same objection.
THE WITNESS: Again, the purpose of House

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would use. Is that an accurate statement?

A. If I recall correctly, yes.

Q. Okay. It's an accurate statement that you don't know what bathroom that individual would use?

A. Again, I don't make policy decisions for the State, so I don't know.

Q. Okay. And then your counsel also said that you would need a doctor to make that determination. Is that an accurate statement?

A. I think you need a determination for what the intersex person would be.

Q. Is it an accurate statement that you would need a doctor to determine which bathroom that person would use?

A. No. Not necessarily. You need a doctor to determine what the biological sex of an intersex person would be.

Q. And you need to make that determination to determine what bathroom they would use under HB 121?

A. Well, let's pull up the language. Section 2 has female, male, and sex listed. And then Section 3 explains what bathroom the covered entity would have the obligation of ensuring that person goes to.

Q. Okay. So say a question -- your counsel before said you would need to be a doctor to make

that determination of what bathroom the individual in the exhibit we talked about would go to under HB 121. I was asking you if that's an accurate statement.

A. No. The statement would be that a doctor would have to determine the designated sex of the intersex person.

Q. Okay. So you would need a doctor to determine the sex of the intersex person?

MR. JOHNSON: Objection. Asked and answered. You got your answer.

THE WITNESS: Yes.

MR. VANDERGRIFF: Okay. I just want to reiterate for all the reasons I said before on the record, we reserve the right to keep the deposition open to answer -- so we can depose a deponent who is properly prepared. I'm not going to restate all of those reasons but the reasons that were previously stated on the record.

MR. JOHNSON: Same objection.

MR. VANDERGRIFF: And then we pass the witness.

MR. JOHNSON: Okay. I reserve all questions for trial.

MR. RATE: We need to just confirm that Mr. Oliveira does not have any questions for the

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C E R T I F I C A T E

STATE OF MONTANA)
: ss
COUNTY OF GALLATIN)

I, Deborah L. Fabritz, Registered Professional Reporter and Notary Public for the State of Montana, residing in Bozeman, do hereby certify:

That I was duly authorized to and did swear in the witness and report the deposition of IAN GUTIERREZ, 30(b)(6) witness, in the above-entitled cause; that the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness, all done to the best of my skill and ability; that the reading and signing of the deposition by the witness have been expressly RESERVED.

I further certify that I am not an attorney nor counsel of any of the parties, nor relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on this 1st day of March, 2026.

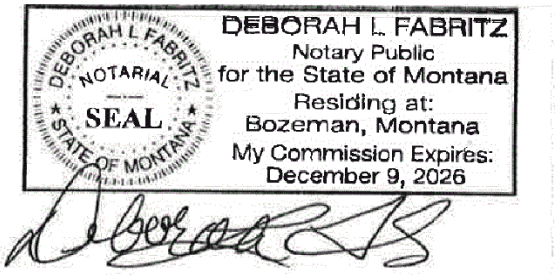


EXHIBIT 18

MONTANA FOURTH JUDICIAL DISTRICT COURT

MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual,

Plaintiffs,

vs.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants,

and

KERRI SEEKINS-CROWE,

Intervenor-Defendant.

Cause No. DV-32-2025-282

THE VIDEOGRAPHER: This is the video-recorded deposition of Kerri Seekins-Crowe taken in the Montana Fourth Judicial District Court, Missoula County, Cause Number DV-32-2025-282. Casey Perkins, et al., vs. State of Montana, et al., and Kerri Seekins-Crowe.

Today is February 10th, 2026. The time is 9:33 a.m.

We are present at the offices of Jones Law Firm, 115 North Broadway, Suite 410, Billings, Montana.

The remote reporter is Mary Sullivan, and the video operator is Carianna Lindau of Fisher Court Reporting.

The deposition is being taken pursuant to notice.

I would now ask the attorneys to identify themselves, who they represent, and whoever else is present, starting with those in the room.

MR. RATE: Alex Rate for the plaintiffs.

MR. OLIVIERA: Justin Oliviera with Jones Law Firm representing the intervenor-defendant Kerri Seekins-Crowe.

MS. LANSING: Alwyn Lansing with the Department of Justice representing the defendants.

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tip of the spear --

A. I think --

Q. -- on this issue?

A. Excuse me, I'm sorry.

Q. No, that's fine.

A. As the person who carried the bill, as the person who stood up in committee and was the one who spoke for House Bill 121.

Q. 'Kay. Do you believe that your interests in this case are not adequately represented by the defendant, the State of Montana?

A. No, I believe my interests are very well represented.

Q. Do you believe that your interests differ at all from those of the State of Montana?

A. No, I do not believe they differ at all.

Q. 'Kay. And what are your interests in intervening in this case?

A. My interests in intervening on this case are to defend House Bill 121.

Q. Are you currently employed?

A. As a representative in the Montana House of Representatives, yes.

Q. 'Kay. So outside of your work in the legislature, do you have any other employment?

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through the state mandates as well.

Q. Prior to enactment of House Bill 121, was it a crime to sexually assault a -- a prisoner at the Montana Women's Prison?

A. Yes.

Q. And then turning now back to Deposition Exhibit 101, Number 7, it says "Further clarification is necessary on what effect HB 121 would have on Montana's anti-discrimination laws in Title 49."

Do you know what the antidiscrimination laws under Title 49 are?

A. I know what they are, yes, but I would need to look at it to be able to quote any of it.

Q. Okay. What's your general understanding of what Title 49 encompasses?

A. That there's certain entities that are protected from discrimination.

Q. You can set 101 aside.

EXHIBIT:

(Deposition Exhibit 102 marked for identification.)

BY MR. RATE:

Q. Hold on one second. All right. Ms. Seekins-Crowe, I've handed you what's been

marked as Deposition Exhibit 102, and I'll represent that this was produced to us in -- with your discovery responses.

Do you recognize this document?

A. Yes, sir.

Q. What is it?

A. "EXPOSING THE GENDER LIE."

Q. And why did you produce this document in discovery?

A. My attorney just asked me if there were any -- anything that I had looked at or perused before, and this was one of the documents that I had looked at.

Q. Okay. So just to clarify, any documents that you perused before drafting House Bill 121?

A. I did not draft House Bill 121, but before -- before carrying it.

Q. So is it fair to say that you reviewed this document in 2024?

A. 2024, 2025.

Q. Okay. And where did you get this document?

A. I believe from one of the authors, Brandon Showalter.

Q. And did you rely on this document as

support for carrying House Bill 121?

A. For -- The only support, no. I -- I mean, but as some supporting -- I'll even admit I have not read the whole document myself, I've just perused it. I thought it had some really good points in it, and that's why I -- I did use the document. But it was not the sole document or sole source.

Q. Okay. And -- And I think you mentioned that you might have received this document from the author.

Who -- Who are the authors of this document?

A. Jeff Myers and Brandon Showalter.

Q. And who -- Well, let's start -- let's take them sequentially.

Who is Brandon Showalter?

A. I think he is the -- the owner of the Christian Post.

Q. And do you know what the Christian Post is?

A. Not specifically. I believe that they're a news source, and that they do investigations on different topics.

Q. And -- And I'm not -- this is not a

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A. Yes.
Q. What is the transgender industry, to your knowledge?
A. The transgender industry, to my knowledge, would be the culmination of both the -- not just the social but also the political and medical institutions that are pushing the transgender ideology on our children.
Q. And what is the transgender ideology?
A. That they are not created as male and female.
Q. Okay. So I -- I missed the part where you were describing what the transgender industry is. Can you go back and tell me what is the transgender industry?
A. I mean, I think other things are included in there, but it would be the culmination of -- of the -- not just political and social. Also, I -- I'm gonna change that a little bit, but also the education and the medical institutions that are pushing this ideology on our children.
Q. Do you believe the Montana Democratic Party is far -- part of the transgender industry?
A. As --
MR. OLIVIERA: Objection. Form.

BY MR. RATE:

Q. You can answer.

A. As far as part of the industry?

Q. Yes.

A. I don't -- Yes.

Q. Do you believe that Montana public schools are part of the transgender industry?

A. Yes.

Q. Why do you believe that?

A. Because they are keeping parents from the truth about their children. Because they are putting children into situations where they don't have the opportunity to say no. They are -- Up until we've said you cannot have boys participating in sports, that that was something that could happen, was happening, and we weren't protecting our girls so that they could give consent or have boundaries at that point. And, also, they were taking away children from their parents when it came to this issue.

Q. How are schools keeping information from parents?

A. Specifically, if a child comes to them and they say, "I want to identify as a male," the schools are telling our children -- and not all of

them -- but I have had stories from parents where they were not informed of this. I've had stories of where they provided counseling for children on a -- on a ongoing basis, and they were told specifically "Do not talk to your parents about these issues because your parents are dangerous."

Q. And you mentioned that part of the transgender industry are the medical groups. Is that true?

A. Yes.

Q. Which medical groups do you believe are part of the transgender industry?

A. I believe any medical institution that is taking a child without parental consent on these issues and is starting them down a path without psychological or support, just down a path where they're starting to transition them either socially or medically.

Q. Do you believe that physicians are starting kids down the path towards transition without parental consent in Montana?

A. Yes.

Q. What's the basis for that belief?

A. Parent stories.

Q. 'Kay. Any other basis?

A. Parent stories.
Q. Okay. So do you believe that the American Medical Association is part of the transgender industry?
A. Yes.
Q. The American Psychiatric Association?
A. Yes.
Q. The American Association -- or Academy of Pediatricians?
A. I believe that's the association that they have, yes. There's a couple of them, one that does and one that doesn't. I think that's the one that says, yes, we're gonna transition children.
Q. Are you familiar with the Diagnostic and Statistical Manual, familiarly known as the DSM?
A. Have I read it, no.
Q. Do you know what it is?
A. I know what it is.
Q. Are you familiar with the term "gender dysphoria"?
A. Yes.
Q. What is your understanding of what gender dysphoria is?
A. I believe that gender dysphoria is when

somebody's brain does not connect with their body.

Q. And do you believe that that is a psychiatric condition?

A. Yes.

Q. Do you believe that the Montana courts are part of the transgender industry?

A. Yes, I do.

Q. Including the Montana Supreme Court?

A. Quite possibly, yes.

Q. And why do you believe that the Montana courts are part of the transgender industry?

A. Because what we've seen in the industry so far is the -- or within the courts is insistence of putting a male within -- so it's not the entirety of it, but I'm talking about we've seen cases where we're saying that women must be -- I mean, males must be put into female spaces. Where like, for instance, Senate Bill 99 was enjoined by the court. Where we're being told that we cannot define what male and female is.

So within those instances. And where judges are telling us as legislators we cannot create laws based on these because it -- they're -- they're saying that we cannot create these types of laws.

***

passed and be activists on some of these laws.

Q. Do you think that you're gonna get a fair shake in this case?

A. No.

Q. Why not?

A. Because the way that our judicial system has been ruling on some of these laws.

Q. Any other reason?

A. No. That's the only one I can think of right now.

MR. RATE: 110?

THE COURT REPORTER: Yes.

MR. RATE: Thank you.

EXHIBIT:

(Deposition Exhibit 110 marked for identification.)

BY MR. RATE:

Q. Do you recognize Deposition Exhibit 110?

A. Yes.

Q. What is 110?

A. Another post that I made on social media.

Q. And you posted about a article that ran in the Helena Independent Record?

A. Yes.

Q. And you felt compelled to change the

title of the -- of the article?

A. Well, I can't actually change the title, but, yes, to give them a little bit of a perspective on what the bill's really about.

Q. And you think a more accurate title would have been "Lawmakers Hear First Bill to Protect Montana's Women from Perverted Men Who Want to Invade Women's Private Spaces!"

A. That's what I wrote.

Q. How does House Bill 121 protect Montana's women from perverted men?

A. The issue that we have right now, we want to keep identifying as somebody who has rejected their sex invading the space, but it doesn't just allow for that. And we kept hearing it over and over again in the testimony that it's what a person feels inside when they use the facility, and there's no regulation on that at all.

So if a -- a man just wanted to walk into a woman's restroom, they definitely could without identifying or rejecting their sex, and vice versa. So therefore, not even regulating what women -- So regulating women's consent or their boundaries.

Q. What's your definition of "perverted"?

***

A. I would imagine so.
Q. And how would you verify in a lawsuit that that is a person who is assigned male at birth or was a -- or, I'm sorry, was -- was -- how would you verify the gender identity of that individual?
A. Well, these days they can verify gender identity by a blood test.
Q. So as part of the civil litigation, the person who is alleged to have been using the wrong restroom would need to take a blood test.
A. I -- I'm sorry. I'm looking --
MR. OLIVIERA: Object to form.
A. Okay.
BY MR. RATE:
Q. Do we need to go off the record?
A. Let me answer this question.
Q. Sure.
A. I'm not familiar with how the courts are gonna handle this situation. As -- I mean, a lot of this is -- it's new because we are now dealing with it on a much larger, broader situation, and we know that new things are coming, so I don't know exactly how it's gonna be dealt with.
I mean, I know because you mentioned that

***

Right?

A. Yes.

Q. And then leave it to the court, ultimately, to determine whether or not the covered entity took reasonable steps. Right?

A. Yes.

Q. The court would also need to determine the actual sex of the person who was using the bathroom. Correct? Or --

A. Yes.

Q. And the way -- One of the ways I think you identified that the court could determine that is through a blood test. Right?

A. Yes.

Q. Any other ways that the court could determine that, to your mind?

A. Well, I think that there are individuals who have -- define themselves very clearly as trans, and so they themselves have made it known what their sex is. And so those probably would be the most obvious ways. I would -- I don't -- I'm not a medical doctor. I don't know how else you would do that.

Q. So turning to Subsection (3)(b) of the remedies which provides for recovery of attorney's

***

C E R T I F I C A T E

STATE OF MONTANA)
: ss
COUNTY OF MISSOULA)

I, Mary R. Sullivan, Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter and Notary Public for the State of Montana, residing in Missoula, do hereby certify:

That I was duly authorized to and did swear in the witness and report the deposition of KERRI SEEKINS-CROWE in the above-entitled cause; that the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness, all done to the best of my skill and ability; that the reading and signing of the deposition by the witness have been expressly reserved.

I further certify that I am not an attorney nor counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on February 22, 2026.

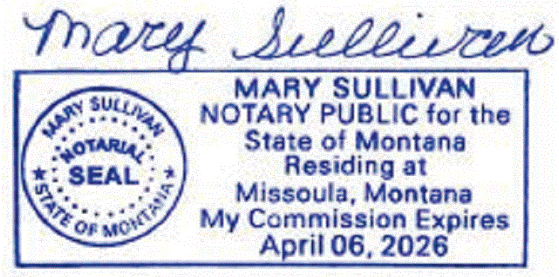


EXHIBIT 19

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EXHIBIT
tabbies
110



Kerri Seekins Crowe
Jan 12 ·



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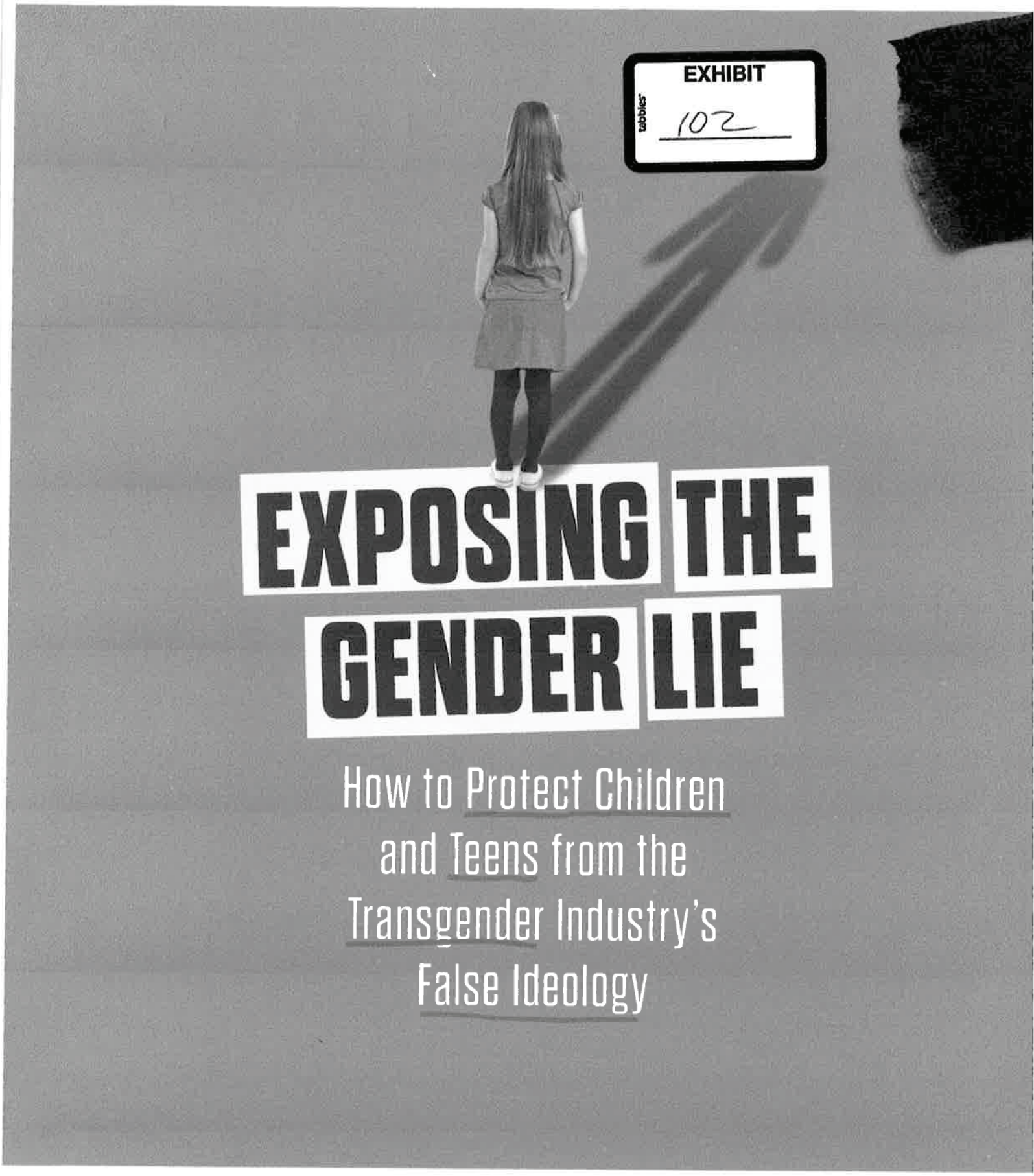
Lawmakers hear first anti-trans bill of the 2025 legislative session

FIXED the title for ya!
Lawmakers Hear First Bill to Protect Montana's Women from Perverted Men who want to Invade Women's Private Spaces!

See insights

Like Comment Share

EXHIBIT 20



EXPOSING THE GENDER LIE

How to Protect Children and Teens from the Transgender Industry's False Ideology

JEFF MYERS, PH.D. BRANDON SHOWALTER

SUMMIT MINISTRIES
THE CHRISTIAN POST

KSC 000123

Please note this book includes mature topics and discusses complex issues regarding sex and gender. We recommend this content for mature readers and hope this material will encourage thoughtful, compassionate, and loving action towards others regarding this difficult subject.

The content of this book is for religious, educational, and informational purposes only, and does not substitute for professional medical or counseling advice or consultations with healthcare professionals or counselors.



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INTRODUCTION

"I'm frequently asked why I focus so much on the nature of biological sex. It's because in my view this may be reality's last stand. If this undeniable fact can be denied en masse, then we become hostages to chaos. We simply cannot afford to lose our collective tether to reality."

—Colin Wright, evolutionary biologist[1]

"I'm not obsessed with gender. I'm obsessed with the preservation of a functional society. Ours will fail if we allow some to impose their personal fictions on others."

—Bret Weinstein, evolutionary biologist[2]

Transgenderism has exploded across the world in the past decade, particularly in the West. The Williams Institute at the UCLA Law School reports that the number of young people identifying as transgender has doubled in just the last few years and that one out of five people who identify as transgender are thirteen to seventeen years of age.[3] The number of minors in America receiving a diagnosis of gender dysphoria tripled from 2017 to 2021, with more than forty-two thousand receiving the diagnosis in 2021.[4] On the popular social media platform TikTok, *#trans* has logged 50.2 billion views as of this writing, having nearly doubled within the last year.[5]

Many people are disturbed by this. Few are as disturbed as they ought to be. What we face is an unprecedented coupling of postmodernist academic theory with an internet-fueled social contagion targeting vulnerable boys and girls who are struggling with their God-given sex. This has given birth to what we call transgender ideology, or gender ideology, which in turn is fueling a medical and social scandal that ambushes our very understanding of reality itself.

This is not a "right versus left" issue. The vast majority of Americans—Republicans, Independents, and nearly a majority of Democrats as well—think that the transgender movement has gone too far by encouraging minors to transition through drugs and surgery, according to an October 2022 Summit Ministries and McLaughlin and Associates poll.[6] In a *Fox News* interview, transsexual activist Buck Angel agreed with these results, saying that "things are accelerating in a way that seems too fast."[7] In reference to the social media contagion that seems to be the transgender movement's primary accelerant, the British lesbian activist Kate Harris said, "Our major concern is that millions of impressionable children are watching these online influencers. It's no coincidence that the growth of TikTok coincides exactly with the exponential growth of children presenting with gender dysphoria."[8]

What we face is an unprecedented coupling of postmodernist academic theory with an internet-fueled social contagion targeting vulnerable boys and girls who are struggling with their God-given sex.

Even the gay neuroscientist Simon LeVay, whose research led to the claim that homosexuality is genetically heritable, has expressed skepticism about the transgender movement. An article in a leading LGBTQ publication quotes LeVay as saying, "We may be overly supportive of gender non-conforming kids, thinking they may be transgender so advocating giving them hormones or castrating them at an early age… We should always love our kids as they are, whatever, but don't tell them their sexuality is a done deal before puberty."[9]

Critics of transgender ideology are, predictably, met with withering rebuke. They're labeled as "transphobic," hateful, and even criminal. The vitriol seems especially intense when the criticism arises from within the LGBTQ community. One activist called LeVay's remarks quoted above as "beyond irresponsible," implying that such comments foster bullying and aggression.[10] Tweets from singer Bette Midler and author JK Rowling expressing concern about the diminishment of womanhood were roundly condemned in forceful and often vulgar ways, even though both women have been longtime supporters of the LGBTQ movement.

Yet what commentators debate about—the breakdown of women's sports, the eccentric demand that each of us select our own pronouns (or else), the unexpected influence of the TikTok social media platform, and the foisting of drag queen fetishism on unsuspecting children—these are but symptoms of a deeper problem that no amount of editorializing, whether scornful or admiring, can dismiss.

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Where Did This All Begin?

To borrow an oft-repeated line from King Solomon, "there is nothing new under the sun" (Eccl. 1:9).[11] Gender confusion is not new. What *is* new in human history, however, is the unprecedented boosterism of this confusion through a perfect storm of culture-making institutions clamoring for attention, government bureaucrats opportunistically expanding their power, and a medical-industrial complex soullessly yearning for financial enrichment.

To borrow an oft-repeated line from King Solomon, "there is nothing new under the sun" (Eccl. 1:9). Gender confusion is not new.

As we will see, long before the public began noticing that something odd was going on in popular culture discussions of gender ideology, the battle for the high ground had long been won. Churches that adhere to a historic, orthodox biblical worldview are among the few places where any dissent can be found.

Our concern in this book is mainly about the impact of gender ideology on children, teenagers, and young adults. Because gender ideology is being taught in schools and because of the ideological capture of the medical system, countless troubled young people have been brainwashed into a youth-onset delirium in which the denial of objective reality is seen as a commendable social good.

The Medical Element of Gender Ideology

Unlike other treatment modalities for issues such as addiction, medical professionals handling transgender treatment are told to encourage the patient's delusions and, if the patient is a minor, demand that parents do so as well (or else). The natural flow of this highly choreographed treatment plan is the intentional infliction of disease through the off-label, experimental use of puberty-blockers and cross-sex hormones. Eugenic sterilization is not a side effect; it is a predictable outcome if treatment is carried out to its prescribed end.

Many of these patients are now realizing that the horrendous diseases they have experienced because of this experimental treatment have permanently damaged their bodies without healing their souls. A growing number of them are finding their bodies irreversibly disfigured due to radically invasive and medically unnecessary surgeries. When faced with legal liability, doctors, hospitals, and pharmaceutical companies hide behind standards of care crafted by a handful of activists inside various medical associations, bereft of the kind of evidence we would expect to ground modern medical treatment. Impossibly short statutes of limitation practically guarantee that

doctors are far removed from liability by the time serious symptoms present themselves, which is often a decade after treatment.

The Spiritual Element of Gender Ideology

There is a spiritual element as well. The debate over gender ideology has revealed a raging fury against the idea that human beings bear the image of God. Nowhere is this indignation more clearly seen than in the deconstruction of the very definition of male and female. Sincere and faithful Christians cannot remain on the sidelines. We must speak with biblically informed, compassionate wisdom. The philosophical and moral questions are complex. But what is at stake is whether we, as a human society, will be able to recognize truth, discern reality, and prepare the rising generation to live confidently as image-bearers of God.

The debate over gender ideology has revealed a raging fury against the idea that human beings bear the image of God.

Two Reasons We Are Concerned

You may wonder if this level of concern is warranted. We will present our arguments, and you can decide for yourself. But our position is twofold. First, we think the concern is warranted because the issue of gender ideology is much bigger than the few people who are genuinely experiencing a severe incongruence over their biological sex. Second, we think the concern is warranted because the struggle over gender ideology is a gospel issue that has serious medical and psychological ramifications. The book of Genesis says that God made us male and female. Jesus affirmed this teaching. Biologically, it is undeniably true. If society persists in denying the importance of this fundamental aspect of being, we could very well be "hostages to chaos" and "lose our collective tether to reality"—to echo the words of the evolutionary biologist Colin Wright quoted at the beginning of this introduction.

This book is a crash course on a thoroughly bewildering subject. If you had asked most people thirty years ago if they had ever met a person who sincerely claimed to be the opposite sex, few could tell you they had. Maybe they would mention seeing what were once called "transvestites" at Mardi Gras or a few troubled individuals who lived on the margins of society.

But according to reputable polling, gender identity issues are now at the forefront of concern for young adults. Some polling says that thirty-nine percent of young people claim to identify as LGBTQ.[12] In addition to youth identifying as transgender, some now say they are "non-binary," "genderqueer," or another of an ever-increasing panoply of self-created gender labels. Healthline.com lists and defines sixty-eight terms that describe gender identity and expression.[13] Some have estimated that given the current

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(yet ever-changing) parameters of gender ideology, there could well be three thousand different genders. If children are taken for therapy or medical evaluation, current standards of care specify that those identifying as other than their biological sex be treated by therapists as if they are, in fact, something other than their biological sex. Families are being told that if they do not embrace this treatment regimen, they are putting their child at risk of suicide and, perhaps, risking the forfeiture of their parental rights.

Families are distraught and confused. Americans as a whole, according to polling by Summit Ministries, seem baffled by the whole issue. Two-thirds of Americans say they do not think that transgender identity is a normal, healthy lifestyle. Seventy-two percent say that it should not be taught in schools. Ninety percent say that gender-alteration drugs and surgeries should not be performed on minors.[14] Yet for the gender ideologues and the moneyed players who set this top-down, systematic deconstruction of sex in motion, the instinctual clarity most people have about the issue is misguided. The confusion that gender ideology creates is a feature, not a bug of their entire project. If none of this makes any reasonable sense to you, well, that is precisely the point. At the root, we are dealing with a postmodern rejection of reality that is bound to fail. The question is: How many lives must be shattered by it before it does?

But the truth is true, no matter who says it.

We hope that as you engage the forthcoming pages, you will be equipped to address these tough and thorny themes with compassion for struggling people and with the uncompromised conviction that the truth must be proclaimed and defended. We will tackle why transgenderism is a medical (and social) scandal, discuss the history of gender ideology, show how this ideology twists language and distorts reality, and explore what a healthy and flourishing vision for human sexuality looks like in contradistinction to gender ideology.

As we mentioned at the outset, this is not a left versus right issue. Nor is it a science versus religion issue. The biologists quoted at the beginning of this introduction are both atheists. But the truth is true, no matter who says it. We think these atheists are correct. We will present our evidence and reasoning in the following pages.

If two atheists can summon the courage to speak with clarity against the tide of lies surrounding gender ideology, how much more then should those who follow the teaching of Jesus speak boldly? The Bible says that Jesus is the One who came to bear witness to the truth (John 18:37). The word for truth in New Testament Greek means "reality." Can we not be confident that in Jesus, there is an antidote to what ails us, that his vision for human flourishing is worth pursuing? Do we not have a better, truer story to proclaim?

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Why Transgenderism Is a Medical (and Social) Scandal

"No clinical description of my transition, and especially my castration, can really capture how it feels. They gouged into my soul. They warped and molded me into something demonic, into someone else's sick fetish. I was only fourteen. Now I have to live with it forever."

—Steven A. Richards, de-transitioner[15]

Steven A. Richards is among the rising number of people who are known as "de-transitioners," men and women who underwent experimental gender medicalization, including hormones or surgery or both, and now deeply regret it. Steven realizes that he believed a lie about the human body—that it is physically possible to "transition" to the opposite sex—and now must live forever with irreversible physical and emotional scars.[16]

What led to Steven's tragic experience is nothing less than a shocking medical scandal. In this chapter, we will show how this scandal was caused by the breakdown of medical ethics and an insatiable thirst for profits without regard to the social cost. No doubt, what we write in this chapter will anger you, and it should. Under the guise of helping people navigate gender confusion, many vulnerable people across the West—even children—are being scarred for life.

The Lie of "Born in the Wrong Body" and "Transitioning" Sexes

For all human history, the reality of maleness and femaleness has been apparent—until now. Humans are mammals. Mammals are dimorphic—they are either male or female. The science is beyond question. It is not just a matter of what kind of genitals we have. Nearly every cell of our bodies is male or female. Scientists have cataloged sixty-five hundred such differences.[17]

Humans are mammals. Mammals are dimorphic—they are either male or female. The science is beyond question.

Obviously, in the male spectrum, males may be more or less masculine, judging by cultural stereotypes. Females may be more or less feminine, again judging by cultural stereotypes. Sometimes, these stereotypes make people feel as if they do not fit in with others of their sex. Young women who enjoy outdoor activities and competitive sports—who have in the past been called "tomboys"—may question their femininity because the stereotypes they see in popular culture are not ones with which they identify. Similarly, young men who are emotionally sensitive may find that they do not enjoy roughhousing as other boys their age do. With enough social pressure, the natural identity confusion through which young men and women pass in adolescence can lead them to even question their maleness or femaleness.

As we will see in a future chapter, many are now coming to believe that there are not two spectra—one male and the other female—but one spectrum, with strong femininity on one end and strong masculinity on the other. This is *not* a medical fact but an opinion based on writings from the fringes of social psychology in which the word "gender" (which comes from the root *genus*, from which we get our word genetics) is misappropriated to create an artificial distinction between "sex" and "gender," with sex referring to a person's biology and gender referring to their socially-constructed self-identification. Thus, it is theorized, a person could be biologically male in sex but female in gender, or vice versa. The availability of synthetic hormones has made this a medical issue, with doctors across the country eager to perform risky experimental treatments designed to "align" a patient's biology with their preferred gender identity. Ironically, what began as a movement to help people who do not identify with culturally-derived masculine and feminine stereotypes ended up enshrining and even medicalizing those stereotypes, with disturbing consequences.

We have seen the consequences of such medicalization in other areas. In the 1980s, young men suffering from "muscle dysphoria" were treated with anabolic steroids to significantly increase the size of their muscles.

The use of steroids and other performance-enhancing drugs scandalized the sports world. But it is now known that the use of anabolic steroids produced severe mental and physical health complications. Pharmaceutical companies and doctors hide behind liability shields, laws that protect them from lawsuits when they do risky things, but court judgments are chipping away at such measures as the wanton nature of the medical malpractice involved comes to light. Lawsuits will likely go on for years. A similar scandal happened when pharmaceutical companies peddling painkillers were found guilty of abusing medical standards of care in a way that promoted opioid abuse. Thousands of lawsuits have been filed, resulting in settlements in the tens of billions of dollars.

By encouraging a belief about the human body that is fundamentally false, gender ideology is producing a new class of medical scandal. The medicalization of gender identity proceeds from the assumption that there are people for whom biological sex is not relevant because they have been "born in the wrong body." If this is true, then any medical treatment protocol that alters hormone levels, removes sex organs, or adds on artificial body parts must be seen as morally sound, potentially life-saving, and ethically necessary.

In the gender ideology framework, male and female are categories "assigned at birth," and, presumably, doctors can get it wrong.

But to believe that some people were truly "born in the wrong body," one must presuppose that maleness and femaleness are mostly social categories, not physical ones, and that the sexual dimorphism of humans is essentially irrelevant. In the gender ideology framework, male and female are categories "assigned at birth," and, presumably, doctors can get it wrong. The trans activist phrase "born in the wrong body" does not say that there is something wrong *with* the body but that the body itself, as a whole, functioning organism, is somehow "wrong."

As we saw in the introduction, a rapidly growing number of people are seeing themselves as "wrong" in the way their bodies are made. The United States is the most permissive nation when it comes to the use of puberty-blockers, cross-sex hormones, and surgery to treat minors. Whereas most Western countries have one to three clinics treating gender dysphoria, there are more than sixty pediatric gender clinics and three hundred other clinics in the United States that administer puberty-blockers and cross-sex hormones to children as young as eight years of age.[18] Such treatment is based on the gender ideology supposition that so-called "wrong" bodies can be made right through medical treatment.

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Let us talk more about what this treatment involves. What is called "gender affirming care," as part of the natural course of treatment, employs high-powered pharmaceutical drugs and even surgeries to help individuals who lack a strong identification with their biological sex feel more mentally comfortable with a new identity. Gender affirming care is practiced on minors, despite the consensus among neuroscientists is that the lobes of the human brain do not stop developing until the mid-twenties. Of the eleven clinical studies where children were referred for gender dysphoria, between seventy-four percent and eighty-eight percent grew out of it by the end of their adolescence. Yet what is most egregious is that activists insist that even young children and pre-pubescent youth can know that they have the wrong body and that their "gender identity" struggles can be resolved through risky experimental medical procedures.[19] Trans ideologues routinely claim that these procedures are necessary to curb self-destructive behavior, including the possibility of suicide.

Biological sex is immutable. Medical interventions–such as blockers, hormones, and surgery–produce grave harm as they attempt to circumvent biology in pursuit of a physical impossibility.

These treatments allow patients, including young children, to alter their endocrine systems with hormone-blockers, followed by synthetic opposite sex hormones, and then perhaps surgery that irreparably alters their secondary sex characteristics.

But it is all a lie. Biological sex is immutable. Medical interventions—such as blockers, hormones, and surgery—produce grave harm as they attempt to circumvent biology in pursuit of a physical impossibility. In many ways, this is also a child abuse scandal, since children cannot give adequate informed consent to the medicalization which yields such dire repercussions. Worse still, many of the young people who have embraced a trans identity and are being steered down this destructive medical pathway are already dealing with one or more mental health challenges that can be left unaddressed in the rush to treat symptoms of gender dysphoria rather than its causes.

Where Did This All Begin?

Until recently, the idea of "sex change surgery" struck many Americans as a fundamentally strange thing that only very troubled people would pursue. Doctors who prescribed off-label hormone treatment knew they were risking their careers and thus were reluctant to advertise their services. Very few surgeons performed so-called sex-change operations. The idea that children, of all people, could benefit from such treatment would have been unthinkable.

The first well-documented case report of a chemical puberty blockade was in the Netherlands in 1998, where a pediatric endocrinologist, together with a psychologist, decided to do a medical intervention on a thirteen-year-old girl suffering from gender dysphoria.[20] The rationale was that the distressed patient should receive a puberty-blocking drug because the effects of going through the pubertal processes would have been traumatic. They also reasoned that "pausing" those signals in the brain would give the person time to adjust and then later decide whether to move toward surgery that would alter the body so as to appear more like the opposite sex. This approach, which European nations have now moved away from, has been called the "Dutch protocol."

The Dutch protocol has come under increasing scrutiny. A January 2023 article in the peer-reviewed *Journal of Sex and Marital Therapy*, a highly respected publication in the field of psychology, strongly criticizes the current approach to gender affirming care. It describes what has happened in the field of pediatric gender medicine as an example of "runaway diffusion," a phenomenon "whereby the medical community mistakes a small innovative experiment as a proven practice, and a potentially nonbeneficial[sic] or harmful practice 'escapes the lab,' rapidly spreading into general clinical settings." Citing 140 different studies and reports, the authors offer a sustained and serious critique of gender affirming care, including a rebuttal of the Dutch protocol's defenders.[21]

It has become increasingly clear that the medical research behind gender affirming care is vanishingly small, overhyped, and downright misleading. However, the fact that this would be acknowledged in a leading peer-reviewed journal is something new. Perhaps the tide will turn. But it has not yet done so, and a growing number of young people are at serious risk of harm. Let us look at why this is the case.

How Puberty-Blockers Affect the Body

When puberty is initiated in the human body, the hypothalamus increases its pulsatile release of gonadotropin-releasing hormone. This then triggers the pituitary gland to release LH and FSH hormones into the bloodstream. Those hormones affect the gonads and cause the release of testosterone from the testicles of boys or estrogen from the ovaries of girls. Those same LH/FSH hormonal signals from the pituitary gland are released in adults to maintain testosterone or estrogen levels.

One of the hormone-blockers routinely used to "pause" puberty is Lupron, also known as Leuprolide. Like triptorelin, the blocker that was used in the 1998 Dutch case report, it blocks the release of LH/FSH, which stops testosterone from being produced and released from the testes or

estrogen from the ovaries. In its approved use, Lupron is for treating prostate cancer in men and endometriosis in women. It has also been used to chemically castrate sex offenders.

To date, there has never been any formal FDA stamp of approval for puberty-blockers to be used to treat gender dysphoria in children in the United States. In 2022, the FDA issued a warning to be added to Lupron, noting that "brain swelling and vision loss" were among the drug's side effects.[22] Another long-term side effect of hormone-blockers is bone density loss. When blockers are administered to a pubertal-aged child, the bones do not form as they should; the calcium deposits do not happen as they normally would; and normal physiological development is hindered.

In the United Kingdom, a cohort of 44 twelve to fifteen-year-old youth who were put on blockers at the London-based Tavistock gender clinic (which, as of this writing, has been ordered to close in 2023) were tracked for nine years. According to their findings published in the academic journal *PLOS One*, when the children completed chemical puberty blockade at age sixteen, the researchers found "reduced growth" in both height and bone strength.[23] Of the forty-four who were given the hormone suppressants, forty-three went on to take cross-sex hormones.

Why is all this scandalous? At the very root of the current American treatment protocol for gender dysphoria is the lie that gender dysphoria is an endocrine condition with manifested physical symptoms. It is not. There is no medical test, such as a blood test or a brain scan, that can confirm a diagnosis. Rather, gender dysphoria is a mental health condition with an official definition in the DSM-V, the manual detailing the diagnostic criteria for mental health conditions. Gender dysphoria only becomes an endocrine condition with the introduction of hormones that would not ordinarily be present. The introduction of foreign hormones can induce the endocrine disease state of hypogonadotropic hypogonadism, which shuts down the production of sex hormones in the testes of males and ovaries of females, resulting in what amounts to chemical sterilization. Since doctors are the ones who induce this condition, it is called "iatrogenic," which refers to an illness that is caused by medical examination or treatment.

We are of the view that doctors should not be in the business of causing disease.

We are of the view that doctors should not be in the business of causing disease. Moreover, the human endocrine system is a delicate ecosystem, and hormone levels are based on one's biological sex. If someone was suffering mentally and the root of the problem was a thyroid issue causing hormonal dysregulation, a patient would likely visit an endocrinologist to

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address the problem, and the goal would be to balance their hormone levels. Hormone levels are a function of biological sex. When high doses of wrong sex hormones are introduced into the human endocrine system, serious problems result.

Hormone treatment, even when properly administered, is risky. According to the Mayo Clinic, the long-term risks of hormone use include infertility; deep vein thrombosis; pulmonary embolisms; high triglycerides, a type of fat (lipid) in one's blood; weight gain; high potassium (hyperkalemia); high blood pressure (hypertension); Type 2 diabetes; cardiovascular disease; excessive prolactin in one's blood (hyperprolactinemia); nipple discharge; and strokes.[24] What happens when doctors prescribe such hormones to adolescents to produce cross-sex hormonal states? We are just now beginning to find out. And by the time the truth comes out, long-term damage may be irreversible.

researchers found that even in a famously liberal Scandinavian nation, the rate of completed suicide was nineteen times higher after so-called transition when measured against population-matched control groups.

Will People Commit Suicide If Not Allowed to Undergo Transition?

One of the worst aspects about the gender ideology medical scandal is the psychological manipulation employed as part of the experimental treatment protocol for gender dysphoria. The distress over one's gender is, according to trans activists, so intensely strong that unless such individuals are allowed to go down this medicalized pathway, they are at a significantly elevated risk of suicide. When parents hear that their children suffering from gender dysphoria might kill themselves, they often freeze in a desperate panic, and many will then do whatever the doctors and clinicians say they should. The emotionally manipulative question that is posed to such parents is: "Would you rather have a dead daughter or a living son?"

In many professional settings, under the current regimes, the recommended treatment is "gender affirming care," which means steering patients down a treatment path that begins with "social transition." This involves immediately and unquestioningly affirming a child's self-reported gender identity by asking the child to pick a new name; compelling parents, teachers, and classmates to use preferred pronouns; and encouraging the child to present in public as their preferred gender. If this does not resolve the child's gender dysphoria, the next step is experimental medicalization, which, depending on the age of the child, involves some combination of puberty-blockers, opposite sex hormones, and even surgery.

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So, do these experimental medical measures actually prevent a trans-identifying person from taking their own life? In perhaps the most famous study that followed the post-operative transsexual-identified persons in Sweden over the course of thirty years, researchers found that even in a famously liberal Scandinavian nation, the rate of completed suicide was nineteen times higher *after* so-called transition when measured against population-matched control groups.[25] In other words, over the long term, the exact opposite of what gender activists say was found to be true.

Gender activists routinely claim that being transgender increases the risk of suicide by forty-eight percent. If true, this is alarming and warrants our attention. But from where did this statistic come? Apparently, 2,078 questionnaires were distributed by the LGBTQ community in the U.K., of which twenty-seven respondents claimed to be transgender persons under the age of twenty-six. Thirteen claimed to have had attempted suicide in the past. The questionnaire was non-randomized (anyone who wanted to fill it out could do so or refuse to do so). No information is known about the thirteen young people who said they had attempted suicide (including whether their attempt was before, after, or despite treatment, or even whether they had received treatment at all).

Despite the non-academic nature of the study, the inability to verify or replicate the results, and the fact that nothing about the study shows the effects of any treatment protocol, it is truly astounding that gender ideology activists have given it so much weight. When told that his data had been misrepresented by gender ideology activists in this way, the researcher replied that it was unfortunate that his "research is used by non-scientists in the context of their own agendas."[26]

In 2022, a study done by researchers at the University of Washington was heralded in the media as absolute proof that transgender medical treatment reduces depression and suicidality by 60 percent.[27] The immense media coverage treated the study's results as a major medical breakthrough. Dawn Ennis, now listed as a "former columnist," wrote in *Forbes* that this research "provides a strong rebuttal to anti-transgender activists and Republican lawmakers across the country who have tried to ban gender-affirming healthcare for trans and nonbinary youth."[28] Similar comments flooded the internet, creating an almost gleeful "I told you so" retort to those who have questioned the efficacy of such treatment.

Since that time, investigative reporters have examined this study in which about one hundred young people ages thirteen to twenty filled out a sixteen-question survey reporting their feelings of depression and anxiety, with one question asking about thoughts of self-harm. The participants had all consulted with a gender transition clinic and were given the

questionnaire four times over the course of twelve months. The study's weaknesses are quite glaring. There was no double-blind aspect to it, which is standard for legitimate medical research. The statistical methods used were rudimentary and flawed. No comparison was made between participants who received medical therapy and those who received psychotherapy. No assessment was made as to whether the participants' alarming mental health struggles were caused by gender dysphoria or whether gender dysphoria was one manifestation among many of their unstable mental health situation. No comparison was made with those reporting similar levels of depression, anxiety, and suicidality but who did not identify as transgender. Factors were not adequately accounted for. No assessment of childhood trauma or its treatment was reported, even though childhood trauma is strongly correlated with gender dysphoria. Since only a tiny fraction of respondents were in the treatment group at the beginning, and only a tiny fraction of respondents remained in the no-treatment group at the end, it is almost impossible to get an accurate picture of what happened during the twelve months.

When it comes to minors with mental health struggles, we have found that helping them feel seen and cared for is a major part of the healing process. Care and concern help foster a belief that they will get better, and this belief is very powerful.

So, what does this vaunted study show? At best, it shows that those receiving puberty-blockers and cross-sex hormones did not report improvement. Their self-reported levels of depression, anxiety, and suicidal thoughts remained about the same. They came into the study with serious mental health issues, and they completed the study with comparable levels of those same issues. If we look at the results at three and six months, which is when the researchers had more equal response rates, those who did *not* receive medical treatment reported larger drops in their depression, anxiety, and suicidal thoughts than those who *did* receive medical treatment. Between the three- and six-month mark, the charts accompanying the study show a *worsening* of self-reported thoughts of suicide for those receiving medical treatment and a *lessening* of self-reported thoughts of suicide for those who did not receive medical treatment. The researchers have thus far refused to release the raw data, so there is no way to understand what actually happened or to replicate the results. At the very least, this is hardly the breakthrough that the University of Washington public relations department heralded or that was breathlessly reported in the media.

Please understand, we take mental health struggles seriously. We work with young people facing these issues. We feel deep compassion for them and want them to get better. When it comes to minors with mental health struggles, we have found that helping them feel seen and cared for is a major part of the healing process. Care and concern help foster a belief that they will get better, and this belief is very powerful. People in the field of psychology call it "resilience." A review of fifty studies examining treatment-resistant depression showed that patients given placebos report improvement of 35 percent to 40 percent in their symptoms.[29] Their *belief* that treatment is making a difference seems to be what is making the difference at least a third of the time.

We know we are down in the weeds here, but let us apply that understanding to the vaunted University of Washington transgender medicine study. One would expect to see a 35 percent to 40 percent improvement just by children having someone in authority pay attention to their problem, even in the absence of medical treatment. None of this was examined in the University of Washington study. This, plus criticisms such as the ones we briefly discussed above that have gone unanswered by the researchers, led the University of Washington's spokesperson to admit that reports about the study's breakthrough nature included "some pretty concerning claims" and announce that the epidemiology department would stop "driving traffic to this piece."[30]

By now, you're probably wondering how it is possible that such minuscule studies with such ambivalent results could drive such a huge nationwide agenda. This is an example of the politicization of science, a subject we will discuss in a later chapter of this book. Yet such politicization is well-hidden. If you did an internet search on the University of Washington study, none of its problems would become evident unless you looked several pages deep in the search results and knew specifically what you were looking for. The truth is very hard to find.

The political motive is not the only one driving gender ideology. There is also a strong financial motive. Observers with common sense have noted that one does not cut nor sterilize the body to heal the mind. And yet doctors continue to guide patients they diagnose as gender dysphoric down the path of experimental medicalization. It is a business move that is as cynical as it is lucrative.

As previously noted, when children are put on hormone blockers, it is likely they will receive pediatric Lupron. Investigative journalist Jennifer Bilek noted in a speech in July 2022 at Hillsdale College's Kirby Center in Washington, D.C., that the adult version of Lupron is quite lucrative.[31] It costs $4,800 to treat endometriosis in women for a three-month dose, according

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to a 2018 investigative report.[32] The pediatric version is even more lucrative—$9,700 for the same dose. A subcutaneous implant to deliver this drug to children is $35,000. A similar implant for adult men battling prostate cancer costs $4,400. Using these numbers, if just one hundred children out of the forty-two thousand U.S. children diagnosed last year with gender dysphoria took these drugs for seven years, it would amount to $27 million in drug sales. And that is only the blockers. Cross-sex hormones are another moneymaker for the medical industry, and those who begin this experimental medicalization will be on it for as long as they wish the condition to persist, quite possibly for life. Think about that. By encouraging puberty-blockers and cross-sex hormones, Big Pharma and Big Medicine could foster long-term and extremely bankable dependence on their products.

With regard to body-disfiguring surgeries, according to Global Market Insights the national profit for these kinds of operations was $623 million in 2022, having doubled in just three years. By 2032, the value projection for this industry is listed at $1.9 billion.[33] We see this as a predatory industry which represents crony capitalism at its worst. And remember that if a child can be medicalized in this way, he or she will be a patient for life. These brutal surgeries often require extensive follow-up care, which, of course, means additional fat profits for these industries.

"Shattered" is not too strong a word to describe what happens when people try to invert reality and end up being worse off than they were before.

The Plight of De-transitioners and the Emerging Challenge for the Church

De-transitioning is the process of a person psychologically reintegrating their biological sex with their self-perception of gender identity. To do this, a person must unwind layers of deceitful cultural and medical programming. De-transitioners often have a moment or series of moments where they realize that attempts to overwrite nature are futile and cannot, by way of medical intervention, change their physiology to become the opposite sex.

The coming challenge for the Church, as we see it, is two-fold: equipping the next generation with the truth and philosophical tools to cou-rageously engage this pervasive ideology, and ministering to the wave of those medically harmed young people and their families whose lives have been shattered. "Shattered" is not too strong a word to describe what hap-pens when people try to invert reality and end up being worse off than they were before. Abigail Shrier, author of *Irreversible Damage: The Transgen-der Craze Seducing Our Daughters*, wrote about her experience engaging moms and dads who have dealt with adolescent and teenage daughters self-identifying as trans:

> Any of these parents would gladly pay a hundred bucks a gallon for unleaded gas to get their daughters to safety. A mom whose teen daughter is suddenly clamoring for 'top surgery' would take her chances with COVID in a heartbeat… She'd sign up for an unmasked tour of the Wuhan Institute for Virology—if she could only shield her children from the people who'd prefer to push gender ideology than do their actual jobs (much less respect the curtilage of a family).[34]

Faithful Christians are going to have to exhibit a lot of patience in the coming years dealing with the fallout of the gender identity medical scandal. Of course, God can—and does—bring healing, sometimes quickly and suddenly. But as the number of de-transitioners grows and more people realize that their decisions led them to permanently damage their bodies, compassionate followers of Jesus must be prepared to walk alongside.

Conclusion

The practice of medicine has produced profound benefits for billions. Yet the idea that a medical technique that is *possible* is therefore *ethical* has led to widespread heartache. Francis Galton was one of the most respected scientists of his day, yet his racist viewpoint led to the science of eugenics, which was practiced in the United States to forcibly sterilize sixty thousand women. Antonio Egaz Moniz won a Nobel Prize for inventing the lobotomy and promoting it as a remarkable cure for mental illnesses like schizophrenia. Fifty thousand people received the procedure. Many died as a result, and the others had their lives ruined. The science seemed settled in both cases, but we now see them as colossal horrors. When the history is written, will "gender-affirming care" for people with gender identity disorder/gender dysphoria also be seen as a medical scandal? We believe it will.

But there is a difference. Sterilization and lobotomization did not include built-in popular culture campaigns to get people to *choose* those procedures for themselves. This will take time to unwind. As more de-transitioners like Steven Richards come forward and detail the catastrophic, irreparable harm that was done to them, it will become impossible to ignore the carnage. Christians must not shrink back from the task of confronting the generational indoctrination that has occurred via the school system and throughout the culture that has, most tragically, left many struggling people confused, disfigured, and sterilized.

CHAPTER 2

The History and Trajectory of Gender Ideology

"What has been will be again, what has been done will be done again; there is nothing new under the sun."

—Ecclesiastes 1:9

A few years ago, the phrase "rapid onset gender dysphoria" (ROGD) emerged in an attempt to explain the abrupt emergence of tens of thousands of gender-confused children who were suddenly questioning their sexual identity. In 2018, public health researcher Lisa Littman published a peer-reviewed article in *PLoS One*, an academic journal examining the phenomenon. Her findings revealed that 65 percent of young girls who had self-identified as transgender during their adolescence did so after being immersed in social media for extended periods of time.[35] In other words, the sharp increase in cases of dysphoria was not a naturally occurring phenomenon but an internet-fueled peer contagion.

"Rapid onset" is a phrase that accurately describes how people feel about the gender ideology movement in general. They ask, "Where did this come from all of a sudden?"

Well, it did not arise all of a sudden. An old adage says, "What is taught in the classroom in one generation will be believed and practiced in government and society in the next generation." This is the case with gender ideology, which spread unnoticed in academic circles for decades before surfacing in recent years as a seemingly overwhelming force, riding shotgun and occasionally taking the wheel as the novelty of gender-bending popular culture swerved its way into the American consciousness.

As a graduate student, one of the authors of this book was assigned a scholarly article written in the late 80s, entitled "Doing Gender."[36] It argued that gender was not a biological state but a "routine accomplishment embedded in everyday interaction." Saturated in pseudo-academic jargon, the article posited that gender does not refer to essential traits but rather performances based on how people present themselves and are viewed by others. This was three decades before the writing of the book you are reading right now.

"What is taught in the classroom in one generation will be believed and practiced in government and society in the next generation."

"Doing Gender," in turn, was based on a theory that was articulated by Erving Goffman in the 1950s. Goffman's Social Interaction Theory advanced the notion that when people interact with one another, they play roles based on what they think is expected of them. These roles are based on what people *do*, not on what they *are*. Goffman's work set in motion what is now a given in academic circles—that we humans are basically a set of social constructions based on our experiences and interactions. A person is not a "husband" or "wife" in a particular sense but just a person who acts as he or she thinks that other people think a husband or wife should act.

Similarly, the "Doing Gender" article asserted that categories of male and female are relevant only in that we *present* ourselves as we think male and female ought to be presented, based on the stereotypes we unconsciously accept. Without this theoretical uncoupling of sex and gender, gender ideology makes no sense. With it, no other view makes sense. This is why, if you find yourself interacting with people who embrace gender ideology, you might get the distinct impression that they see you as bad, not just wrong. The very idea of what it means to be human shifted long ago in academia, and most people did not notice until it came to the public attention in the form of biological males wanting to compete on women's sports teams or use women's restrooms. Ideas have consequences, but often, by the time we realize that those consequences are under sail, the ship is already halfway across the ocean.

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To understand gender ideology, we cannot just look back to radical scholars from the 1980s. We need to look all the way back to ancient Greece and then look forward to the implications of today's ideas of queer theory and even transhumanism.

Gender Confusion in 1 Corinthians

When it comes to gender ideology, even radical professors at taxpayer-funded universities have a tradition to draw on—one that can be traced to ancient history.

As can be seen in many of Plato's dialogues, it was common among Greek men to prefer effeminate boys to women. Older, powerful men publicly preyed on vulnerable young men who were of lesser status. Often, submitting to this abuse was seen by young men as necessary for social advancement. Evidence of this phenomenon may be found in the New Testament books of the Bible that are letters composed by the apostle Paul to the church in Corinth. Corinth was famous in ancient Greece for its sexual immorality, a reputation that continued into the time that the apostle Paul planted a church there.

While there is nothing inherently wrong with men having longer hair or women having shorter hair, the context makes clear that Paul saw it as obvious that it is inappropriate for men to pretend to be the opposite sex for a manifestly sinful purpose.

This seems to be the context of Paul's comments in 1 Corinthians 11:14, where he says, "Does not the very nature of things teach you that if a man has long hair, it is a disgrace to him?" While there is nothing inherently wrong with men having longer hair or women having shorter hair, the context makes clear that Paul saw it as obvious that it is inappropriate for men to pretend to be the opposite sex for a manifestly sinful purpose. Of course, in the contemporary West hairstyles are relatively neutral morally, but the underlying principles of identity remain the same.

Distinguishing Same-sex Attraction and Gender Confusion: "Sexual Orientation" Versus "Gender Identity"

In the modern West, many of the premises of the sexual revolution have become firmly ensconced in the culture, particularly as it relates to human nature. These assumptions about sexual ethics are increasingly pagan, meaning that Judeo-Christian principles are rejected as backward and oppressive. Biblically orthodox Christians have historically held and continue to espouse that God created sex as fundamentally good, procreative,

and designed to be enjoyed between a married man and woman. Any sexual practice outside of that vision is not in accordance with a biblically rooted sexual ethic. Christians have not historically categorized sexual identity in psychological terms.

What, then, for those individuals who genuinely experience same-sex attraction or an incongruence with their biological sex? As a way of describing this real phenomenon, the category "sexual orientation" has emerged, based on a psychologized concept of the Self. This is a truly radical shift in how human beings have come to understand who they are. As Carl Trueman notes in *The Rise and Triumph of the Modern Self*,, one cannot escape this revolutionary creed from sitcoms to the halls of Congress that "is as much of a symptom and a cause of the many social, ethical, and political questions we now face."[37] This revolution has radically altered how people in Western societies have come to understand the very idea of the self.

The self has now replaced truth. To the cult of self, our bodies are not intertwined with our souls in a purposeful way but are mere blobs of matter with no transcendent meaning except that which serves our desirable, personal ends. Sexuality, then, is reduced to our purpose for it. Stripped of its holy vocation, sexuality increasingly becomes, as Pope John Paul II observed in his 1995 encyclical *Evanglium Vitae*, "the occasion and instrument for self-assertion and the selfish satisfaction of personal desires and instincts."[38]

At root, this is not a recognition of the complicated aspects of sexual attraction as much as it is a fundamental reinterpretation of what it means to be human.

Yet "gender identity" is, we would argue, many steps beyond even "sexual orientation" as a category of selfhood. If someone tells you that they are gay or lesbian (or, for that matter, that they are a heterosexual) there is little doubt as to what that person means. They are telling you how and toward what kind of people they experience sexual attraction. Whatever one might think of specific sexual practices or same-sex relationships, the nature of what is being said is not in dispute.

By contrast, when someone speaks of possessing a "gender identity," there is no similar understanding about what that is. Indeed, gender identity categories proceed from the premise that gender is, by definition, uncoupled from the material reality of biological sex. At root, this is not a recognition of the complicated aspects of sexual attraction as much as it is a fundamental reinterpretation of what it means to be human.

Some who identify as transsexual, transgender, or as some other gender identity might be honest about their natal sex. They may be genuinely distressed about their confusion. The psychological anguish that comes with

such a body dysmorphia may be severe and painful. But the problem is, with the enshrinement of gender identity as the only way we can make sense of our biological sex, we lose the ability to root our understanding of maleness and femaleness in anything other than cultural stereotypes. Further, such thinking makes it extraordinarily difficult for societies to develop sensible policies that protect political and human rights that are based on sex. Gender identity theory dissociates sexuality from anything that can be rooted in material reality.

With the advance of gender ideology, the instrumentalization of the body—aided along by pharmaceuticals, surgical scalpels, and endless identity qualifiers—has established itself in the modern mind in a way that would have been unimaginable just a few decades ago. The internet has brought the gender identity revolution to the masses with great fanfare and profit for its social media purveyors. Abigail Favale, who was a gender studies professor and avowed postmodernist before her conversion to Catholicism, states in her book *The Genesis of Gender: A Christian Theory* that the access of children to the internet plays a central role in the advance of transgenderism.[39] Americans strongly agree with this sentiment. In a recent poll jointly conducted by Summit Ministries and the respected polling company the McLaughlin Group, 69 percent of voters who have an opinion on the issue say that the increase in transgenderism among underage minors is the result of them being influenced to question their gender due to social media and other cultural influences.[40]

The Advent of Queer Theory and Transgenderism

While gender confusion is not anything new in a moral sense, the widespread internet-fueled peer contagion, and the accompanying media glamorization of new gender "identities," entices vulnerable youth and young adults into its entanglements in hopes that it will give them a meaningful identity in a post-truth society. The social infrastructure of an adolescent's life (their dependence on social media or peer interactions) can easily trump the influence of their family of origin, shaping their conception of self and making it startlingly easy for transgender activists to prey on them.

This new thinking about transgenderism rests in a pseudo-academic discipline called queer theory. Those who further this theory write in nearly incomprehensible jargon, as this quote from the prominent queer theorist Judith Butler, a professor at University of California-Berkeley, illustrates:

> That the power regimes of heterosexism and phallogocentrism seek to augment themselves through a constant repetition of their logic, their metaphysic, and their naturalized ontologies does not imply that repetition itself ought to be stopped—as if it could be.

> If repetition is bound to persist as the mechanism of the cultural reproduction of identities, then the crucial question emerges: What kind of subversive repetition might call into question the regulatory practice of identity itself?[41]

Widely considered the founding document of queer theory is an essay called "Thinking Sex" by Gayle Rubin, an anthropology professor at the University of Michigan.[42] The essay is fraught with troubling assertions about human sexuality that attempt to deconstruct "sex negativity," by which Rubin means a Judeo-Christian moral framework of sexual ethics that prizes marriage, love, and child-bearing. As Rubin sees it, the "charmed circle" of Judeo-Christian sexual ethics is oppressive to those who wish to experience sexual pleasure alone, in groups, with children, or with "manufactured objects."

An integral part of queer theory is the deconstruction of the sex binary. As we will discuss in the forthcoming chapter on language, gender ideology theorists seek to disrupt the relationship between sex and gender, presenting sex as a biological construct and gender as a social one.

To be sure, there is a social aspect to the way maleness and femaleness are presented in any given society. In the United States, blue is considered the color of boys and pink the color of girls. But this is not hard-wired into our biology. It is a cultural artifact. Other colors like green and orange do not have any gendered meaning ascribed to them.

"Transgender," then, is a term describing a fluid sexual identity where a person claims to have been born in the wrong body.

But queer theorists go beyond whatever "gender" might mean as it is expressed in a culture and posit that biological sex, too, is socially constructed. "Transgender," then, is a term describing a fluid sexual identity where a person claims to have been born in the wrong body. This gives rise to so many categories of sexual identity that it is hard to keep track of them all. Two decades ago, people spoke of heterosexual and homosexual and divided homosexual into gay or lesbian depending on whether a person was male or female. We mentioned earlier that the latest list we've seen lists sixty-eight gender identities. The acronym LGBTQ is no longer sufficient. As of this writing, the latest acronym to encapsulate various sexual identities is LGBTQQIP2SAA (lesbian, gay, bisexual, transgender, queer, questioning, intersex, pansexual, two-spirit, androgynous, and asexual).

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Radical Feminist Critiques of Gender Roles, Rigid Norms, Sex-Based Stereotypes

It is important to note that Christians are far from the only ones who express doubts about contemporary gender ideology. Radical feminists have long contended that the current gender ideology dogma is, among other things, a set of regressive sex stereotypes. Three such writers are Sheila Jeffreys, author of *Gender Hurts: A Feminist Analysis of Transgenderism*; Janice Raymond, who wrote a prophetic book called *The Trans-sexual Empire: The Making of the She-Male*; and Kara Dansky, who published *The Abolition of Sex: How the 'Transgender' Agenda Harms Women and Girls* in 2021.

In each society, certain gender roles of masculinity and femininity tend to arise from the biological differences between male and female. These differ by culture and often vary based on the level of economic development and the divisions of labor within a people group. These gender roles are not strict, hard-and-fast rules. Yet transgenderism assumes that these roles *are* absolute and rigidly enshrines them. Many trans-identified men who call themselves female or transsexual will dress extravagantly in skirts and dresses and wear makeup and claim that those things are part of what makes them female. But there is nothing intrinsically female about wearing makeup and dresses and other garments often worn by females. These are stereotypes and customs. Indeed, it is an affront to women to reduce them to such cultural stereotypes. This is among the core objections of feminists who are writing in opposition to gender ideology.

Where Gender Ideology is Headed: Transhumanism, Terasem Cult

Gender ideology functions as a boundary breaker. Dissociation from sexed bodies is not a one-time act. It is a process with no end in sight. Though it seems freakishly outrageous, transhumanism is an example of where things are headed. Transhumanism, like the ancient gnostic heresy that says that our bodies have nothing to do with who we are, promises not only freedom in a new self or identity but also a form of immortality.

Dissociation from sexed bodies is not a one-time act. It is a process with no end in sight.

According to Fabrice Jotterand, a professor of Swiss nationality who teaches at a Wisconsin medical school and is a renowned scholar in neuroethics, transhumanism posits "that the body is totally irrelevant to our identity as a human being" and that "the body becomes something you can manipulate at will and doesn't have any normative stand in defining who we are as human beings."[43]

It is thus no coincidence that one of the most visible transgender-identified people, Martine Rothblatt, is also a leader in transhumanism. Rothblatt, a sixty-eight-year-old male who has undergone surgery to amputate his genitals, is a multi-millionaire who appeared on the cover of *New York Magazine* alongside the headline "The Trans-everything CEO" in September 2014, which referred to Rothblatt as "the highest-paid female executive in America." Rothblatt's immense wealth came from Sirius Satellite Radio and United Therapeutics, a biopharmaceutical firm based in Silver Spring, Maryland.

In addition to being a trans activist, Rothblatt founded a futuristic transhumanist tech cult called Terasem in 2002. The Terasem "Beliefs" page states, "Nobody dies so long as enough information about them is preserved. They are simply in a state of 'cybernetic biostasis.' Future mindware technology will enable them to be revived, if desired, to healthy and independent living."[44]

The movement even co-opts God, claiming that "we are making God as we are implementing technology that is ever more all-knowing, ever-present, all-powerful and beneficent. Geoethical nanotechnology will ultimately connect all consciousness and control the cosmos."[45]

Rothblatt has even designed a robotic clone of Bina 48 (Rothblatt's "spice," which is the term Rothblatt prefers to "spouse"), whose appearance looks like the real Bina Rothblatt and has received many uploads of information from the real Bina's life—presumably so Bina can live forever in cyberspace.

It seems outlandish to think that this is where we are headed. But a mere twenty years ago, it would have seemed outlandish that a child would be given high-powered and untested hormonal agents to arrest natural puberty in pursuit of a physiological impossibility—that of becoming the opposite sex. Yet here we are. As explained in the previous chapter, such procedures are routinely practiced in children's hospitals nationwide.

It remains to be seen whether those of a Judeo-Christian heritage will be able to discern the times and effectively advance a biblical concept of both body and soul that accounts for biological reality and also the need for human flourishing in such confusing times. Bad ideas die a slow death unless some kind of renewal, or revival, displaces them.

What will we do? We need to know because reality itself is at stake.

CHAPTER 3

How Trans Ideology Twists Language to Distort Reality

"The LORD said, 'If as one people speaking the same language they have begun to do this, then nothing they plan to do will be impossible for them. Come, let us go down and confuse their language so they will not understand each other.' So the LORD scattered them from there over all the earth, and they stopped building the city."

—Genesis 11: 6-8

"The word 'trans' has one function, and that is to falsify reality...as soon as you have a word that can institute the lie that a man is a woman, everything is reversed."

—Julia Long, British lesbian feminist and academic46

Despite the term "transition," which implies that hormone treatment or surgery can turn males into females and vice versa, most trans activists admit that the euphemistically labeled "gender affirming care" can do no such thing. Rather, they say, it is a means of creating psychological relief, sort of like smoothing wrinkles through plastic surgery or producing a winning smile through dental implants. But there is a difference—one that is huge and unbridgeable.

Changing sex is impossible. No amount of chemical intervention or surgery can change a person's sex. The XX chromosomes remain XX. The XY chromosomes remain XY. As we saw in the chapter on the transgender

medical scandal, these untested and largely irreversible procedures pursue a biological impossibility. The potential for serious physical and psychological damage is immense.

But there is also damage done to language itself when we begin to refer to biological males or females by opposite sex pronouns and act as if, by our words, we can change reality. The twisting of language is a deadly serious problem.

Changing sex is impossible. No amount of chemical intervention or surgery can change a person's sex. The XX chromosomes remain XX. The XY chromosomes remain XY.

Linguistic Manipulation: Sex Versus Gender

At base, the splitting of sex and gender is a distortion of language to change how people see reality. Behind the distortion is a belief that no truths about the world can be known with certainty. Rather, truth is up to the individual. In the United States, a majority now believes this.[47] If nothing about reality is knowable, then no meaningful difference exists between male and female (or truth or a lie, or justice or injustice, or any other distinction, for that matter). Words bear no clearly identifiable relationship to anything knowable. At root, the gender ideology battle is a battle over the very meaning of words. It is a twisting of language to change how people see the world.

Prior to the 1960s, the words "sex" and "gender" were used interchangeably, and the word "gender" did not have a medicalized connotation, according to Dr. Quentin Van Meter, who heads the American College of Pediatricians.[48] Today, in common parlance, many people still use the two words interchangeably, and it is understandable why they do. The root word of "gender" is the word "gene," from which we get the word "genetics." Genetics informs the biological word "sex." The sex of the body is determined by gametes. The nucleus of every single cell in the body (except the gametes) has either XX or XY chromosomes, indicating that a person is either male or female.

But with "gender" divorced from biological sex and redefined to mean any number of things, one of the most basic biological realities of being human—the dimorphic distinction between male and female—is denied. While many, if not most, people understand and use the word "gender" to mean sex, gender ideologues have built an entire theoretical edifice in support of its larger aims, namely the deconstruction of sex, even its abolition. If you can convince people to observe males and females and conclude that there is no meaningful difference, you can convince them of anything.

Human communication is very powerful and unique. Although many creatures communicate, humans alone possess the glottal structures to produce phonated speech. Using just a few phonated sounds, we produce words that, when informed by a shared language, allow us to communicate in far more in-depth ways than other creatures. This ability is hardwired in humans. Only humans use language to create symbolic meaning, sequence their thoughts, and exercise free will. From the moment they are born, human babies imitate the "turn-taking" of conversation. They react to feelings. They discern emotions. The spoken word is so important to human babies that they are more interested in it than any other sound, even instrumental music.

If you can convince people to observe males and females and conclude that there is no meaningful difference, you can convince them of anything.

For most of time, it has been assumed that the words we use intentionally and reliably refer to things and ideas that are real. But if there is no such thing as knowable truth, words and reality are decoupled. Words don't *describe* the world—they *create* the world. This is at the heart of a postmodern worldview.

So how does this postmodern idea relate to the gender identity issue? At present, powerful interests are twisting language to convince the populace of materially false absurdities about the human body that change the very understanding of what it means to be human.

From "Transsexual" to "Transgender"

The prefix "trans" means "to change," and the individuals who experienced some kind of body dysmorphia that manifested in confusion about one's sex were, until recent years, known as "transsexuals." For many, the word connotes something extremely odd—perhaps a sexual fetish. But with the introduction of the idea that gender is malleable, people were led to question whether the distinction between male and female even exists or matters.

In the gender ideology lexicon, "trans" does not mean "to change." Along with other euphemisms like "gender-affirming," it is used to shroud the nature of biological reality and insert falsehoods into the public mind about the nature of being. For gender ideologues, confusion is not a bug; it is a feature. If you can get most people—or, at least, most influential people—to say that there is no difference between male and female, then no such difference exists. Those who insist otherwise are labeled as unfeeling, cruel, and unworthy of being heard.

Because of the long-running game that activists have played to confuse the public about sex and gender, the insertion of "trans" has dulled the

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senses of the masses. It is difficult to pinpoint the exact moment when the shift from what were once called "transsexuals" to "transgender" persons happened; but the shift was, we believe, a cunning one that was intended to mainstream transgenderism and even apply it to children.

Good-faith conversations and debates about these issues become impossible because there is no longer a common frame of reference within which to exchange ideas.

The idea of a "transsexual" child still creates discomfort in many people because, at least for now, most people continue to object to the sexualization of children. To refer to a child as a transsexual would make people feel uneasy. But with the introduction of a malleable "gender," which might be followed by the add-ons "identity" and "expression," the term is softened and sounds less abrasive. A "transgender" child could be a pre-pubescent youth on hormone-blockers or may be just a kid who does not conform with certain gender norms and stereotypes. This murky, catch-all label for this category of people allows for the confusion to continue to metastasize.

Meanwhile, the discordance is more broadly furthered both in the child's mind and in society because of how the use of words drifts further from the ontological reality of sex. Good-faith conversations and debates about these issues become impossible because there is no longer a common frame of reference within which to exchange ideas.

Why is This a Big Deal?

You may think that we have gone too far in this critique of the gender ideology movement's twisting of language. Maybe you are thinking, *Surely, it is not that big of a deal. Just let people be what they want to be.* This may have been a valid criticism at some point in the past, but no longer. Children are being manipulated, abused, and mutilated. And in the pursuit of their agenda, gender ideology activists now insist that *everyone else* acknowledge, against reality, what people claim to be true about themselves. Even if you innocently use the "wrong" pronouns, you may be socially shamed or even fired from your job. Therapists risk professional censure if they do not affirm the gender expressions claimed by minor patients.

Earlier, we stated that the denial of knowable truth means that because words bear no relationship to reality, we are free to use words to create whatever world we want. The big question is, who are the "we"? To gender ideology activists, the "we" are those who learn to control the channels of communication to insist on a certain use of language and silence or marginalize those who dispute that use.

It was this danger that George Orwell warned about in his classic *Nineteen Eighty-Four.* Those supporting the totalitarian dictator "Big Brother" invented *Newspeak,* a way of changing language to limit the range of expression and thus thought. One character, Syme, gloried in his control of language, telling the protagonist Winston, "You don't grasp the beauty of the destruction of words." A few sentences later, Syme says, chillingly, "Don't you see that the whole aim of Newspeak is to narrow the range of thought? In the end we shall make thoughtcrime literally impossible, because there will be no words in which to express it."[49]

As the late Hillsdale College professor Michael Bauman often warned, "When words lose their meaning, people lose their lives."

Not all twisting of language is done in the service of totalitarian aims. Sometimes, propaganda is used to sell products or influence votes without any thought to its long-term consequences. But we should think very soberly when we notice people distorting language in a self-serving way. Before calling for the extermination of the rival Tutsis, the Rwandan Hutu tribe trained its members to think of Tutsis as "cockroaches." Hitler trained the Nazis to think of Jews as "vermin." As the late Hillsdale College professor Michael Bauman often warned, "When words lose their meaning, people lose their lives."[50]

Hundreds of years before the twenty-first century's twisting of language, the philosopher Voltaire warned, "Truly, whoever can make you believe absurdities can make you commit atrocities." To his statement we might add, "And there is no better way to make someone believe in absurdities than by twisting language, our very means of communication, into something utterly unrecognizable."

Voltaire penned his warning in a 1765 work called *Questions sur les miracles,* a missive against corruption in the Church that he thought would lead to bloodshed. In one of history's great ironies, Voltaire's work was used by French Revolutionaries to turn the tables, attack the Church and other institutions, and behead its enemies until the blood of tens of thousands flowed in the streets of Paris. In the twentieth century, the progeny of the French Revolutionaries—Nazis and communists—demonstrated through the slaughter of hundreds of millions that the radically secularist inclination to overthrow reality was the most devastating of all of history's religious movements.

The famed psychologist Philip Rieff noted that a culture unravels "when its normative institutions fail to communicate ideals in ways that remain inwardly compelling."[51] The antidote to culture-depleting indoctrination is to think critically and tell the truth, even in the face of deception. But this is something many people are afraid to do. In the national poll Summit

Ministries has conducted, most people believe that the transgender movement has gone too far. Yet nearly half of the people who believe that do not say anything so as not to offend anyone.[52]

Reclaiming Language

What we have come to know as "transgenderism"—a word that, as we have pointed out, has no concrete meaning or defining boundaries—is a cultural salute to a postmodern worldview that intends to deconstruct the very idea of truth and overhaul language to serve the aims of activists. Postmodernism views the way any given culture uses language as a prison house that prevents us from fulfilling our truest potential and greatest personal power. But changing language is itself a power play. As Gene Edward Veith prophetically argued nearly thirty years ago in his book *Postmodern Times*, moral judgments about matters continue to emerge in everything postmodernists write, despite their best attempts to avoid them. He writes:

> The very claim that certain power structures are oppressive, repeated over and over in postmodern scholarship, implies a moral principle, that it is not good to oppress people... Postmodernists, more than most people, complain about how various power structures are unfair, and they are always demanding more sensitivity, tolerance, and justice. Do they not realize that they are appealing to transcendent, authoritative moral absolutes? Do they mean what they say, holding honestly to the implications of their own theory, or is it a mask for some other agenda?[53]

As Veith also observed, it is vital for Christians to understand that language—God's language, his Word—has existed before the physical universe and is intrinsic to thought, personality, and his unfathomable being.

For gender ideologues and the various players who stand to profit from the deconstruction of sex, this battle over language is winner-takes-all. As Veith also observed, it is vital for Christians to understand that language—*God's* language, his Word—has existed before the physical universe and is intrinsic to thought, personality, and his unfathomable being. In the biblical narrative of Creation, it only takes three chapters before the twisting of language, in the mouth of the serpent (who is, according to Scripture, Satan himself), calls into question the goodness of God's creation. Satan's question echoes today: "Did God really say?" (Gen. 3:1).

Indeed, among the most pernicious aspects of twisting language is that people are required, if they want to be socially acceptable, to participate

in lies. This is not merely the modulation of language that occurs through time. It is an undoing of the very idea that the words we use refer to anything real.

Truth-Telling and the Bible

Followers of Jesus must understand the full implication of a biblical worldview. Speaking to his disciples in John 8, Jesus said that by following his teachings, "You will know the truth, and the truth will set you free" (v. 32). The word used for "truth" in this passage means, "reality." It is not inaccurate to render that passage, "You will know reality, and reality will set you free."

The attack on language as an attack on reality itself is nothing new.

The psychiatrist M. Scott Peck said, "Mental health is an ongoing process of dedication to reality at all costs."[54] Acknowledging reality is not only vital for us as individuals; it is also vital for the continuation of society. Our ability to achieve "attunement," or social connection, requires relationships based on a shared understanding of reality.

The gender ideology movement insists that for humans to be free to pursue their fullest self-interest, reality itself must be deconstructed. But reality is a stubborn thing. It is knowable. It cares little about our perceptions, if those perceptions do not line up with the way things really are. In relation to sex and gender, regardless of our linguistic machinations, our sex as male or female is stamped on nearly every cell of the body. No matter what linguistic tools are employed to achieve this end, it is a vain effort that will fail.

The attack on language as an attack on reality itself is nothing new. Genesis 11 records an account in which the people of the earth built a city called Babel with a tall tower to signify their success in making themselves into gods. It was an entirely unworkable pursuit. No human-constructed edifice could overthrow God.

Today, as educational institutions and the medical industry aim to construct a new-fangled Babel—let us call it the Tower of Gender, at the risk of sounding too dramatic—it, too, holds out the unworkable pursuit of changing one's sex. It, too, is a project of attempting to make a name for oneself and attempting to play God. And if the past is prologue, what happened to the ancient people who built a large tower is starting to happen to those building a tower of synthetic bodies via hormones and surgeries. The confusion of language leads, inevitably, to confusion in all things.



How Trans Ideology Captured Our Institutions

"See to it that no one takes you captive through hollow and deceptive philosophy, which depends on human tradition and the elemental spiritual forces of this world rather than on Christ."

—Colossians 2:8

As we noted in chapter two, gender ideology did not emerge suddenly. Gender ideology activists have been working for years to control the presentation of transgender in education and medicine. In this chapter, we will focus on both issues, beginning with the medicalization of gender identity issues.

Gender Ideology and the Medical Community

As we will see, committees that establish standards for transgender medicine at the American Medical Association, the American Academy of Pediatrics, and the Endocrine Society have attempted to transform the debate by deeming it "medically necessary" for transgender patients—even minors—to undergo treatments with puberty-blockers, cross-sex hormones, and surgeries until they achieve "comfort" with their gender identity. Quotation

marks around the terms "medically necessary" and "comfort" are not scare quotes. These terms are used in the Standards of Care developed for the treatment of patients experiencing gender confusion. Medical necessity is an important designation. Insurance companies must cover such procedures. Medicare and medicaid must cover them, using taxpayer dollars. If transgender medicine is not deemed medically necessary, few people will be able to afford it, and the massive profits anticipated by the medical-industrial complex will evaporate.

In countries such as Finland (where much of transgender medicine was pioneered), the medical community has backed away from drugs and surgery as the primary treatment options and recommended psychological counseling instead.[55] The financial toll may have been an underlying cause of the decision, but the expressed reasoning is that gender dysphoria is a disease of the mind, not of the body. In the United States, however, gender ideology activists have dominated the discussion, leaving medical providers with few options if they want to properly treat those struggling with gender identity disorders.

An international group of doctors organized as the Society for Evidence-Based Gender Medicine (SOGM), citing admissions from medical associations themselves, says that gender ideology activists have so thoroughly dominated the discussion that alternative views are not permitted. There are no debates. Transgender Standards of Care, they say, are designed by people who always and only support one position, that ethical "gender-affirming care" must encourage adults and minors to socially and medically "transition" to their preferred gender.[56]

One might say that the scientific process involves the intentional pursuit of failure for the sake of knowledge.

In short, transgender medicine has become politicized. Sadly, this is common in many areas of science and medicine. Activists draw conclusions that are to their liking and then publicly promote a particular point of view as being the "scientific consensus." "Trust the science," they say. Those who take issue with their interpretation are called "science-deniers."

Our view is that everyone loses when politicians and activists attempt to force a consensus as a means of achieving desired policy outcomes. It is important to acknowledge that scientific discovery is a human enterprise and, thus, fallible. For example, in 2011, researchers at Bayer looked at sixty-seven recent drug discovery projects and found that 75 percent could not be replicated in their in-house laboratories. Only 11 percent of preclinical cancer research reports studied by reviewers could be validated.[57]

It is not that failure in science is bad. Indeed, failure is one of the things that makes science valuable. The best scientific research takes place when researchers develop a hypothesis and then work to disprove it. Only when efforts to disprove it have failed is it tentatively accepted. One might say that the scientific process involves the intentional pursuit of failure for the sake of knowledge.

The existence of politicized science does not mean we ought to ignore scientific studies. Rather, we ought to understand what science is and does, what its underlying assumptions are, and how to keep it from falling victim to political malpractice. This means we must carefully and compassionately explore how transgender medicine turned the gender ideology debate into a promotion of a pharmaceutical and surgical approach.

The Politicization of Standards of Care

Even smart medical professionals cannot know everything about every malady. To give guidance on treatment options, Standards of Care are developed by committees of people in the medical industry. These standards are designed to both guide the treatment of patients and to provide a level of protection from legal liability. If taken to court, doctors can defend themselves by arguing that they were following the standards that represent the best practices recommended by experts.

Standards of Care are a double-edged sword, however. Reasonable doctors may disagree with the recommended standards for a variety of reasons. But if the standards are politically derived, this can put them in a precarious position. Say a doctor thinks that counseling, rather than pharmaceuticals and surgery, ought to be pursued for a teenager diagnosed with gender dysphoria. If the patient or the patient's parents are unhappy with the diagnosis, or if the patient subsequently engages in self-harm, would the doctor be legally liable for not following the recommended Standards of Care? Would that doctor face censure from medical associations that have developed those recommendations? Are they merely "recommendations" when they carry the threat of legal liability, loss of licensure, or public censure?

These are the open questions surrounding care for people experiencing gender dysphoria. The Standards of Care themselves insist that the proper term for such treatment is "gender-affirming." This is a rhetorical move, not a medical one. It makes it seem unreasonable for medical professionals to reach any other conclusion than that a patient's subjective experience of gender must be affirmed by moving them toward whatever medical remedy is necessary to make them feel comfortable.

A similar manufacturing of consensus happened with opioids. Pushed by the pharmaceutical industry, Standards of Care were developed to treat

pain itself as a disease. We now know that the easy availability and presumed safeness of opioids led many doctors to write prescriptions for painkillers rather than pursue other pain management solutions such as physical therapy that are more expensive and time-consuming. It is hard to hold doctors accountable for this. Unless they were wantonly irresponsible, it is very difficult to prove that their prescribing habits violated the Standards of Care.

This difference between prescribing opioids and transgender medicine is that if activists have their way, doctors who *fail* to follow the transition regimen with patients could potentially open them up to claims of malpractice. The first shot has already been fired. An article in the *City University of New York Law Review* calls on the New York State Assembly to give trans adults the right to sue doctors who denied them "gender affirming care" as youths.[58] The article claims that doctors have a "duty" to educate "unsupportive parents" about the "medical consensus" that transitioning is the "only effective treatment."[59]

Because of the rapidly growing number of people claiming gender dysphoria, every general practitioner in America will sooner or later face this issue with patients.

Later in this chapter, we will discuss where the transgender medicine Standards of Care originated. Being charitable, we can say that the committees that developed them started with a concern that LGBTQ-identifying people were not receiving adequate healthcare either because of discrimination or because of embarrassment about the medical implications of their sexual behavior.

Starting in the early 2000s, gender ideology activists began working to ensure that one—and only one—treatment path for gender dysphoria would be considered "gender-affirming" and that such care is "medically necessary."[60] The World Professional Association for Transgender Health (WPATH) Standards of Care for the Health of Transgender and Gender Diverse People, Version 8 is a forty-eight-page document instructing medical providers to interact with gender-questioning patients in accordance with their preferred gender. Then, and the authors state this repeatedly and leave no doubt as to their intentions, it is "recommended" that doctors prescribe medical interventions to the comfort level of patients.

The authors say, "To conclude, although the existing samples reported on relatively small groups of youth (e.g., n = 22-101 per study) and the time to follow-up varied across studies (6 months—7 years), this emerging evidence base indicates a general improvement in the lives of transgender adolescents who, following careful assessment, receive medically necessary gender-affirming medical treatment."[61]

It is important to understand what is being said here. The authors admit that there is very little evidence for their approach or for its long-term efficacy. Yet they insist that medical treatment is necessary.

To foster an impression that their recommended approach to transgender medicine is based on evidence, the authors of the transgender medicine Standards of Care publish a journal called the *International Journal of Transgenderism*. The journal's description asserts that until now, the lack of evidence for their point of view was the result of "subjugation" and "oppression" rather than any inherent flaw in their approach to the issue.[62]

So, what do the transgender medicine Standards of Care say? We have included a link so you can read the document and see whether our conclusions are warranted. The natural outcome of "gender-affirming care," according to these Standards of Care, is pharmaceutical interventions such as puberty-blockers and cross-sex hormones, as well as surgeries until the patient becomes "comfortable" with the relationship between their sex and gender. The only ways "gender-affirming" treatment would not become medicalized would be (1) if the doctor interrupts it (a risky career move that could lead to liability exposure), (2) if the patient interrupts the treatment (unlikely, given that people generally trust their medical providers, desire relief, and take comfort in the possibility that their dysphoria can be resolved medically), or (3) in the case of patients who are minors, if a parent interrupts the treatment (also unlikely, given the fear of social sanction or even the possibility that their refusal would be seen as abuse).

What happens when a treatment protocol such as that governing gender dysphoria becomes politicized?

Because of the rapidly growing number of people claiming gender dysphoria, every general practitioner in America will sooner or later face this issue with patients. Again, we say "in America" because the American approach to transgender medicine is quite unique. In parts of the world where sick people have a hard time getting access to basic life-saving healthcare, treating gender dysphoria is not a priority. In other parts of the world, such as Finland and the United Kingdom, the medical community has backtracked on the medicalization of gender dysphoria, especially with minors.

What happens when a treatment protocol such as that governing gender dysphoria becomes politicized? The experience of respected figures in the psychological field such as J. Michael Bailey, Kenneth Zucker, and James Caspian is instructive. All have borne the wrath of gender ideology activists. Within the last several years, each of these professionals have had their reputations tarnished, their families harassed and doxxed, their

research and scholarship misrepresented, and their clinics shut down. An example of the blatant politicization of transgender care is that of the American Academy of Pediatrics (AAP), which was heavily influenced by gender ideology activists when they published their 2016 guidelines on care for children who identify as the opposite sex.[63]

All have borne the wrath of gender ideology activists.

America's largest LGBTQ rights group, the Human Rights Campaign, took a leading role in co-authoring the AAP's professional guidelines on care for transgender-identifying children. In fact, the lead author of those guidelines was a twenty-five-year-old trans-identified female who is not a doctor. Out of the twelve authors whose names appeared on the official guidelines, only five were physicians. Though sixty-six thousand pediatricians are members of the AAP, less than thirty people designed the guidelines for transgender care, according to Dr. Marian Rutigliano, an internal medicine doctor from Baltimore and an expert in toxic chemicals. One of the contributors to the guidelines included a physician who was the director of a transgender health clinic at which 100 percent of the children who came in were considered "appropriate for transition."

A similar ideological takeover happened within the Endocrine Society. In the late 2000s, Dr. Quentin Van Meter, a pediatric endocrinologist from Atlanta and an outspoken critic of experimental medicalization in the treatment of gender dysphoria, recalled hearing a presentation by Dr. Norman Spack. At the combined gathering of the European Pediatric Endocrine Society and the American Pediatric Endocrine Society, Dr. Van Meter was appalled by what he heard Spack call "solid science."

"There was no 'solid science' but it was not in a forum where I was comfortable raising my hand and saying, 'Excuse me, but where did you make up all this crap?' It wasn't my modus operandi and I just thought 'Well, this is a crazy person, this isn't going anywhere," Van Meter told The Christian Post in 2018.[64]

Little did he know then that Spack—who opened the first ever U.S. pediatric gender clinic in Boston in 2007—would be among those who would engineer revisions to official guidelines for the Endocrine Society regarding gender dysphoria in children. These new professional directives were a game-changer. "When the 2009 guidelines were published they were astonishingly devoid of science. They were mostly recommended on hopeful thinking," Van Meter said.

In subsequent years, the guidelines have become increasingly medicalized. The Endocrine Society's guidelines were revised again in 2017 and became even more oriented around prioritizing medicalized gender

transition than the 2009 version. They argued for starting patients on cross-sex hormones earlier while minimizing the need for a psychological evaluation of the child. In fact, Van Meter explained, the guidelines began urging the psychological training of parents to accept the experimental medical transition as the route to a new destiny for their child.

The Ideological Takeover of Schools

Companies that make puberty-blockers and cross-sex synthetic hormones and medical providers offering surgical services stand to make a great deal of money from current trends. But this will not happen without customers. To accept the medicalization of gender identity struggles, impressionable minds must be convinced that gender is at the core of their identity struggles and that medicine can successfully turn them from being a boy to a girl, or vice versa. Ground zero for this unprecedented social experiment is the education system.

To accept the medicalization of gender identity struggles, impressionable minds must be convinced that gender is at the core of their identity struggles and that medicine can successfully turn them from being a boy to a girl, or vice versa. Ground zero for this unprecedented social experiment is the education system.

As of this writing, in early 2023, parents have been awakening to the reality that gender ideology has become commonplace in schools. Just as with dominant medical associations, activists have asserted control over teacher unions with the goal of mandating gender ideology in the classroom.

Abigail Shrier documents in *Irreversible Damage* that in January 2019, the policy wing of the California Teachers Association met to decide on a number of matters, including New Business Item #6/19-12, which was a proposal to allow trans-identified minor students to leave campus in order to obtain hormones without parental permission. Delegates approved the measure. A year later, the CTA's Civil Rights in Education Subcommittee went so far as to move to create "school-based health care clinics" that would provide "cisgender, transgender and non-binary youth equal and confidential access to a broad range of physical, mental and behavioral services."[65]

As egregious as these policies and proposals are in terms of violating the parent-child relationship, most disturbing are doubts sown into the minds of students with cult-like indoctrination at the very age when their cognitive faculties are learning how to test reality.

Shrier continues:

> In schools across America, kindergarteners are taught that biological sex and gender very often come apart; one has no essential connection to the other. There are some people for whom gender identity aligns perfectly with the sex they were assigned at birth: "cisgender" they are called—meaning "on this side of gender," coined to be the definitional opposite of "transgender," meaning "across from gender." As it is presented in schools, "cisgender" often seems to be a null set. Faced with a heaping buffet of gender identities to choose from, it's hard to imagine everyone isn't at least a little bit something. Girls who like math, or sports, or are logical; boys who sing, or act, or like to draw are all "gender nonconforming." They may have turned up at school as a "girl who excels at math" or "boy with vocal talent," but they leave rebranded as "a person whose behaviors or gender expression falls outside what is generally considered typical for their assigned sex at birth."[66]

In many schools, what used to be called Gay-Straight Alliance clubs have morphed into Gender and Sexuality Alliance student groups. Students struggling with their gender identity are encouraged to join so that they can be affirmed in their struggles. In addition to extracurricular groups, teachers in many places are instructed to daily or weekly ask students about their gender identity and to state their preferred pronouns.

However silly all this might seem to average people, activists are completely serious about the ideology they espouse. An infamous flier created by the group Trans Student Educational Resources (TSER), shows a cartoon unicorn called the "Gender Unicorn" that purports to redefine what human beings are while employing genderist euphemisms and phrases. Emerging from this unicorn's head is a thought bubble containing a rainbow that is said to represent gender identity, though that is circularly defined as whatever gender with which a person might identify. The unicorn is shown having two hearts, presumably representing the various emotional attractions to men, women, or "other genders." In the cartoon unicorn's crotch area is a double helix of a DNA strand, which represents the creature's "sex assigned at birth," according to the document, which may be male, female, or "other, intersex."[67]

Sex, of course, is not "assigned" by any doctor or anyone else; it is stamped in the DNA from the moment of fertilization.

Sex, of course, is not "assigned" by any doctor or anyone else; it is stamped in the DNA from the moment of fertilization. Regarding "intersex,"

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it is not surprising that it is listed as a kind of third sex when it is not. It is often used by trans activists to cast doubt on the dimorphous nature of human sexuality.

"Intersex people exist!" is an argument often used by gender ideology activists to trump all other arguments. In the way it is used, this argument is false. The scientific truth is that a tiny percentage of the human population may have a rare chromosomal configuration that is neither XX nor XY. Klinefelter's and Turner Syndrome are two examples of these genetic anomalies. These are often called "disorders of sexual development" (DSDs) or "intersex" conditions. Every person who is born with a DSD, which may or may not manifest in an unusual appearance of one's secondary sex characteristics, is always either male or female. There are only eggs and sperm; there is no third gamete, no third sex. But this does not stop gender ideology activists from conflating DSDs with "gender identity," the latter of which is entirely a self-declared identity construct and not genetic.

Moreover, the groups that represent people with intersex conditions have objected to the co-opting of intersex persons by the gender ideology agenda. The Intersex Society of North American has stated that they are not "not seeking a genderless society or to label themselves as a member of a third gender class."[68]

Even as gender ideologues conflate two unrelated ideas under the umbrella of gender diversity, gender identity activists go further, declaring that one's "gender" is a phenomenon that occurs from within themselves and that it can only be known by the sovereign Self.

As Mary Rice Hasson and Teresa Farnan write in their book *Get Out Now: Why You Should Pull Your Child from Public School Before It's Too Late*, activists bent on rejecting reality are overhauling classroom instruction, moving from education to indoctrination. Citing a 2017 report from a coalition of influential LGBTQ activist groups and their allies in the National Education Association, the authors point out that the organizations have defined "transgender person" as those "whose sex assigned at birth is different from the gender they know they are on the inside."[69]

The reality is that nearly every cell in the body is male or female. Psychology cannot change this. Yet gender ideologues persist in creating a fiction that causes children to question the very nature of reality.

The result of this ideological crusade is that the education system, and increasingly government bureaucracies, will no longer take account of biological sex, an existential reality in the life of every person. As we saw in an earlier chapter, the gender ideology debate has created a war on language itself, using words to uncouple personal psychological states from

the nature of reality. The reality is that nearly every cell in the body is male or female. Psychology cannot change this. Yet gender ideologues persist in creating a fiction that causes children to question the very nature of reality.

LGBT Activism, Reuters, and the Dentons Document

A particularly illuminating moment occurred regarding the strategy of gender activists when a document was shared with journalist James Kirkup of *The Spectator* in 2019, from Dentons (which claims to be the largest law firm in the world); the Thomson Reuters Foundation; and the International Lesbian, Gay, Bisexual, Transgender, Queer and Intersex Youth & Student Organization.[70]

The document, titled "Only Adults? Good Practices in Legal Gender Recognition for Youth," exposed the tactics that gender ideology activists use to accomplish their policy aims, including how government entities should override parental rights so they no longer have legal control over their children on issues pertaining to gender.[71]

We believe the truth will ultimately prevail. But truth must be fought for.

Although both Dentons and the Thomson Reuters Foundation noted that the document does not necessarily reflect their viewpoints, it nevertheless advises that "states should take action against parents who are obstructing the free development of a young trans person's identity in refusing to give parental authorization when required."

The document also urged gender ideology activist groups to wed themselves to politically popular initiatives, such as marriage equality bills, which provided a "veil of protection," particularly in countries "where marriage equality was strongly supported, but gender identity remained a more difficult issue to win public support for."

Given the pervasiveness of transgender messaging in the media and social media as well as in the medical community and educational system, it has become increasingly difficult to imagine that things could ever change. It feels like medical experimentation on confused children will only continue to grow and children struggling with their gender identity will continue to be further confused by the messaging they receive from trusted authorities.

We believe that the truth will ultimately prevail, but we also need to contend for it in the public domain. Part of the fight is understanding the misleading and underhanded nature of the gender identity agenda. We fight with statistics and stories. For believers, though, it is also important to understand why we believe what we believe about sexuality and gender. For this, we need to turn our attention to how a biblical worldview brings clarity with these confusing issues.

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CHAPTER 5

Transgender Ideology and a Biblical Worldview

"Male and female he created them."
—Genesis 1:27

The horrors we have documented in this book—from the consequences of experimental medicalization to disfiguring surgical operations, as well as the distortions of language and institutional takeovers that provoke them—are symptoms of a deeper problem: we have lost sight of truth. The only way to get at the truth is to have an external point of reference. If you are navigating the open seas, you can use a compass and sextant to orient to a fixed point of reference. Without such instruments, it is easy to lose your bearings and not know the route to your destination—or even your current position.

We believe that the biblical worldview gives us a reliable fixed point of reference. Some see this as absurd, but nevertheless, we propose that a biblical view of gender and sexuality brings clarity. It shows how biology and human purpose come together. It shows us how to break free from the cycle of harm caused by sexual brokenness.

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At its essence, a biblical view of gender and sexuality is a pathway to flourishing that helps both men and women create conditions for freedom and growth.

To appreciate a biblical view of gender and sexuality, though, we need to look unflinchingly at the consequences of the sexual revolution. We then need to outline a biblically faithful understanding of gender and sexuality. We need to look at the way that departing from God's plan—what the Bible calls sin—leads us to abuse and abandon our God-given design. Then we need to take specific steps to re-calibrate the way we approach a sexually broken culture.

At its essence, a biblical view of gender and sexuality is a pathway to flourishing that helps both men and women create conditions for freedom and growth.

How We Lost our Bearings: The Sexual Revolution

Many today see their sexuality as the central aspect of their identity. They say our bodies are all we have, and our sexual impulses are our strongest biochemical reactions. Therefore, sexual expression is the key to authenticity.

People who hold this belief often turn to sources such as Sigmund Freud. In 1905, the Austrian psychoanalyst published a book called *Three Essays on the Theory of Sexuality*. Freud outlined what he saw as the stages of sexual development in humans and asserted that sex is basic to humanity's needs and desires.

Margaret Sanger, the "mother of birth control" and the first president of Planned Parenthood, shared Freud's attitude. Sanger believed that the relationship between sex and childbearing, rather than being a societally sustaining aspect of God's design, was an evolutionary flaw that prevented people from experiencing the freedom to have sex with whomever they want whenever they want.

Today, based on the teachings of Freud and Sanger, it is widely believed that suppressing sexual desire is psychologically harmful. This view flowered most notoriously in the research of Alfred Kinsey, who issued two reports, *Sexual Behavior in the Human Male* (1948) and *Sexual Behavior in the Human Female* (1953), which challenged traditional views on sex and marriage. Kinsey's seemingly scientific reports, though now known to have been based on faulty and fraudulent research, had a tremendous impact.[72]

To those convinced of Freud's, Sangers', and Kinsey's arguments, restraints on sexual expression make people unhealthy, unhappy, and mean.

The fallout of the sexual revolution has been disastrous. Women experience unprecedented levels of abuse. The family has broken down. People are lonelier, unhappier, and more sexually unfulfilled than ever. Pornography has sexualized the relationship between men and women in an unnatural way, warping their ability to form long-lasting relationships.[73] What do we have to lose by reexamining a biblical approach?

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A Biblically Faithful Understanding of Gender and Sexuality

At the core of the Bible's message is that we humans have both bodies and souls and that our bodies and souls interact with one another in a nuanced and beautiful way. Among the implications of a biblical worldview are the following:

- Humans are made in the image of God. We have each been given a conscience, mind, soul, and the power to create and relate in our domain of influence.

- "Male" and "female" name basic physical and spiritual categories created by God. Our gender is not a "position on the dial" we choose. Masculinity and femininity are present in our genetic makeup and in our souls.

- When we depart from God's design, our understanding of gender and sexuality is warped in a way that breaks down individuals and societies.

- Within the created order, humans display great diversity. This diversity is good and should not be repressed or ignored. We must live out our maleness or femaleness with wisdom based on aspects of gender found in Scripture, not based on cultural stereotypes.

- Scripture gives wise guidance about how God's categories of male and female give us confidence in the beauty and practical living-out of our design as image-bearers of God.

Gnosticism's Distortion of Gender and Sexuality

As we have seen in previous chapters, gender ideology makes an artificial distinction between gender and sexuality. Our sexuality is the biological sex with which we are born. Gender is our self-perception. What happens with our bodies is of secondary importance. What really matters is our self-perceived gender.

One reason the faith community has found itself unable to grapple effectively with gender ideology is that at heart, many believers actually think that our bodies are of secondary importance. The soul is what really matters, they assert. This is not a biblical view but one based on an ancient heresy called Gnosticism.

Renowned Anglican theologian N.T. Wright says that transgenderism is a form of this ancient heresy. "The Gnostic, one who 'knows,' has discovered the secret of 'who I really am,' behind the deceptive outward appearance," he opined in an August 2017 letter to the editor of the *Times of London*.[74] He continued, "This involves denying the goodness, or even the ultimate reality, of the natural world. Nature, however, tends to strike back, with the likely victims in this case being vulnerable and impressionable youngsters who, as confused adults, will pay the price for their elders' fashionable fantasies."[75]

The Bible rejects the gnostic idea that our bodies are of secondary importance. The apostle Paul speaks of the importance of the human body, even in its fallen state, never rejecting the body as irredeemably bad as the gnostics of his era did. Writing to the church in Philippi, he explains that Christ has the power to bring everything under his control and will "transform our lowly bodies so that they will be like his glorious body" (Phil. 3:21). Similarly, Paul, while in Corinth, wrote to the Romans of our human condition as believers in Jesus, groaning inwardly "as we wait eagerly for adoption to sonship, the redemption of our bodies" (Rom. 8:23).

The Scripture places an unmistakable emphasis on the body, most notably through the incarnation of Jesus, in which God himself put on flesh and dwelt with us.

The Scripture places an unmistakable emphasis on the body, most notably through the incarnation of Jesus, in which God himself put on flesh and dwelt with us (see John 1). Acknowledging the importance of the body allows us to consider anew the relationship between the biblical claims about maleness and femaleness and the extensive medical and psychological research on differences between the two. Authors like Leonard Sax, a medical doctor and psychologist who does not claim to be a Christian, have blown the whistle on the politically correct redefining

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of gender. Sax believes that the rise of neuroticism and anxiety among young adults is, at least in part, the result of our culture's mixed messages about gender. Boys and girls are, indeed, different, he says, and ignoring the difference is a big mistake.[76]

Among other things, Dr. Sax presents evidence from multiple studies that brain tissue is "intrinsically different" in males and females.[77] This leads to significant differences in what men and women focus on, how we process feelings, and how we approach risk. Gender differences are present from birth and are most pronounced in childhood.[78] They affect how boys and girls live, learn, and make friends. And surprisingly, the differences persist even among boys who are more effeminate and girls who are more tomboyish. Dr. Sax says, "Tomboys have more in common with very feminine girls than they have with boys, at least when it comes to how they see the world."[79]

Sax believes we will all be better off if we work with children's natures as boys and girls rather than minimizing them because "human nature is gendered to the core."[80] Medical doctors Joe McIlhaney Jr. and Freda McKissic Bush agree: "We all lose when an entire generation grows up in a fictitious world where truth [about gender] is suppressed and health sacrificed."[81]

So, what does the Bible say about gender and sexuality? Let us go back to the very beginning, the first two chapters of the book of Genesis.

Gender and Sexuality in Genesis 1-2

If you mess up the first few lines of code in a computer program, the program will not work properly no matter how many additional lines of code you write. Genesis 1 and 2 offer a kind of code explaining our design and purpose as humans. In the biblical code, being male and female is central to the narrative of the rest of Scripture.

The biblical instruction about gender and sexuality starts with the claim that humans were specifically designed to bear God's image. Genesis 1:26 says, "Then God said, 'Let us make mankind in our image, in our likeness." Together, the Hebrew words for image and likeness make it clear that God intentionally designed humans to bear a striking resemblance to him.

In Genesis 1:27, the text expands on the point, noting that God created humans in his image as male (*zakar*—masculine) and female (*neqebah*—feminine). These terms are both physical and psychological. Males and females are different in a way that creates synergy, bringing out the best of each. When it comes to male and female humans, one plus one equals one, a kind of oneness that displays God's image to the world.

The nature of this oneness is made evident in Genesis 2:18, when God says about the man, "I will make a helper suitable for him." The term "helper suitable" has, unfortunately, been used to imply that women are inferior to men. The text does not support this usage. The term "suitable" (from the Hebrew word *neged*) literally means "in the sight of, or opposite to." The term does not imply "inferior to."

Just as two pitches of a roof lean on one another and create strength, the unity between opposites such as male and female (as well as other opposites listed in the creation narrative, such as light and dark, day and night, the sea and the land) display the strength of God's design and bring it to completion.

The term "helper" (from the Hebrew word *ezer*) is also interesting. This Hebrew word occurs in many places in the Old Testament and nearly always refers to God as our helper. For example, Exodus 18:4 says, "My father's God was my helper." And Psalm 33:20 says, "for the LORD he is our help and our shield."

Of course, this does not mean women are more like God than men. Rather, it means that women and men were designed by God to harmonize in a creative tension that enables a rich union of protection, assistance, and productivity. Just as two pitches of a roof lean on one another and create strength, the unity between opposites such as male and female (as well as other opposites listed in the creation narrative, such as light and dark, day and night, the sea and the land) display the strength of God's design and bring it to completion. Together, in marriage, the man and the woman become "one flesh" (literally, "to flesh, one").

Jesus affirmed this teaching: "'Haven't you read,' he replied, 'that at the beginning the Creator 'made them male and female,' and said, 'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh'? So they are no longer two, but one flesh. Therefore what God has joined together, let no one separate" (Matt. 19:4-6).

In his writings, the apostle Paul brings out the spiritual aspect of this one-flesh-ness: the marital relationship between the man and woman is a picture of Christ and the church. "'For this reason a man will leave his father and mother and be united to his wife, and the two will become one flesh.' This is a profound mystery—but I am talking about Christ and the church" (Eph. 5:31-32).

Christ sacrificially protects and sanctifies the Church. He is a servant-leader. The Church, in turn, honors Christ by fulfilling its potential as a unified body bringing blessing to the nations. Of course, sin mars the

Church's ability to do this. But the model remains. Your sexuality is not just about you. It is about everything. To abuse or abandon it is to add jarring, out-of-tune notes to the beautiful symphony God is writing.

To summarize, maleness and femaleness are central to the Bible's narrative. They are not an afterthought.

Aspects of Biblical Masculinity and Femininity

Rather than filter the Bible's teaching about maleness and femaleness through our cultural stereotypes, we think it is more helpful to consider the *aspects* of masculinity and femininity presented in Scripture. An aspect is a feature of something. What are the biblical features of masculinity and femininity? We have found the writings of Father Bill Mouser and Barbara Mouser to be a helpful starting point.[82] Their work is both theological and practical, helping both women and men find a deep sense of purpose in their design.

When one reads Scripture looking for biblical aspects rather than cultural stereotypes, it becomes clear that men and women are different, harmoniously so, in their relationship toward creation, one another, common threats, and the community.

Toward creation. According to the Genesis account, God told the man, before the account of woman's creation, to "fill the earth and subdue it" (Gen. 1:28). The word "subdue" connotes "taking responsibility for." It is part of a man's design to take initiative and be productive. God designed men to take ground, make progress, and enlarge their realm of responsibility.

While in Hebrew, the word "man" (adam) means "out of the ground," the word "woman" (ishshah) means "opposite of or of man." With the marital relationship being the prototype, the biblical teaching is that woman was created to represent the interests of God-the-King by working alongside her husband to optimize the family's value to the community as well as its economic well-being. Jewish families still celebrate these different yet complementary aspects each Sabbath, as husbands sing a portion of Proverbs 31 to their wives, celebrating their ingenuity, hard work, and moral excellence.

That men and women have different, yet harmonious roles in relating to creation makes sense of some of the differences that researchers have noted between males and females, including the fact that boys are more likely to enjoy risk-taking for its own sake.[83] Also, consider the design of the eye. Girls have more of the kinds of cells (cones) in their eyes that focus on color and texture, whereas boys have more cells (rods) that focus on location, direction, and speed.[84]

Boys are inclined toward moving *out* to create opportunity. Girls are inclined toward moving *in* to create meaning.

Toward each other. In Genesis 2, God put Adam in the Garden of Eden to "work it and take care of it" (Gen. 2:15). Not only was Adam to take responsibility by taming more of the earth, but he was also to exercise watch care over what he brought into his realm of responsibility. God designed men to nurture the things and people in their realm and bring them to productivity.

Various academic studies show that men and women approach productivity differently. A study of men and women in the workplace showed that men valued pay, benefits, power, authority, and status more than women did and that women valued friends and relationships, recognition and respect, communication, fairness and equity, collaboration, and family and home.[85] Men tend to focus on process and results; women tend to focus more on well-being.

These differences are not just a matter of socialization. Male and female brains are wired differently.

These differences are not just a matter of socialization. Male and female brains are wired differently. The wiring in a typical male brain runs between the front and back of either the left or right hemisphere; whereas in a typical female brain, it runs from side to side through both hemispheres. For women, there is a constant interplay between the left hemisphere, which is related to thinking tasks, and the right hemisphere, which is related to intuition.[86]

Imagine the two sides of the brain being two banks of a river. Women build bridges between the two banks and move easily back and forth. Men race up and down one side of the river, crossing only to race up and down the other side. At the risk of oversimplifying brain function, a man either works with tools or relates to others. Women can work with tools and relate to others at the same time. Given the brain differences between men and women, then, it should be unsurprising that women are far better at multitasking, as many studies have shown.[87]

Toward our common threats. In Genesis 3, God pronounced a curse against the serpent, that "he [man] will crush your head [the serpent]" (Gen. 3:15). Christians believe the man mentioned here to be Christ the Messiah, representing all the male offspring *as* a group. Men were designed to be "Satan crushers."

To be clear, men do not save themselves from their sins. But men *have* been created by God with a desire to fight for truth and stand against evil and injustice. We can see this in the very different way that boys and girls play.[88] Boys and girls feel pain differently, with males in general being more tolerant of pain than females.

Whereas men seem more inclined to aggression, women are inclined to breathe life into others. Among other things, girls hear better than boys;[89] women are better than men at interpreting facial expressions;[90] and girls are better able to talk about their feelings.[91] Even after decades of developing "gender neutral" toys and editorializing about how boys and girls are basically the same, clear distinctions persist between boys and girls in their type of play (boys prefer action; girls prefer conversation) and their choice of toys (boys prefer toys that project power, while girls prefer toys that facilitate relationship).[92]

Toward the community. The book of Proverbs was written in a fatherly way, admonishing sons to be wise. A sage applies God's wisdom in everyday circumstances. The sage is no guru hiding out on a mountaintop: in Old Testament times, a leader was seen to be wise "in the city gates," which meant that he was making judgments publicly, where the wisdom or foolishness of his decisions would be obvious to all.

In Proverbs, the pursuit of wisdom is a romance. Wisdom and folly are personified as women. Lady wisdom instructs: "'Leave your simple ways and you will live; walk in the ways of insight'" (Prov. 9:6). Lady folly seduces: "Stolen water is sweet; food eaten in secret is delicious!" (Prov. 9:17).

Both women and men can be wise, but they are differently so.

Both women and men can be wise, but they are differently so. In a recent study of wisdom in hundreds of men and women, women scored higher on compassion-related items and on self-reflection, while men scored higher on cognitive-related items and emotional regulation.[93]

How Sin Affects Our Design as Male and Female

A biblical perspective on how men and women relate differently to creation, to one another, to threats, and to the community strongly correlates with what we know about sex differences from the voluminous literature on the subject.

But a biblical perspective also tells us that we have a condition—sin—that causes both men and women to abuse or abandon their God-given design. This is most clearly seen in the way the harmonious relationship between men and women has become broken through the sexual revolution. Without the guidance of God's love, we are left with a counterfeit sexuality based on immorality (from the Greek word *porneia*, "which includes every kind of sexual sin"), impurity (from the Greek word *akatharsia*, which refers to filth, crudeness, and perversion), and covetousness (self-gratification).[94]

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Theologian Albert Wolters points out that because of sin, the good structure of sex has been diverted to follow a destructive course. We ought "both to affirm human sexuality wholeheartedly and to oppose its perversions with equal conviction and vigor," he says.[95]

According to Richard Land, the former head of the Ethics & Religious Liberty Commission for the Southern Baptist Convention and the executive editor of *The Christian Post*, transgender ideology constitutes the ultimate rebellion against God and against the scientific truth of male and female. The idea that a person can self-select his or her sex "is the ultimate attempt to become one's own god. The religion of America today is narcissism. We want to define our own version of truth of who we are regardless of anything else." He added: "The sacred trinity of modern man is I, myself, and me. And it is only with modern science that people have the ability to claim they can change their gender and seek to do so."[96]

When it comes to dealing with threats to our well-being, God designed men to be warriors who would stand for truth and fight against evil.

This narcissism plays into the worst aspects of human nature, encouraging us to either abuse or abandon the God-given aspects of our maleness or femaleness. For example, when it comes to how we wisely engage with our community, we can abuse our design by being argumentative or manipulative. We can abandon our design by not resisting foolishness or living from feelings rather than a balance of thought and feeling.

We have also seen this in our decades of working with young men. When it comes to dealing with threats to our well-being, God designed men to be warriors who would stand for truth and fight against evil. Without a wise guiding influence, however, young men tend to swing wildly between thoughtless acts of verbal or physical aggression and complete passivity.

Can Gender and Sexuality be Redeemed?

In this chapter we have briefly examined the Bible's core aspects of gender and sexuality. The sexual revolution, which posited that humans could find their purpose by shaking off any moral restraints on sexuality, resulted in even greater sexual confusion. How can we nurture the roots of a biblical view of gender and sexuality to produce healthy fruit for ourselves and our society?

Speak the Truth and Don't Apologize

The academic literature is clear that differences between men and

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women—both physical and psychological—exist. Some think that the differences are sociological. Others say they are the product of biological evolution. But few people deny that there are substantial differences.

A biblical worldview does not just note the differences. It demonstrates that these differences enable men and women to harmonize to produce greater health, happiness, and productivity. A Christian should never apologize for holding that maleness and femaleness are basic categories of our design as humans and that they have a basis in the very purpose of our humanity.

Author Mary Eberstadt wistfully notes that failing to honor the differences has led not to a "sexual desert" but to a "sexual flood," a "torrent of poisonous imagery, beginning even in childhood, that has engulfed women and men, only to beach them eventually somewhere alone and apart, far from the reach of one another."[97]

Move Beyond Gender and Sexuality Stereotypes

As we have seen, a biblical view of gender and sex differences is both nuanced and profound. Differences between men and women are real. If we are wise enough to harmonize them, we can bring out the best in each.

by celebrating the differences between men and women as something God designed to bring harmony and blessing to the world and by rejecting cultural stereotypes that pressure young men and women who do not "fit" cultural stereotypes to think of themselves as being born in the wrong body.

But relying on cultural stereotypes creates a situation in which differences between male and female are simultaneously denied and amplified. On the one hand, gender ideologists set up stereotypes only to knock them down as "proof" that maleness and femaleness are merely behaviors on a spectrum that has nothing to do with God-designed differences. At the same time, we see a proliferation of amplified stereotypes in the form of drag queen performances and TikTok videos from personalities such as Dylan Mulvaney, a biological male who believes he is becoming female and produces widely viewed videos that misogynistically diminish womanhood as if it were a comical parody.

A biblical worldview can help break the stranglehold of this confusion in two ways: by celebrating the differences between men and women as something God designed to bring harmony and blessing to the world and by rejecting cultural stereotypes that pressure young men and women

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who do not "fit" cultural stereotypes to think of themselves as being born in the wrong body.

According to Dr. Kathy Koch, president of Celebrate Kids, rescue from cultural stereotypes comes from a celebration, not a dismissal, of God's design. She envisions that "a man who happens to be creative, maybe more playful and spontaneous...qualities that are assumed to be female, would feel comfortable with those abilities and would be celebrated for them and not rejected for them."

John Hannigan, executive director of Celebrate Kids, adds that the fundamental question regarding masculinity and femininity is not so much about masculinity or femininity but rather: "Who did God make you to be?" "God creates all of us uniquely in his image." Says Hannigan, "Ultimately, the Lord knit us together and He formed our innermost parts in our mother's womb. He knew, He had intentionality behind it. He created us intentionally and uniquely to serve Him and the Body of Christ."[98]

This is especially important in how society defines appropriate roles for men, which, the anthropologist Margaret Mead noted, is "the central problem of every society." How is a boy to know that he is becoming a man? Is it by engaging in risk-taking behaviors such as crime or substance abuse? Is it by having sex? Healthy societies do not diminish the design of boys. Rather, they provide outlets for boys to channel their God-given design into protecting rather than preying on others, exploring and learning rather than exerting forceful control, and becoming wise rather than devious or manipulative.

Boys need to understand that experiencing emotions is not a sign of weakness or a diminishment of their manhood. As Koch notes, men have as many emotions as women but may be less adept at talking about them. For many men and boys, the only safe emotion they feel permitted to feel and express is "mad." "Isn't it interesting that so many people make a big deal out of that Jesus wept?" she said. "How sad that we have to give men permission to feel and to emote."

We envision a culture where boys and girls and men and women can explore their interests without cultural judgment or being marginalized into thinking that those interests somehow make them less male or female.

Acknowledge the Reality of Sexual Suffering

As John Stonestreet from the Colson Center for Christian Worldview notes, ideas have consequences and bad ideas have victims. The sexual revolution that was supposed to set us free to explore our individuality without moral limits has curved in on itself, creating confusion and pain.

If the church wants to be there to pick up the pieces, believers will need to become good Samaritans (see Luke 10) in understanding the suffering of sexual brokenness and pointing the way to redemption. In the case of gender identity, this could mean becoming aware of the neurological and psychological roots of sexual suffering (how our brains become conditioned to act in a certain way, deficits in relationship development, unmet needs, abuse, and neglect).

It also means learning how to apply the good news of the gospel to all kinds of brokenness, such as childhood trauma, abuse, the sabotaging of intimacy, bonding, and attachment issues.

Trust in the Reality of Redemption

As the late Lewis Smedes said, "Redemption does not turn us from sexuality; it illuminates the goodness of it."[99]

As we experience the power of God's grace and turn from sin, forgiving others and seeking forgiveness, and finding wisdom and healing from the trauma caused by the sin of others, it becomes possible to reconcile ourselves to God's good design for sexuality and experience redemption and freedom.

We may experience intimacy with our Creator in a way that heals that brokenness—including sexual brokenness—and restores us as deeply loved image-bearers of God.

In a spirit of humble repentance, we must recognize that a biblical worldview of sexuality is quite intentionally countercultural. God designed sexuality as part of his good plan for the world. In recovering God's design, we learn to see our maleness and femaleness as positive features of our design. A faithful marital relationship with the prospect of producing children rather than just being an outlet for physical urges is consistently elevated in Scripture as an illustration, even a fulfillment, of this design.[100] Such a vision elevates both marriage and singleness by showing how our deepest fulfillment is in our identity as redeemed followers of Jesus, rather than as merely sexual creatures responding to our evolutionary urges.

A biblical worldview says that we are broken people. But we are not left in our brokenness. We may experience intimacy with our Creator in a way that heals that brokenness—including sexual brokenness—and restores us as deeply loved image-bearers of God.



FAQ APPENDIX:

1. If a young person comes to me and says, "I'm transgender," what steps should I take?

The first step is to not overreact. Transgender identification is happening among youth at higher and higher percentages. It is probably *when,* not *if,* you will face this personally.

Try to put the young person at ease and make sure that they feel safe with you.

Remember that a young person who identifies as transgender may be troubled and dealing with other challenges. Also remember that the Holy Spirit is the Wonderful Counselor, and he will give you specific insights regarding each individual young person. Given that "transgender" is a bit of a catch-all term, asking questions is important. "Thank you for trusting me with this information. When you use the term 'transgender,' what does that mean?" As the conversation unfolds, it is important to emphasize to young people that there is nothing wrong with their bodies. Remember, the studies we have of young people and gender dysphoria show that only 12 to 24 percent of cases of youth-onset gender dysphoria persist into adulthood. That is why we think that psychological counseling that focuses on healing underlying issues, such as childhood trauma, is a safer—and more humane—treatment than medically altering the body to "align" it with current gender identity.

2. Is it ever a good idea to use someone's preferred pronouns or their new chosen name?

Our view is that there is a difference between the names by which people desire to be called and the pronouns used to refer to them. Names are personal references. We generally call people by the names they give us. Pronouns, on the other hand, are statements about reality. To use pronouns

that do not reflect reality is to lie. We do not see it as loving to lie with one's words. Having said that, given how messy this space can be, we do know of cases where, for example, a detransitioner said that the church conveyed to her that they would use a pronoun occasionally but that the goal was for her to be able to get to the place where she could be comfortable being referred to by pronouns that correspond with her natal sex. The church loved her during her detransition process as she psychologically reintegrated with her sexed body, which she eventually did. Use wisdom on a case-by-case basis here.

3. What is the best way to approach counseling someone who is genuinely confused, given the ideological capture of the therapy profession?

This is, no doubt, a challenge. Many therapists now adhere without question to what they call a "gender affirming" approach, which usually means treating their patient as the sex they believe themselves to be. In many states, it is technically illegal to do otherwise. Finding a counselor who recognizes the fundamental integrity of the human person as male or female can be challenging. It's important to ask substantive, point-blank questions of said counselor before booking an appointment to know how they approach these issues. When counseling a person, it is important to remember that they may, indeed, be in some very real confusion and pain. With gender ideology, however, they have almost always misidentified the root of it.

The counselor who helps us at Summit Ministries shares with our staff that a person experiencing gender dysphoria is usually dealing with deeper core issues such as trauma, anxiety, or depression. Some studies have drawn a link between transgender and traits of autism and other neurodevelopmental issues.[101] Most people, when core hurts are addressed, sense a resolution between their biological sex and their gender identity. It is worth noting that nations that pioneered gender transition medical therapy—such as Sweden, Finland, and Great Britain—have moved decisively away from such medical treatment and view psychotherapy as the first-line treatment approach.

4. Where did the transgender phenomenon come from and how did it arise with such astonishing speed?

As we saw in this book, medical and psychological counseling organizations have been swayed by a handful of activists, as well as by significant financial pressure from pharmaceutical companies and medical providers, to develop standards of care that they refer to as "gender affirming." As we explained, this means that the natural course of treatment leads from social

transition to medical procedures such as puberty blockers, cross-sex hormones, and surgery. These organizations admit that the evidence for this approach is scant. But in a culture experiencing an overwhelming social media contagion, family breakdown, and a worldview shift that focuses on a radically autonomous view of self, the real struggles of adolescents have met a perfect storm of activism and the promise of significant financial profit on the part of pharmaceutical companies and medical providers. Taken together, this has created a toxic environment in which vulnerable people are easily exploited.

5. How might you help someone understand, particularly if they are a troubled youth or young adult, that what they think is related to gender is really rooted in cultural, sex-based stereotypes?

Asking questions about gender norms in other cultures can shed light on what young people think gender actually is. It might also be helpful to explain how the term "gender" has been redefined. Explain that cultural stereotypes can be very strong but that a boy who enjoys things that many girls enjoy does not mean he is a girl, and vice versa. Unique gifting is something to be celebrated, not something leveraged to convince children that they are "damaged" and must be "treated."

6. How is gender confusion—whether gender identity disorder or the newer "gender dysphoria"—defined in the psychiatric literature, like the DSM-5? What are the diagnostic criteria?

According to the American Psychiatric Association via Psychiatry.com, the diagnostic criteria for gender dysphoria are as follows: A marked incongruence between one's experienced/expressed gender and assigned gender, of at least six months' duration, as manifested by at least two or more of the following:

- A marked incongruence between one's experienced/expressed gender and primary and/or secondary sex characteristics (or in young adolescents, the anticipated secondary sex characteristics)
- A strong desire to be rid of one's primary and/or secondary sex characteristics because of a marked incongruence with one's experienced/expressed gender (or in young adolescents, a desire to prevent the development of the anticipated secondary sex characteristics)

- A strong desire for the primary and/or secondary sex characteristics of the other gender
- A strong desire to be of the other gender (or some alternative gender different from one's assigned gender)
- A strong desire to be treated as the other gender (or some alternative gender different from one's assigned gender)
- A strong conviction that one has the typical feelings and reactions of the other gender (or some alternative gender different from one's assigned gender). The condition is associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning.

7. How did it come about that a psychological ailment like gender confusion came to be treated with hormones (and then maybe surgery) as though it is an endocrine condition?

The first well-documented case report of using a hormone blocker to halt natural puberty in a gender-confused minor patient emerged in the late 1990s in the Netherlands, the therapeutic idea being that the pubertal processes would be too traumatic to endure. The approach taken to puberty-blocking treatment became known as the "Dutch protocol," and it soon spread around the world as the preferred treatment protocol for gender dysphoria. In the U.S, the Endocrine Society revised its professional guidelines in 2009 in favor of this approach. In 2017, the Endocrine Society issued another iteration of its guidelines which even more strongly favored this approach, going so far as to encourage mental health counseling by therapists who are willing to move patients toward hormone treatments and surgery

8. Is it true that if we don't immediately affirm young people who identify as transgender that they are more likely to commit suicide?

The best evidence available suggests that this is not true. The suicide narrative that surrounds gender medicalization is among the most manipulative of devices that activists use to instill fear in parents who are already reeling in confusion about what their children are experiencing. We discussed this carefully in chapter one of this book and encourage you to re-examine that chapter and pray for wisdom in dealing with this issue. Reports of anxiety, depression, and thoughts of self-harm should always be taken seriously.

9. Does gender confusion have anything to do with same-sex attraction?

Many tend to conflate sexual attractions with gender confusion, given how the people who experience such things are represented by closely-grouped-together letters in the LGBTQ+ acronym. But sexual attraction oriented toward a person of the same sex is a notably different psychological phenomenon than the belief that one is the opposite sex or "born in the wrong body." Same-sex attractions/inclinations and gender confusion are both conditions rooted in human fallenness, just as are the temptation to commit adultery or use pornography. A resource we've found helpful is Christopher Yuan's book *Holy Sexuality and the Gospel*, which guides readers toward understanding their primary identity as being a redeemed follower of Christ, rather than in their sexuality. God's design for sexuality is not to deny humans' sexual impulses but to channel them in a healthy, productive way through man/woman, lifelong marriage. For the purposes of this book, we want to make it clear that there is a difference between psychological experiences and sexual acts or experimental medical interventions performed on the body.

Regarding gender confusion, it is extremely important to walk patiently with people who endure this often very painful mental torment. While its causes are complex and multivariate, it is often one of several psychiatric comorbidities a person is enduring amid a larger mental health struggle.

10. What are the implications of "gender identity" for legal and civil rights protections on the basis of sex?

"Gender identity" has no concrete meaning as a matter of law, so attempts to rewrite civil rights law that is intended to protect men and women from having their rights violated essentially makes those laws meaningless. One can determine the biological sex of a person, but there is no brain imaging scan, genetic marker, or blood test to determine that "gender identity" is something human beings have.

11. What is the difference between "transsexual" and "transgender"? Is there one?

Not really. The shift from the term transsexual to transgender seems to be a rhetorical move on the part of activists to make gender dysphoria more socially acceptable. The way that gender and sexuality have been separated to mean different things is, likewise, a rhetorical move designed to create confusion about the nature of biological sex, which is genetically determined and thus immutable.

12. With regard to gender confusion, what is the role of the demonic, spiritual warfare vis-à-vis Ephesians 6?

In John Milton's *Paradise Lost*, Satan reminds his minions that God persistently brings good out of evil, and advises them on what to do when that happens:

> "Our labour must be to pervert that end,
> And out of good still to find means of evil;
> Which oft times may succeed, so as perhaps
> Shall grieve him, if I fail not, and disturb
> His inmost counsels from their destin'd aim."

The counsel of Scripture regarding spiritual warfare makes it clear that there are spiritual forces of evil that intend to twist and distort God's creation, including the human body. We do not expect people with no biblical background to understand this. They might even call it "weird" or "creepy." But most people will acknowledge that maleness and femaleness are real things, even if they reject that humans are made in God's image and given maleness and femaleness as part of this divine imprint.

When Satan (which comes from a Hebrew word meaning "adversary") shows up in Scripture, it is always to promote evil by twisting and distorting what God has made. This is why the apostle Paul says in Ephesians 6:12 that "our struggle is not against flesh and blood, but against the rulers, against the authorities, against the powers of this dark world and against the spiritual forces of evil in the heavenly realms." We want to be careful to say that when people experience gender confusion, it does not mean that they are demonically possessed. But a biblical view makes it clear that anything that distorts God's design is part of a spiritual battle, not just a physical or psychological one.

13. Is anyone truly transgender? Is there a tiny portion of the population that exists in this way?

Nobody is truly "trans" in any meaningful, ontological sense because it is impossible to be born in the wrong body, and no one can change their sex. A person may, indeed, suffer from body dysmorphia of some kind, and there are many kinds of dysmorphia, including muscle dysmorphia (a belief that one's muscles are too small) and anorexia (a distorted perception of body weight). People experiencing these things ought to be treated with the utmost care and compassion. All humans are either male or female. To be "transgender" is, at most, a self-determined identity construct based on a set of cultural, sex-based stereotypes not rooted in biology.

14. It seems like the letters in the LGBTQ+ acronym keep growing. What's coming after the normalization of transgender identities?

When a person's sexual impulses are seen as the core of their human identity, there is almost no limit to the number of categories people will develop to normalize their experiences. These categories are often contradictory to one another. Some are now identifying as "non-binary," "demisexual," "two-spirit," "genderqueer," and "pansexual," in addition to "transgender."

Humans seem to have an insatiable desire to "put themselves in boxes" to explain and justify their self-perceptions and behaviors. For instance, we know people who justify being rude or overly aggressive because of where they fit on a personality scale. When it comes to sexuality, though, this kind of explanation-as-justification can become dangerous and abusive, as with the normalization of pedophilia (sexual attraction to children). By design, queer theory and gender identity theory break down categories of male and female and put in their place a person's self-perception of gender.

15. How do we show the love of Christ in a way that welcomes people who identify as transgender while disagreeing with something that seems so fundamental to who they say they are?

Ultimately, if people are committed to the belief that their gender differs from their biological sex and are committed to compelling others to treat them that way, it is very difficult to reason with them. Christians cannot and should not force people into anything. Instead, we should embrace the hard work of loving people where they are and moving them toward a restoration of their full capacity as image-bearers of God.

Keep in mind that people who question their gender identity may very well suffer from other mental health challenges. While we do not offer counseling advice, our instinct would be to connect struggling young people with a therapist who recognizes and is willing to treat underlying issues, especially trauma caused by adverse childhood experiences. This, along with a common-sense lifestyle of healthy habits, good boundaries, a positive social context, a safe environment, consistent spiritual nurture, and limited social media, would be encouraged.



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Brandon M. Showalter is a journalist and podcaster with The Christian Post who has reported on topics of theological interest in the Church; bioethics issues such as euthanasia, assisted suicide, artificial reproductive technology, and surrogacy; and the developments of the "gender identity" movement and transgender ideology.

Brandon earned a bachelor's degree in international studies and Spanish from Bridgewater College of Virginia in 2007, a Master of Arts in human rights from The Catholic University of America in 2022, and is a fellow of the John Jay Institute for Faith, Society, & Law.



Jeff Myers, Ph.D. is president of Summit Ministries, a Colorado-based nonprofit organization that equips and supports the rising generation to embrace God's Truth and champion a biblical worldview. Summit reaches hundreds of thousands of Christians each year through worldview training events, books, curriculum, and other online resources. One of America's most respected authorities on Christian worldview, apologetics, and youth leadership development, Myers lives in Colorado Springs with his family. Myers earned his doctor of philosophy degree from the University of Denver with an emphasis in Human Communication Studies.

About The Christian Post

ChristianPost.com is the nation's most comprehensive Christian news website and was launched in March 2004, incorporated with the vision of delivering up-to-date news, information, and commentaries relevant to Christians across denominational lines.

As the flagship website of The Christian Post, Christian-Post.com has quickly grown to become a leading online Chris-tian news publication, with continuous updates throughout the day - seven days a week.

Through the website, The Christian Post presents national and international coverage of current events affecting and involving Christian leaders, church bodies, ministries, mission agencies, schools, businesses, and the general Christian public.

As a pan-denominational Christian media source, The Christian Post views all Christ-centered denominations as equal constituents of the body of Christ and does not promote or demote any Christ-centered denomination and/or congregation. The Christian Post is a member of the Evangelical Press Association and a global partner of the World Evangelical Alliance.

THE CHRISTIAN POST

About Summit Ministries

Summit Ministries exists to equip and support the rising generation to embrace God's truth and champion a biblical worldview. Summit's events and resources help students—and the parents, pastors, and teachers of students—understand what it means to incorporate faith into every aspect of life. Find out more at summit.org.

SUMMIT MINISTRIES

EXHIBIT 21

In The Matter Of:

Casey Perkins, et al. vs.

State of Montana, et al.

Randi Ettner, PhD

February 19, 2026

Lesofski Court Reporting, Inc.

7 West Sixth Avenue, Suite 2C

Helena, MT 59601

406-443-2010

Min-U-Script® with Word Index

MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, an individual, SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual, and JOHN DOE, an individual; and MISSOULA COUNTY, Plaintiffs, vs. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants. and KERRI SEEKINS-CROWE, Intervenor-Defendant.	)	Dept. 1 CAUSE NO. DV-32-2025-282

REMOTE DEPOSITION OF RANDI C. ETTNER, PhD, VIA ZOOM

On February 19, 2026, beginning at 8:55 a.m., the Zoom deposition of RANDI C. ETTNER, PhD, appearing at the instance of the Defendants, was taken at Lesofski Court Reporting, 7 West Sixth Avenue, Suite 2C, Helena, Montana, pursuant to the Montana Rules of Civil Procedure, before Cheryl Romsa, Court Reporter, Notary Public.

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Q. Where does the law bar transgender people from using restrooms and other covered facilities that correspond to their gender identity?

A. It doesn't mention transgender people specifically. But transgender people do not meet the criteria that this law specifies one must meet to be eligible to enter these spaces.

Q. So is it your understanding that the law bans transgender people from certain spaces?

A. My understanding is that transgender people, if they wanted to use these spaces, would be required to use the space that comports with the marker on their birth certificate.

Q. Let's back up for a moment. Can you define transgender people for me?

A. Transgender people? Transgender is an umbrella term that encompasses individuals who experience a discrepancy to some degree between the sex assigned at birth and their gender identity.

Q. What is the sex assigned at birth, in your opinion?

A. It's the determination made by a physician at the time of birth, typically based on an examination of external genitalia.

Q. Is sex immutable?

A. Sex is -- sex is a biological combination of several biological components.

Q. Can a person change his or her sex?

A. A person can't change their chromosomes, they can't change their gametes, but certain parts of their anatomy or function can be changed.

Q. Going to the second part of the opinion your disclosure says you will offer, that HB121 harms transgender people across Montana, what is the basis for that opinion?

A. The basis for my opinion is my own extensive work with transgender people and a review of the literature.

Q. Tell me more about your own extensive work that you believe supports this opinion.

A. I've had patients over the years who have been denied access to restrooms who have developed urinary tract infections, particularly young people, holding their urine because they're afraid to go into a restroom. They're afraid of being assaulted or they've been denied access to a restroom.

I've had people who have been fearful of going to public places because they might have to use a restroom and they fear that they'll be harassed or they'll be denied access or assaulted.

And I've had people who have -- when they've had to go

out, I've had patients who don't eat or drink to avoid having to use a restroom.

Q. And in your understanding, if you know, why would these people avoid using a restroom?

MR. VANDEGRIFF: Objection; foundation.

A. Because they've had negative experiences in the past; they've been harassed, they've been told not to enter, they've been denied access to restrooms.

Q. (By Ms. Lansing) Okay. Do you have any studies to support your opinion?

MR. VANDEGRIFF: Objection --

A. Yes.

MR. VANDEGRIFF: -- form.

You can answer.

THE WITNESS: I'm sorry.

A. Yes, I do.

Q. (By Ms. Lansing) What are those studies?

A. Price-Feeney did a study showing that youth who were unable to use restrooms that matched their gender identity reported an 85 percent incidence of depression and a 1.66 greater rate of suicide attempts.

Oh, I'm blank on the name, but it will come to me. A study was done showing that, again, people who were avoiding restrooms because they had had negative experiences were twice as likely to attempt suicide in a

year following those experiences. And I think the author of that was Landon.

In the "Pediatric Journal," Murchison documented that middle school and high school students who were denied access to restrooms that matched their gender identity disorder were at greater risk of being sexually assaulted.

And in a statewide study, Xavier found 11 percent of people didn't go to the doctor because they weren't able to safely access a restroom.

Seelman also found that adults on college campuses who were not able to use the washroom that matched their gender identity were again at greater risk for suicide attempts.

And the Williams Institute found that people who attempted to use the bathroom that matched their birth sex were more likely to be harassed and refused entry than when they attempted to use a bathroom that matched their gender identity. That same study found that 55 percent of people avoided going out, more than 50 percent avoided using a restroom even when they needed to, and 32 percent avoided eating or drinking so they wouldn't have to use a restroom.

Herman documented that 55 percent of people in that situation experienced physical problems, including dehydration, urinary tract infections, and kidney issues.

And then finally, I'll say that Hatzenbuehler found 98 articles that looked at objective measures, not self-reported measures, objective measures of outcomes when people experienced those kinds of discriminatory legal issues and were excluded, and that those outcomes included mental health deterioration, behavioral issues, worsening of CD4 counts in HIV, and more suicidal ideation.

Q. Let's break --

A. My own research -- Oh, I'm sorry.

Q. No, please go ahead.

A. My own research with colleagues published in the "International Journal of Family Medicine" demonstrated that when people fear exposure by having to use a restroom that matches their sex at birth, therefore outing them and invading their privacy, that fear of exposure resulted in a 100% increase in the prevalence of hypertension.

Q. Are you reading from anything right now?

A. No.

Q. Let's break down some of the studies you mentioned. How many people were involved in the Price-Feeney study?

A. I don't know. I would have to be looking at that study to tell you what the end was.

Q. How many people were involved in the Landon

study?

MR. VANDEGRIFF: Objection --

A. I think --

THE WITNESS: I'm sorry.

MR. VANDEGRIFF: No, go ahead, Doctor.

A. I think it was -- 17,000 people were, were involved in that study.

Q. (By Ms. Lansing) Were those all transgender individuals?

A. As far as I know. Yes.

Q. How many people were involved in the Murchison study?

MR. VANDEGRIFF: Objection; form.

A. Again, I would have to look at the study to give you an exact answer.

Q. (By Ms. Lansing) How many people were involved in the Herman study?

MR. VANDEGRIFF: Objection; form.

A. I don't know.

Q. (By Ms. Lansing) How many were involved in the Hatzenbuehler study?

MR. VANDEGRIFF: Objection; form.

A. The Hatzenbuehler study was a systematic review.

Q. (By Ms. Lansing) So it was a review of the literature rather than an independent new study; is that

right?

A. It's a systematic review. Yes. It reviews all of the literature, and then only -- There are certain criteria that the literature has to meet in order to be part of the systematic review.

Q. Your expert disclosure says you will testify that HB121, by barring transgender people from using facilities that align with their gender identity, places them at increased risk of both serious psychological and physical harm and public disclosure of private personal and medical information. What is the basis for this opinion?

A. The basis for that opinion is that when people are excluded from a restroom or one of these other sex-segregated places, they feel humiliated. It causes them anxiety. If they try to use a bathroom that's associated with their birth-assigned sex, they're often refused entry or assaulted or harassed.

And there is literature indicating -- Sari Reisner has done a lot of work documenting that these kinds of encounters can cause post-traumatic stress disorder; that it's terribly disturbing to a transgender person to not be able to use a restroom, to be told that they can't access that restroom that aligns with the way they're living their life. And it's frightening for someone who appears female to attempt to enter a male bathroom even though

their birth certificate indicates that they were assigned male at birth.

Q. Are all of the studies you're referring to regarding restrooms?

A. Yes.

MR. VANDEGRIFF: Objection; compound.

A. Restrooms and lack of rooms.

Q. (By Ms. Lansing) Are you aware of any similar studies regarding changing rooms?

A. I would equate changing rooms, I think, with lack of rooms.

Q. Okay. What about -- Are you aware of any studies that are similar regarding sleeping quarters?

MR. VANDEGRIFF: Objection; form.

A. No. I am aware only of studies that don't mention bathrooms or sleeping quarters, per se, but talk about structural stigma and its impact, how discriminatory policies would impact minorities.

Q. (By Ms. Lansing) So are the expert opinions you're offering in this case relating to restrooms?

MR. VANDEGRIFF: Objection; form.

A. Yes.

Q. (By Ms. Lansing) You mention studies. Are you aware of, are you personally aware of instances in which some of the harms you've discussed have occurred?

A. Yes.

Q. What are those instances?

A. They're instances from my clinical practice.

Q. Without going into any confidential information, at a high level, can you tell me about some of those instances?

A. Yes. One example would be a woman, a transgender woman who was married to a man, and they were both working at a well-known company, which I won't mention the name of. And no one knew that this woman was transgender, but somehow via human resources her birth name was revealed. And the women in the factory or in the facility where she worked signed a petition stating that she could not use the restroom. And when she did because she absolutely needed to, they attempted to smear feces on her.

Her husband was also harassed. The brakes -- the brake line, I think it's called, on their car was cut. They were so inundated with harassment they both developed some serious psychological issues, including agoraphobia. The transgender woman never leaves her house. Her husband pulled all the hair out of his head and lost 50 pounds in a month. They were really subjected to some serious assaults and actually death threats.

In another case, a woman, a transgender woman took a job at a large sporting goods firm, and again, I won't

mention the name of it. It's a franchise throughout the United States. And there was a washroom very close to where her office was, and she was told she couldn't use that washroom; she would have to use the washroom at Dunkin' Donuts, which was about half a mile away from where she worked. She would have to actually leave the building to use a facility outside of the building because she was transgender and was not allowed to use the women's restroom which was convenient.

So those are two dramatic examples, but almost -- very frequently in my practice, particularly among young people, they are terrified of being ostracized by their peers. They want nothing more than to fit in, and by not being able to use the bathroom, they're immediately outed, and that seems to set off a cascade of depression and anxiety, not wanting to go to school, holding one's urine, et cetera.

Those are just a few examples that I'm reminded of.

Q. Were any of those examples in Montana?

A. No.

Q. In your expert disclosure, it says you will offer an opinion that HB121 places transgender people at increased risk of public disclosure of private personal and medical information. Where does HB121 compel public disclosure of private personal and medical information?

A. By implication.

Q. What do you mean by that?

A. I mean that I don't see that directly as I read this document, but the impact of a person who lives in one gender having to use the restroom of another gender immediately reveals that they're transgender, and that's an invasion of privacy. That's giving information that a person hasn't voluntarily disclosed. They no longer have stewardship over that private information.

And it also reveals information that's medical; that they've undergone a transition, which is a medically supervised process, and gives information about a person's body parts, perhaps, because they're not using a restroom that other women are using.

Q. Do you believe that psychological harm can occur to biological women who are required to share spaces with biological men?

MR. VANDEGRIFF: Objection to the form and to the terms biological men and women.

A. Yes. Could you, could you define those terms for me?

Q. (By Ms. Lansing) Why don't you answer the question using your understanding of those terms.

A. So I believe you're asking me, and correct me if I'm wrong, if a transgender woman were to share a -- use a

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COURT REPORTER'S CERTIFICATE

STATE OF MONTANA)
ss.
COUNTY OF LEWIS AND CLARK)

I, Cheryl Romsa, Court Reporter and Notary Public for the State of Montana, residing in Helena, Montana, do hereby certify:

That I was duly authorized to and did swear in the witness and report the zoom deposition of RANDI C. ETTNER, PhD, in the above-entitled cause;

That the reading and signing of the deposition by the witness have been expressly reserved.

That the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness.

I further certify that I am not an attorney nor counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and seal on this the 1st day of March, 2026.

/s/Cheryl A. Romsa
CHERYL A. ROMSA
Court Reporter - Notary Public
Residing in Helena, Montana
My Commission Expires 8/4/2027

EXHIBIT 22

In The Matter Of:

Casey Perkins, et al. vs.

State of Montana, et al.

Dr. Cynthia Calkins

February 17, 2026

Lesofski Court Reporting, Inc.

7 West Sixth Avenue, Suite 2C

Helena, MT 59601

406-443-2010

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MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, and individual; and JOHN DOE, an individual, and MISSOULA COUNTY, Plaintiffs, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants. and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Case No. DV-32-2025-282

DEPOSITION OF DR. CYNTHIA CALKINS

On the 17th of February, 2026, beginning at 9:00 a.m., the deposition of DR. CYNTHIA CALKINS was heard via Zoom before Holly E. Fox, Court Reporter and Notary Public.

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thing is serving people who are -- providing resources and serving people who are victims of domestic violence.

Q (By Mr. Johnson) Would you agree that a woman who has been a victim of domestic sexual violence should have their own safe space in that program?

MS. LARSON: Objection; vague was to "women" and "safe space."

THE DEPONENT: Yeah. It -- women can be -- domestic violence can be perpetrated by women, by men, in same-sex and opposite sex relationships, so...

Q (By Mr. Johnson) You did not answer my question. Okay. Assuming that this is a woman who is a victim of domestic violence, would you agree that they should have their own safe space in a domestic violence program?

MS. LARSON: Same objections; vague, calls for speculation, ambiguous.

THE DEPONENT: I think everybody should have safe spaces whether you're a woman or a man who is a victim of domestic violence.

Q (By Mr. Johnson) okay. So the same question goes to man who is a victim of

domestic violence.

Should they have their safe space?

MS. LARSON: Same objections.

THE DEPONENT: I believe everybody should be safe from domestic violence.

Q (By Mr. Johnson) What do you base your -- in -- back to Exhibit 20 and the second sentence, or Sub 3, will harm transgender and intersex individuals.

A So as I've mentioned, my read of current research and scholarly conversations and material in the field from everything I've read or understand, transgender and intersex individuals are at increased risk of victimization, of psychological victimization, of physical victimization, of sexual assault. And so putting them in a situation where they might be outed or exposed would likely increase that victimization.

Q Okay. So it's based upon the same thing you testified to with regard to the final sentence under Subject Matter A?

I just want to make sure that I'm not missing anything.

A So there is overlap, yes.

Q Okay. Perfect. That's all I want. I

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C E R T I F I C A T E

STATE OF MONTANA)
ss.
COUNTY OF LEWIS AND CLARK)

I, HOLLY FOX, Freelance Court Reporter and a Notary Public for the State of Montana, do hereby certify:

That I did report the foregoing sworn deposition after having duly sworn the deponent.

IN WITNESS WHEREOF, I have set my hand and seal on this 27th day of February, 2026.

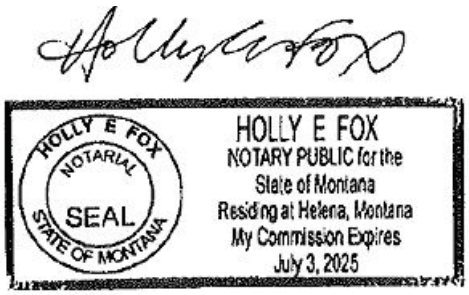


EXHIBIT 23

MONTANA FOURTH JUDICIAL DISTRICT COURT

MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual,

Plaintiffs,

vs.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants,

and

KERRI SEEKINS-CROWE,

Intervenor-Defendant.

Cause No. DV-32-2025-282

VIDEOCONFERENCE/ZOOM-RECORDED DEPOSITION
UPON ORAL EXAMINATION OF
COLIN WRIGHT

BE IT REMEMBERED, that the videoconference/Zoom-recorded deposition upon oral examination of Colin Wright, appearing at the instance of the Plaintiffs, was taken remotely from Mount Juliet, Tennessee on Monday, January 23, 2026, beginning at the hour of 9:04 a.m., pursuant to the Montana Rules of Civil Procedure, before Mary R. Sullivan, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

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Rochell Standish
Bellemy Morgan

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I think that's the reason.
There's variability in other traits related to sex. And some people can have traits that might make them appear more feminine or masculine that might not correspond to their sex as much. So there are androgenous-appearing people even though they still are either male or female.
Q. So there's no way to look at someone and determine with absolute certainty if, for example, they produce sperm. Is that correct?
A. I would say just by --
MS. LANSING: Objection to the extent it misstates the testimony.
You can answer.
A. I would say merely glancing at a person, especially if they're fully clothed, you would not know with absolute certainty the type of gamete that they have the function to produce.
BY MS. MANDELBAUM:
Q. And does every individual have the function of producing gametes?
A. Yes.
Q. And in humans, gonads are responsible for producing gametes. Right?

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A. Yes.
Q. And do you understand that there are certain conditions that prevent humans from developing gonads?
A. There are certain conditions that don't make the gonads fully differentiate.
Q. And for -- In those situations, does somebody still have the function of producing gametes?
A. So let me amend, briefly, something.
So I think there are maybe potentially very rare individuals who might have -- where their gonads do not differentiate where I think it is -- is possible that they may not have the function to produce a certain gamete. So I'll amend my previous statement. I think it is possible for an individual to not have the function to produce a gamete.
Q. And for the individuals that don't have a -- a function to produce a gamete, how do you determine their biological sex? Or, excuse me, let me restate that.
For the individuals that do not have the function of producing gametes, how do you define their biological sex?

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A. So I think there's an important distinction that needs to be made. Because when someone like me or a biologist says that there are only two sexes, this is referring to the fact that there are only two types of gametes that an individual can have the function to produce.
So if there is somebody who has a very rare condition where they do not develop any functional gonads, if they -- their gonads do not differentiate, I believe that for a very rare number of individuals an individual sex might be difficult or unable to be defined.
But again, this would be a very rare individual. And the most important part is that these individuals who might have this very rare condition, they're not a third sex, and so they do not debunk the idea that sex is binary, which, again, just means that there are only two sexes.
Q. And if somebody doesn't have the function of producing gametes, how do you define whether they are male or female?
A. Again, I think I mentioned that I don't think that saying that sex is binary or that there are only two sexes necessarily entails that every single human on the planet or who has ever existed

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can be defined as male or female, even if the overwhelmingly vast majority can.
Q. And so in your opinion, those individuals are neither male nor female. Is that correct?
MS. LANSING: Objection. Vague. Misstates the testimony.
You can answer, if you understand.
A. I think there are some people who -- whose sex may be ambiguous.
BY MS. MANDELBAUM:
Q. And they're neither male nor female. Correct?
MS. LANSING: Objection. Misstates the testimony.
You can answer.
A. I think that could be correct, yeah. I think some people may not have a sex.
BY MS. MANDELBAUM:
Q. And Dr. Wright, what is the basis for your opinion that biological sex is binary and based on the type of gamete an individual has the function of producing?
A. So again, this was based on pure observations that there exists these two fundamentally distinct, evolved reproductive

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A. I think it --
MS. LANSING: -- his testimony.
You can answer.
A. I think it might be a good clinical definition, but I don't think that it's a good definition if we're talking about actual sex ambiguity.
BY MS. MANDELBAUM:
Q. And why not?
A. Because many people who might have ambiguous appearing genitals will still have an identifiable sex.
Q. And how will they have an identifiable sex?
A. Based on the type of gonads that they have.
Q. And how would you determine what type of gonads they have?
A. Ultimately you could do a -- a certain biopsy, you could do a ultrasound, potentially, to find out what gametes they have. Many people with these conditions, you wouldn't have to even really do a biopsy.
I mean, if you had something like complete androgen insensitivity syndrome, you

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would know that you have this condition based on the fact that you have XY chromosomes which could be identified even before birth, but you would, nevertheless, appear outwardly as female but you would still have internal testes that would make you biologically male, even if you don't appear that way on the outside.
Q. And Dr. Wright, what is the basis for your opinion that the term "intersex" is an umbrella term for certain developmental conditions but is not a third sex?
A. Well, there's all the literature on anisogamy, the evolution of two sexes based on gametes. The only way you could logically have a third sex is to have a certain third or intermediate type of gamete. Absent a third type of gamete, you -- you cannot have a third sex.
Q. You mentioned the literature on anisogamy.
Is there any literature that you're -- on anisogamy that you're relying on that we haven't already discussed today?
A. No.
Q. And other than that literature on anisogamy that we discussed today, is there

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anything else that provides the basis for your opinion that intersex is just an umbrella term but not a third sex?
A. No.
MS. MANDELBAUM: And could we please pull up file Number 5?
And could we please mark this as -- Ms. Sullivan, are we up to Exhibit 150?
THE COURT REPORTER: Yes.
MS. MANDELBAUM: Could we please mark this as Exhibit 150?
EXHIBIT:
(Deposition Exhibit 150 marked for identification.)
BY MS. MANDELBAUM:
Q. And Dr. Wright, this is a copy of a book chapter that you co-wrote. Correct?
A. Correct.
Q. And the chapter's entitled "TWO SEXES." Right?
A. Yes.
Q. And it was published in a book called "Sex and Gender"?
A. Yes.
Q. And can you please turn to page 6?

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A. One second here.
I think I'm on page 6, although they're not numbered on the pages.
Q. Yeah, that's what I'm realizing. I apologize. I'm looking -- What I'm considering page 6, it has a heading on the right-hand column "Atypical Sex Development."
A. Okay, yeah.
Q. Do you see that?
A. Yes.
Q. And in this portion of the chapter, were you writing about individuals with DSDs?
A. Yes.
Q. And can you please turn to the following page and look at the last paragraph that appears in this section on atypical sex development?
A. Yes.
Q. And the third sentence of that last paragraph says, "But despite atypical sex development, almost all cases are identifiable as either female or male." Right?
A. Yes.
Q. And so you agree in some cases, though, individuals with DSDs cannot be identified as female or male. Right?

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MS. LANSING: Objection. Misstates the testimony.
You can answer.
A. Yes. I believe that some people are -- are perhaps not male or female.
BY MS. MANDELBAUM:
Q. And in the last sentence of this paragraph, you wrote "When fertility is possible, people with DSDs employ, as for all human beings, either eggs or sperm and do not comprise a novel third sex category."
Did I read that correctly?
A. Yes.
Q. And so for some people with DSDs, fertility is not possible. Correct?
A. Correct.
Q. And is fertility -- fertility might not be possible because some individuals with DSDs do not have gonads or have incompletely developed gonads. Correct?
A. Can you repeat that one more time? Sorry.
Q. So why might fertility not be possible for people with DSDs?
A. It could be because they have not

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developed -- their gonads have not differentiated into either testes or -- or ovaries, but then there could be all -- other types of mutations that might -- you know, they might have developmented -- sorry -- they might have differentiated testes or ovaries, but for some reason they have a mutation that makes it so they're not producing sperm or ova.
Q. And for the individuals with undifferentiated or incompletely developed gonads, those individuals don't have the function of producing gametes. Correct?
MS. LANSING: Objection. Misstates the testimony.
You can answer.
A. I believe that would be a -- a very rare instance of an individual who might have an ambiguous sex if you have absolutely no differentiated gonads whatsoever.
BY MS. MANDELBAUM:
Q. And those individuals can't be, according to your definition of sex, identified as male or female. Correct?
A. Correct.
Q. And Dr. Wright, according to the

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defendants' amend --
MS. MANDELBAUM: We can take this down, Ms. Sullivan. Thank you.
BY MS. MANDELBAUM:
Q. Dr. Wright, it's also your opinion that gender identity is not an innate, immutable biological trait found within the brain, but a subjective ideological construct based on sex stereotypes. Correct?
A. That is correct.
Q. And how do you define "objective biology"?
A. Something that can be actively measured.
Q. And how can something be actively measured?
A. I mean, it'd have to be more than just an individual's personal stated opinion about their identity. Perhaps you could say that all people who are -- identify as this one type of thing, you know, they have this certain gene, for instance, that's -- that is prevalent in all of these people but not in people with a different gender identity. Or, you know, any other sort of anatomical feature that is highly predictive of someone's gender identity.

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Q. So in your opinion, if someone has a gene, that can be something that's objective?
A. That would be one example of an objective measurement, rather than a purely subjective feeling.
Q. And how do you define the term "innate"?
A. Innate is either something acquired via genetics or at some point in development. It can be dictated either by genetics or partially environment, but it's a -- a feature that somebody has that they -- they cannot get rid of.
Q. And how do you define "immutable"?
A. Something that cannot be changed.
Q. And how do you define "gender identity"?
A. I don't have my own definition of gender identity because I think it is -- is somewhat of an incoherent concept.
Q. Why do you think it's a -- gender identity is an incoherent concept?
MS. LANSING: Objection. I think this is beyond the scope of his expert opinion being offered in this case.
But if you know, you can answer.
A. Just based on the type of -- the ways that I've heard it defined before by other people.

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MS. LANSING: Objection. Asked and answered.
You can answer.
A. Correct.
Q. Dr. Wright, those are all the questions I have for you for today.
Plaintiffs are going to hold the deposition open in light of the parties' back and forth about EXHIBIT A attached to your deposition notice, but we'll follow up with counsel, if necessary, after the deposition.
But, otherwise, those are the questions I have for you for today, and I appreciate your time and participation.
Does anyone else have questions?
MS. LANSING: For the record, the defendants object to holding the deposition open. If you have a motion to compel, go ahead and file it, but EXHIBIT A was not proper under the Montana law.
So stating that objection for the record, we reserve all questions for trial.
THE DEPONENT: Would I be able to add one thing real quick, if that's okay?
MS. LANSING: You -- You don't need to do

that, Dr. Wright.
THE DEPONENT: Okay. All right.
MR. OLIVIERA: And I -- I don't have any questions either.
MS. MANDELBAUM: All right. Thank you very much, Dr. Wright.
THE DEPONENT: Thank you.
THE VIDEOGRAPHER: All right. Well, that will conclude today's deposition. The time is 1:28 p.m. Mountain Time.
(Deposition concluded at 1:28 p.m. Deponent excused; signature reserved.)

DEPONENT'S CERTIFICATE

I, COLIN WRIGHT, the deponent in the foregoing deposition, DO HEREBY CERTIFY, that I have read the foregoing pages of typewritten material and that the same is, with any changes thereon made in ink on the corrections sheet, and signed by me, a full, true, and correct transcript of my oral deposition given at the time and place hereinbefore mentioned.

COLIN WRIGHT, Deponent

Subscribed and sworn to before me this day of , 2026.

PRINT NAME:
Notary Public, State of
Residing at:
My commission expires:

MRS - Casey Perkins, et al. vs. State of Montana, et al.

C E R T I F I C A T E

STATE OF MONTANA)
: ss
COUNTY OF MISSOULA)

I, Mary R. Sullivan, Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter and Notary Public for the State of Montana, residing in Missoula, do hereby certify:
That I was duly authorized to and did swear in the witness and report the deposition of COLIN WRIGHT in the above-entitled cause; that the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness, all done to the best of my skill and ability; that the reading and signing of the deposition by the witness have been expressly reserved.
I further certify that I am not an attorney nor counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on March 7, 2026.

Mary Sullivan

MARY SULLIVAN
NOTARY PUBLIC for the
State of Montana
Residing at
Missoula, Montana
My Commission Expires
April 06, 2026

EXHIBIT 24

MONTANA FOURTH JUDICIAL DISTRICT COURT

MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual,

Plaintiffs,

vs.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants,

and

KERRI SEEKINS-CROWE,

Intervenor-Defendant.

Cause No. DV-32-2025-282

VIDEOCONFERENCE/ZOOM-RECORDED DEPOSITION
UPON ORAL EXAMINATION OF
GEETA NANGIA

BE IT REMEMBERED, that the videoconference/Zoom-recorded deposition upon oral examination of GEETA NANGIA, appearing at the instance of the Plaintiffs, was taken remotely from Piedmont, South Carolina on February 18, 2026, beginning at the hour of 9:01 a.m., pursuant to the Montana Rules of Civil Procedure, before Mary R. Sullivan, Registered Merit Reporter, Certified Realtime Reporter, and Notary Public.

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ALSO PRESENT Carisa Fisher, Videographer
REMOTELY: Deb Bungay
Rochell Standish
Bellemy Morgan
Joanne Grossman
Addie Slanger
Abigail Roston
Rianna Mukherjee

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their homes or, like, in public spaces. Is that accurate?
BY MS. MANDELBAUM:
Q. That's correct.
And you -- And based on your experience, are their experience of sexual trauma, are they more so at the home or in public places?
A. I think it's -- it's shared, but I would say also in -- at home, historically at home, but -- but as I've said to you, that it's also happened in public spaces as well.
Q. And outside of your -- the patients that you've treated but based on your own training and review of the literature, would you agree that most sexual violence does occur in the home?
A. I think that's difficult to answer because I think there's a lot of underreporting, and the literature corroborates that, so I think that's a difficult statistic to get behind.
Q. But do you agree that that is what the statistics show?
A. Again, I think the statistics also in -- in all of the papers that you read on these statistics, there is a limitation that there's actually underreporting amongst survivors of

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sexual violence, and so I think that's important to consider.
Q. But would you agree that of reported incidences of sexual violence, most of those reported incidences take place in a private location -- private residential location rather than a public place?
A. Again, I'm not --
MR. JOHNSON: Objection. Asked and answered.
A. Yeah, I -- I can't --
MR. JOHNSON: Go ahead and answer.
A. -- I can't get behind that at this juncture because I think there's a lot of underreporting. Particularly -- And if -- if you look at this -- the -- the research on college-aged women and you look at the level of underreporting that exists, it's estimated to be pretty significant.
And furthermore, I'd like to add this, that to your question and -- and with regard to women and safe spaces, the -- the opinion that I'm offering here, I would -- I would say to you that there's a significant concern that men can also feign being transgender and entering spaces that

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are -- where women feel safe and can be exposed and vulnerable.
BY MS. MANDELBAUM:
Q. And you mentioned a significant concern that men can feign being transgender. Correct?
A. Correct.
Q. And is that concern based on any particular statistics?
A. I'm suggesting to you that women in safe spaces that we're referring to defined as changing rooms, locker rooms, sleeping quarters, that women feel safe there. So that the concern that I have here and the opinion that I'm offering is also -- I -- I'm offering the opinion that we open the possibility, if we share these spaces, that gender can be -- gender identity can be feigned, and women can become exceedingly vulnerable in the space where they feel safe.
Q. And are you aware of any evidence in which men have feigned being transgender to victimize a woman in a public bathroom?
A. I'm suggesting to you that it becomes very possible when spaces are shared. And I have worked with sexual predators, I have worked with offenders for several years throughout my career,

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and I do believe that they're highly opportunistic.
Q. But you're not aware of any evidence that men are feigning being transgender to victimize women in public restrooms. Correct?
A. I'm highly aware of many situations where sex offenders have taken advantage of opportunities where they can enter safe spaces and harm women and girls, and they'll do whatever it takes and are opportunistic, oftentimes, to find those opportunities.
Q. And to your knowledge, are those sex offenders transgender?
A. Several of them have had issues with gender identity that's waxed and waned amongst the -- the young people that I've treated.
Q. And what do you mean by "having issues with gender identity"?
A. Meaning their gender identity has shifted in adolescence and through the time that I've treated them.
Q. And do they identify as transgender?
A. These are youth that have had various -- I would say their identity has vacillated.
Q. And when they perpetrated their sexual

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BY MS. MANDELBAUM:
Q. And you don't know that they were a transgender woman at the time that they committed a sexual offense. Correct?
MR. JOHNSON: Same objection. Asked and answered.
Can we move on?
A. Their --
MR. JOHNSON: They're not confirmed.
A. -- gender identity vacillated.
THE COURT REPORTER: I'm so sorry.
Could you repeat your answer, please?
A. Their gender identity vacillated during that time.
BY MS. MANDELBAUM:
Q. And were any of them transgender women at the time they committed a sexual offense? Yes or no?
MR. JOHNSON: Objection. Asked and answered.
She can't answer it.
A. I think I've repeatedly stated that I can't answer that question.
BY MS. MANDELBAUM:
Q. So you can't answer a yes-or-no question?

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A. Correct.
Q. And outside of your clinical experience, I know that you're testifying about your review of the literature and just your knowledge of everything else. So outside of your clinical experience, do you have any examples of transgender women committing sexual offenses?
A. I'm sorry, are you asking me according to my clinical experience which is --
Q. Outside of your clinical experience.
A. My clinical experience is what I'm offering here in this case.
Q. And so you don't have any evidence outside of your clinical experience of transgender women committing sexual offenses. Is that correct?
MR. JOHNSON: Objection. Beyond the scope of her opinion as well.
Go ahead and answer, if you can.
A. I'm --
MR. JOHNSON: Are you -- Have you -- Are you aware of any studies, I assume.
A. Can -- Can you clarify your question to me? I'm not -- I really am not clear on what you're asking me.

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BY MS. MANDELBAUM:
Q. Are you aware of any -- Earlier, for example, you mentioned news stories. Right? That you read the news feed. Is that correct?
A. I read the news.
Q. And are you aware of any stories stating -- concerning transgender women committing sexual offenses?
MR. JOHNSON: Objection. Well beyond the scope of her expertise and -- and her -- and her opinion. And foundation.
A. So I'm not clear on this question, because what I'm offering here is my clinical experience in this case. I do read the news. I'm not aware of anything that I can directly refer to at this juncture in -- in reference to the question that you're asking me.
BY MS. MANDELBAUM:
Q. And you're also testifying about the -- your -- according to the expert's -- the state's expert disclosure, her, being your opinion, is also based on her review of the literature. Correct?
A. Correct.
MR. JOHNSON: Objection. Asked and

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answered.
Go ahead.
BY MS. MANDELBAUM:
Q. And you are not aware of any literature demonstrating that transgender women are committing sexual offenses. Is that correct?
A. Nothing that I can refer to right now, no.
Q. And your opinions are also based on statistics on sexual assaults of women and girls. Correct?
A. Sexual violence toward women and girls, yes.
Q. And you're not aware of any statistics that specifically concern the sexual assault of women and girls by transgender women. Correct?
A. None that I can cite to at this juncture.
Q. And when you say "cite to at this juncture," based on your current knowledge, you're not aware of any statistics on sexual violence of women and girls by transgender women. Correct?
MR. JOHNSON: Objection. Just asked and answered. You just asked it, I mean, like 30 --
MS. MANDELBAUM: I'd appreciate --
MR. JOHNSON: -- seconds ago.

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planning to offer at trial in this case?
A. No.
Q. And Dr. Nangia, those are all the questions I have for today. I very much appreciate your time.
MS. MANDELBAUM: I am going to hold the record open in light of the back-and-forth that we had earlier about the document requests in your deposition notice, but we can follow up with counsel, if necessary, about that.
MR. JOHNSON: I -- I beg you to file a motion to compel. Please do.
MS. MANDELBAUM: Well, we will follow up --
MR. JOHNSON: Please do.
MS. MANDELBAUM: -- later as necessary. Thank you.
MR. JOHNSON: Please file that motion to compel. Please do.
MS. MANDELBAUM: So Dr. Nangia, thank you very much for your time and participation today, and that's it.
THE DEPONENT: Okay. Thank you.
MR. JOHNSON: I -- There's just a couple more people involved. I don't have any other

questions. I'll reserve all mine for trial.
Justin, do you have any questions?
MR. OLIVIERA: No questions from me.
MR. JOHNSON: Doctor, I'll call you as soon as we get off.
THE DEPONENT: Okay. Thank you.
MR. JOHNSON: Thank you.
MS. MANDELBAUM: Thank you, Dr. Nangia.
THE DEPONENT: Have a good day.
THE VIDEOGRAPHER: Okay. That will conclude today's deposition. The time is 12:46 p.m.
(Deposition concluded at 12:46 p.m. Deponent excused; signature reserved.)

DEPONENT'S CERTIFICATE

I, GEETA NANGIA, the deponent in the foregoing deposition, DO HEREBY CERTIFY, that I have read the foregoing pages of typewritten material and that the same is, with any changes thereon made in ink on the corrections sheet, and signed by me, a full, true, and correct transcript of my oral deposition given at the time and place hereinbefore mentioned.

GEETA NANGIA, Deponent

Subscribed and sworn to before me this day of , 2026.

PRINT NAME:
Notary Public, State of
Residing at:
My commission expires:

MRS - Casey Perkins, et al. vs. State of Montana, et al.

C E R T I F I C A T E

STATE OF MONTANA)
: ss
COUNTY OF MISSOULA)

I, Mary R. Sullivan, Registered Professional Reporter, Registered Merit Reporter, Certified Realtime Reporter and Notary Public for the State of Montana, residing in Missoula, do hereby certify:

That I was duly authorized to and did swear in the witness and report the deposition of GEETA NANGIA in the above-entitled cause; that the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness, all done to the best of my skill and ability; that the reading and signing of the deposition by the witness have been expressly reserved.

I further certify that I am not an attorney nor counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on March 1, 2026.

EXHIBIT 25

MONTANA FOURTH JUDICIAL DISTRICT COURT

MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual,

Plaintiffs,

vs. Cause No. DV 32-2025-282

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants.

and

KERRI SEEKINS-CROWE,

Intervenor-Defendant.

VIDEO RECORDED VIDEOCONFERENCE DEPOSITION
UPON ORAL EXAMINATION OF
AMIE ICHIKAWA

BE IT REMEMBERED, that the deposition upon oral examination of AMIE ICHIKAWA, present in Helena, Montana, appearing at the instance of Plaintiffs, was taken through the offices of Fisher Court Reporting, 442 East Mendenhall, Bozeman, Montana, on Monday, March 2, 2026, beginning at the hour of 9:11 a.m., MST, pursuant to the Montana Rules of Civil Procedure, before Kasey L. Fisher, Registered Professional Reporter - Notary Public.

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Also present via Zoom: Deb Bungay(DOJ), Addy Slanger(ACLU-MT), Rochell Standish(MT DOJ), Abigail Roston(ACLU-MT), Ashlee Rossler(ACLU), George Clark(OAG) Max Larson

I N D E X

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E X H I B I T S

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Q. Okay. So if someone fits your definition but identifies as a woman, are they included in your definition of "men"?
A. I'm sorry. Can you repeat that one for me.
Q. Sure. So your -- so your sentence is "women need separate spaces from men," and you just said that "men" is identify -- is defined as someone who was identified as a man -- man at birth.
And I'm asking you, if someone was identified as a man at birth but now identifies as a woman, are they included in your definition of "men"?
A. Not necessarily. I can't really give a definitive answer, because there really is so much fluidity and nuance that is present in those definitions that are nondefinitive definitions.
Q. So what clarity do you need to answer my question?
A. I can't really give you a solid concrete answer to that, because there is so much variation in what we now would consider the definition of "male" and "female".
Q. I understand that, but I'm asking for your opinion as it's used in this paragraph.
Would a transgender woman fit within the definition of "men" in that sentence?
A. In some cases, yes. Not in all.
Q. So not all transgender women fit into your definition of "men" in this paragraph?
A. Not in a carceral setting, not in my -- what my expert opinion would be, no.
Q. Okay. I guess breaking that down, why does it matter for the definition if they're in a carceral setting or not?
A. Because that's where my area of expertise is exclusive.
Q. Okay. So are there some transgender women that are not included in your definition of "men"?
A. Absolutely.
Q. Okay. So your opinion is that women do not need separate spaces from all transgender women?
A. That's correct.
Q. So there are some transgender women who it is safe for women to be in prisons with or --
A. I wouldn't say any prison setting is safe, but I would be far more open-minded in some situations, yes.
Q. Okay. And what are those sit -- those situations?
A. If someone is completely medically, surgically transitioned and on HRT and does not have a history of sexual violence against vulnerable populations.
Q. Okay. So I guess I just want to break that down, you know, one part at a time.
So you're -- if someone has completed gender assignment surgery, then you do not think that women would need a separate space -- let me back that up -- retract that question.
If a transgender woman has had a gender reassignment surgery, is it -- it's your opinion that cisgender women would not need a separate space from that individual?
MR. JOHNSON: Objection. Asked and answered.
But go ahead and answer.
THE WITNESS: I would also have to take into serious consideration someone's criminal history and if there is a prevalence of sexual violence against women and children -- of any vulnerable population. It would have to be reevaluated.
BY MR. VANDEGRIFF:
Q. Okay. So in your opinion, to determine if a transgender woman is someone that women need a separate space from, you would look at if they've taken gender reassignment surgery, and then you would look at their criminal history; is that correct?
A. Yes.
Q. Okay. And so if there's a transgender woman who has completed sexual reassignment surgery and they have no criminal history of violence, you would think it is safe for women to be in -- women do not need a separate space from that individual, is that correct, in your opinion?
A. For the most part, yes. Yes.
Q. Okay. When you say "for the most part," what do you mean by "for the most part"?
A. There's so many moving parts in this analysis. There's so much unfortunate manipulation that happens in the prison system. That's why things really have to be evaluated on a case-by-case basis.
Because, of course, there are sincere trans-identified individuals that do need to be

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moved to a different space to complete their time in a safe way.

And, simultaneously, there's people that are completely gaming the system who are very convincing but are a danger to themselves and others, and it would create a completely unbelievable situation in a women's prison.

Q. Okay. And so you say some people are gaming the system.

Do you mean that men are lying about being transgender women in order to get into women's prisons?

A. Yes, absolutely. There's -- I mean, it's prison. I spent five years there, and it's ripe with very opportunistic individuals that are clearly going to take advantage of a situation like this, as to be expected by anyone with a pulse.

Q. Okay. And then -- and so your opinion -- your opinion would be that those people should not be allowed into women's prison, regardless if they've had sexual reassignment surgery or if they have a criminal history?

A. I haven't come across any situations where someone has had gender reassignment surgery

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that, you know, was gaming the system. It's not a high number of people that have actual followed through with a gender reassignment surgery that aren't, you know -- that I would put in a category of, you know, the opportunistic people that are taking advantage of the situation.

Q. Okay. So if someone has had sexual reassignment surgery, you've never encountered someone who has had that who has then lied about being a transgender woman.

Is that what you were just saying?

A. Right.

Q. Okay. And so I guess I just want to be crystal clear. This sentence says (as read):

Ms. Ichikawa will offer the opinions that women need separate spaces from men in prisons for safety.

Is that correct?

A. Yes.

Q. Okay. And what you are saying is that, included in that definition of men who women need separate spaces from would be transgender women who posed -- who either had not gone -- undergone gender reassignment surgery or who'd had a criminal history of violence or sexual assault; is

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that correct?

MR. JOHNSON: Objection. Asked and answered.

Go ahead.

THE WITNESS: Yes.

BY MR. VANDEGRIFF:

Q. Okay. And when you say -- sorry. One -- one last question on that.

But your opinion is that if there was a transgender woman who had had sexual reassignment surgery and had -- did not have a criminal history of violence but also -- and also was not gaming the system, that person would be safe to be in separate spaces with other women; is that correct?

A. If they so wished, because, you know, keep in mind, all of these laws are on a voluntary basis. So if they wished to be over there, I would support that.

Q. Okay. And you said something in your previous answers about a case-by-case analysis; is that correct?

A. Uh-huh.

Q. Do you support using a case-by-case analysis for --

A. I do.

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Q. -- for transgender placement?

Okay. And what should be considered within the case-by-case analysis, in your opinion?

MR. JOHNSON: Objection. Asked and answered.

Go ahead.

THE WITNESS: A criminal history, physical attributes, and, you know, what stage of transition they're in. They would have to be in the process or -- you know, completed with the transition process if -- to even be taken -- to even have that case evaluated. That's -- that's what I would suggest.

BY MR. VANDEGRIFF:

Q. Okay. So I just want to be clear.

You said criminal history, physical attributes and then what stage of transition they are in; is that correct?

A. Yes.

Q. Any other factors that should be considered?

A. I would also take into consideration their conduct history while incarcerated. If there's a history of manipulation and, you know, opportunistic behavior, I would also take that

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generally happens that I'm aware of.
Q. Okay. So you can't give an expert opinion in response to the question I just asked you; is that correct?
A. No, honestly, because that isn't something that I've ever experienced or dealt with. So no, in all reality, I can't respond to that.
Q. Okay. Did you say you're not an expert on the question I just asked you?
A. Well, I'm saying that that's not a question that is realistic, so I can't really give you an opinion on that, because I've never seen that happen before.
Q. Okay. Maybe I'll try rewording the question and see if that helps at all.
A. Okay.
Q. Is an individual being transgender with -- and say that transgender person has a sexual reassignment surgery.
Is that a characteristic in itself that makes that person more dangerous than a cisgender woman?
A. No.
Q. No. Okay.

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MR. JOHNSON: We've been going about an hour, at least she's been sitting for longer than an hour. Let's take a quick break.
MR. VANDEGRIFF: That sounds good.
MR. JOHNSON: 10 minutes?
MR. VANDEGRIFF: Why don't we say 12:15?
MR. JOHNSON: All right.
VIDEOGRAPHER: We are going off the record. The time is 10:03 a.m.
(Whereupon, a break was then taken.)
VIDEOGRAPHER: We are back on the record. The time is 10:16 a.m.
BY MR. VANDEGRIFF:
Q. So Ms. Ichikawa, we were just talking about the first sentence in your expert disclosure that (as read):
Ms. Ichikawa will offer the opinions that women need separate spaces from men in prisons for safety.
My question for you is, how does your opinion account for correctional officers?
Could I included it in your definition of male or -- ir man or woman?
A. There's a big difference between a male officer that you work with or who monitors your

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behavior or is supposed to keep you safe and somebody you have to lock in with every night. I will admit that there is definitely a problem with sexual misconduct from male staff members and it is -- it is a problem.
Q. Okay. So is it your opinion that women's prisons should be free from male correctional officers?
A. No.
Q. Okay. Is it your --
A. Can I clarify that? In certain areas. In housing, for example, or where anyone is in a compromised or vulnerable position, like showering, I think it would be ideal to have a male-free environment and have female staff managing.
But as far as, you know, the perimeter workspace, the yards outside, chow halls, I think that would be -- and administration, that's perfectly fine to have male staff there.
Q. Okay. And can you just provide me a little bit more description of what you mean by "vulnerable spaces"?
A. Any space where you're naked.
Q. Okay. So shower?

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A. Toilet, shower, yes.
Q. Okay. What about with like within your bunk or within your housing unit?
A. Correct, yes. That's -- I would include that, yes, sir.
Q. Okay. And with regards to transgender women correctional officers, do you have the same opinion as to where they should be allowed in a prison?
A. I don't really have an opinion on that. It's definitely different. I'm not -- I don't think I'm able to really give an honest opinion on that.
Q. Okay. So you don't have an expert opinion on if it would be safe for a transgender woman correctional officer to be in a female -- a women's prison?
A. No. I don't have any experience in -- in that happening. Again, it would depend on their history. I would think that if they're a correctional officer they probably don't have, you know, a record of violent crimes against women, regardless of their trans identity.
So -- well -- yeah, I just -- I don't -- I've never encountered a situation like that.

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what's happening in the UK with regard to those incidents?
A. No.
Q. Okay. And then so I want to go back. You said the data you looked at outside of the UK statistics were statistics on the sexual offense rate of individuals who transferred or -- can you describe what that data shows to me?
Is it individuals who transferred --
A. In California -- in the state of California, the original transfers -- the original transfer requests from men's to women's prison, of those transfer requests, 33.8 percent were registered sex offenders, meaning they had already left prison, registered and reoffended.
25 percent of those individuals were currently serving -- their controlling case was sex-related crime. That came directly from the Department of Corrections.
The BOP also provided information related to the percentage of trans-identified individuals and sex crimes, and it was -- you know, I believe it was almost 50 percent, as is, unfortunately, a pretty high number, higher than that of California State Prison.

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Q. Okay. So you said --
A. That --
Q. Sorry to cut you off. No, go ahead if you have one more to say.
A. No, go ahead.
Q. So I want to go, you know, kind of one at a time, first the Montana and then the BOP results.
You said that the Montana numbers came directly from the DOC -- I'm sorry. California. I apologize.
The California numbers came directly from the DOC; is that accurate?
A. Yes.
Q. What do you mean by that?
You send a FOIA request to the DOC?
How did you get that --
A. Another -- another women in -- early on, she sent in a public information request and was able to obtain that information. Those -- I don't have anything current, like up to this very date, because they're not giving us that information anymore.
Q. Okay. Who was the woman who sent in that request?

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A. Not me. The information is available on a website. It's -- I believe it's KPSS.usa.com. I can double-check and get you that information as soon as we're done just to verify.
Q. Okay. So the -- you saw this data because it was posted on a website and you clicked on the link on the website that showed the report?
A. Yes.
Q. Okay. And your understanding is that report is a -- was the result of a FOIA request to the Department of Corrections?
A. Yes.
Q. Okay. But you did not author -- you didn't send in that FOIA request?
A. No.
Q. Okay. Do you know --
A. I have sent in identical requests throughout the years and they've all been, you know, limited or denied. That was the most in-depth information we'd ever received.
Q. Okay. And when did that data -- when was that request sent?
MR. JOHNSON: Objection. Vague.
Which request?
MR. VANDEGRIFF: The request that --

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understood your objection, Thane. I'll re-question.
BY MR. VANDEGRIFF:
Q. The request that was granted that gave the information you cited before, when was that request submitted?
A. I think it's fair to say 2021.
Q. Okay. Why do you think it's fair to say that?
A. I don't know the exact date. I think that's -- that's generally accurate.
Q. Okay. But you don't know who submitted that FOIA request; is that correct?
A. No. I just know that it's -- thank you. I just know what website it's on.
Q. Okay. And then you said you've submitted your own FOIA requests but those have not been responded to; is that correct?
A. They have been denied heavily or heavily redacted.
Q. Okay. So have you been able to independently verify the data that you saw from that FOIA request?
A. Like did I double-check and ask the exact same thing and ask for the exact same information?

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Yes, I did. And they redacted it heavily. I asked the exact same question in the exact same format, and the California Department of Corrections gave me something that is not even anywhere near the information that they gave previously.

Actually, I've had to asked several times. I've had to provide tons of clarification. There's a lot of effort that's invested in making sure these statistics are not readily available.

Q. Okay. And it's -- but through your FOIA requests, you have not been able to get to independently verify the information that was in this other individual's request; is that accurate?

MR. JOHNSON: Objection. Objection. Asked and answered.

Go ahead.

THE WITNESS: Have I been able to personally attain the exact same information that was attained in that first initial FOIA request that was submitted by somebody else, no.

I've received somewhat similar, patchy, piece by piece, but it's never been exactly the same as that original data, because they're hip to the game and they're not going to continue

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divulging that level of information because obviously it's detrimental to the implementation of these policies.

BY MR. VANDEGRIFF:

Q. So you believe the California Department of Corrections is purposely withholding this information from you?

A. Absolutely.

Q. Okay. And then do you know --

VIDEOGRAPHER: Joe?

MR. VANDEGRIFF: Yes.

VIDEOGRAPHER: Can you move your microphone up again, please.

MR. VANDEGRIFF: Yes.

VIDEOGRAPHER: Thank you.

BY MR. VANDEGRIFF:

Q. Do you know if the information that was on that link had been altered from the result of the FOIA request that was submitted?

A. I -- I don't --

MR. JOHNSON: Objection. Foundation.

Go ahead.

THE WITNESS: It has the Department of Corrections insignia and information on the document. I have -- I mean, I have e-mails that

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have been forwarded directly to me that are from, you know, CDCR. I don't know how easy it would be to falsify that kind of correspondence.

BY MR. VANDEGRIFF:

Q. But you -- so you don't have personal knowledge if what's on that website, that link that you described before, is there --

A. No.

Q. -- an accurate depiction of the FOIA result? Okay.

MR. JOHNSON: Objection. Objection. Asked and answered.

Go ahead and answer.

BY MR. VANDEGRIFF:

Q. I think we already got the answer, so I'm going to go ahead and move on.

So you said that 38 percent -- sorry -- 33.8 percent of individuals that requested a transfer in California, according to this FOIA data, were sex offenders; is that accurate?

MR. JOHNSON: Objection. Asked and answered.

Go ahead.

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BY MR. VANDEGRIFF:

Q. Okay. Do you know --

THE REPORTER: Hold on.

BY MR. VANDEGRIFF:

Okay. Do you know what percentage of the requests that were granted involved individuals who had -- who were sex -- had sex offender offenses?

A. I don't know the percentage, but I have the convictions of the original transfers, and there were several incidences of, you know, sex crimes that were listed, including rape, lewd and lascivious acts with a child, continued sexual abuse of a child. You know, it's a very colorful list.

Q. Do you know what -- how many of those individuals that were transferred had one of those offenses --

MR. JOHNSON: Objection. Asked and answered. She answered that.

Go ahead.

THE WITNESS: There's at least four within the first group of transfers that are currently serving time for violent sex crimes.

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BY MR. VANDEGRIFF:
Q. Okay. And your source for that is that you submitted a FOIA request for their convictions?
A. Yes.
Q. Okay. And then you said that 25 percent of the individuals were currently serving time for a sex crime; is that correct?
MR. JOHNSON: Objection. Asked and answered.
Go ahead.
THE WITNESS: That's -- that's what the other FOIA that I did not verify personally, that is what that response was.
BY MR. VANDEGRIFF:
Q. Okay. And then same question but with regard to this statistic.
Do you know what percentage of the individuals who were actually transferred were currently serving time for a sex crime?
A. I don't know the percentage, no.
Q. Okay. The four individuals that you mentioned before --
A. There's -- yeah. There's four -- am I allowed to look at documents or is that...

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Q. I'm not going to stop you, but --
A. Okay. It needs to be submitted. Okay. I don't want to bring in anything that's not already submitted as evidence.
I -- off the top of my head, I can say that there were for sure four sex crimes that I can just list off the top of my head of the first, you know, group of transfers that came over.
Q. Okay. Do you know how many original transfers came over?
A. No, I don't know that exact number. I know the current number. I don't know how many were on the first bus exactly.
Q. What's the current number?
A. 47.
Q. Okay. But you have no idea how many were on the original transfer?
A. The first transfer, no.
MR. JOHNSON: Objection. Asked and answered.
Go ahead.
BY MR. VANDEGRIFF:
Q. Okay. And then --
MR. JOHNSON: Jesus Christ.
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BY MR. VANDEGRIFF:
Q. I want to go to the federal prison data that you described, and you said nearly half of those individuals had -- were convicted for a sexual offense.
Do you know if those individuals were currently housed in a women's prison?
A. No, no. Because, again, this is all by personal preference. This is by request. So the majority of these individuals don't request to go to women's prisons. It's not a huge percentage.
Like, for example, California has over 1600 trans-identified incarcerated people, which isn't huge considering there's over 88,000 people in prison in California, but only 47 have successfully transferred.
And there's only I think like six -- under 1,000 pending requests to move to women's prison in California. So it's -- it's not everybody. Not everybody who is trans-identified wants to go over. It's not -- it's not taken advantage of or, you know, used by as many people as you would think.
Q. Okay. And do you -- so you do not know how many individuals who are trans in federal

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prisons are currently in a women's prison?
A. No.
Q. Okay. And so you do not know what percentage of those 40 -- nearly half of individuals who are sex offenders are currently in a women's prison; is that correct?
A. Correct. Correct.
Q. Okay. Do you know what crime those people were convicted of?
A. Well, I can get specific. I know one person who was transferred to Carswell in Texas is convicted of raping a 17-year-old girl and sexually assaulting a 9-year-old boy. And, you know, that's a specific case. And that person -- you know, I don't want to talk about that person. I don't know the exact crimes, no, other than that specific individual.
Q. Okay. So you don't know what is considered -- what underlying crimes constitute making you a sex offender in that data set?
A. Oh, I know --
MR. JOHNSON: Objection. Calls for a legal conclusion.
Go ahead.
THE WITNESS: I -- can you -- can you

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repeat the question, please. I'm sorry. You lost me a little bit.
BY MR. VANDEGRIFF:
Q. Yeah. I'm going to rephrase it slightly.
A. Okay.
Q. So you don't know which -- which crime -- what percentage of that 44.8 percent of those people, for example, committed a rape?
You don't know what percentage of those people did that crime?
A. No.
Q. Do you know what percentage of those individuals committed any particular crime?
A. No.
Q. Okay. And that --
MR. JOHNSON: We've been going an hour, and I want to make sure that she's -- she maybe eats a little bit of food.
MR. VANDEGRIFF: Sure. We can -- if we want to stop now, happy to stop now and take a break. I'm about two or three minutes away from a stopping point as well if we want to get there --
MR. JOHNSON: Go ahead.
MR. VANDEGRIFF: -- and then take a break?
MR. JOHNSON: Go ahead.

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MR. VANDEGRIFF: Okay.
BY MR. VANDEGRIFF:
Q. Okay. And then -- so for that federal information, some -- did you submit that FOIA request that you're referring to?
A. I did submit a federal FOIA request that was not responded to. And it was even, you know, submitted by some member of the senate judiciary committee, and no response was ever given.
Q. Okay. So the data you're relying upon was from a FOIA request submitted by somebody else?
A. Yes.
Q. And how did you access that data?
A. It's public. People share the information. There's, you know, various sites where you can get this stuff. People send me information all the time. It's useful. And I work with a lot of different individuals that are, you know, interested in exposing what's really going on. So I get information from all kinds of places.
Q. Okay. So someone sent you this information; is that accurate?
A. Yeah.

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Q. Do you remember who sent you that information?
A. No.
Q. Okay. And do you know who submitted this FOIA request?
A. No.
Q. And have you been able to personally verify that the information in the FOIA request is accurate?
A. No, but I have no reason to believe that it's not.
Q. Okay. And so then outside the data we've discussed here, both the California and BOP data and then the UK data, is your opinion based on any other data?
A. No.
Q. Okay.
MR. VANDEGRIFF: That's a good stopping point for me, Thane, if we want to take a break for lunch. How long would you guys like?
MR. JOHNSON: You want...
THE WITNESS: We don't have to take a lot of time.
MR. JOHNSON: I mean, I want you to be -- give us -- give us 20 minutes.

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MR. VANDEGRIFF: You want to say 2:30 just to have a clean starting point?
MR. JOHNSON: 12:30.
MR. VANDEGRIFF: Sorry. 12:30 Mountain Time. I apologize.
VIDEOGRAPHER: We are going off the record. The time is 12:07 p.m.
(Whereupon, a break was then taken.)
VIDEOGRAPHER: We are back on the record. The time is 12:36 p.m.
BY MR. VANDEGRIFF:
Q. Thank you. Good afternoon, Amie.
A. Good afternoon.
Q. So is -- do you believe that the individuals who transfer from a men's prison to a women's prison are more likely to commit an act of assault or sexual violence -- are they more likely to commit one of those acts than the general women's prison population?
A. Yes.
Q. Okay. And what is your basis for that belief?
A. They're -- they're -- men have a higher -- statistically higher rate of violence that they commit. And in my experience, most of

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these people are men that I would not categorize as trans women.

Q. Okay. Have you seen any data or reports on the offense rate of these individuals after they transfer?

A. They don't exist.

Q. What do you mean by "they don't exist"?

A. That kind of information isn't being recorded because statistics no longer matter because they're not based on reality. So when somebody transfers, they become a woman and it's recorded as female on female combat.

Q. So you're -- in your opinion, there's no statistics on the offense rate of these individuals after they transfer?

A. No.

Q. Okay. Any other reason that you have that belief besides your statement about the crime rates of men generally?

A. No.

Q. Okay. I want to introduce Exhibit 202, which is -- you guys have it the -- it's the thick one, but it's the Montana Department of Corrections policy.

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(Whereupon, Exhibit No. 202 was marked for purposes of identification.)

THE WITNESS: Okay. Yes.

BY MR. VANDEGRIFF:

Q. And I'm going to put that in the chat and then share my screen.

MR. JOHNSON: I don't think we have that version.

MR. VANDEGRIFF: So that was sent in a separate -- the first Kiteworks e-mail that I sent.

MR. JOHNSON: This is the one? Is this the Montana Department of Corrections policy?

MR. VANDEGRIFF: That's correct.

MR. JOHNSON: Okay.

MR. VANDEGRIFF: I mean, if you want time to print, that's fine. I will also say it's hundreds of pages long and I'm asking about one paragraph, so I'm happy to share my screen as well.

MR. JOHNSON: Share the screen, but I'm going to object as foundation. She says she's never reviewed it, so...

MR. VANDEGRIFF: Okay.

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BY MR. VANDEGRIFF:

Q. Can you see that document?

A. Not yet.

Yes.

Q. Okay. Do you see where it says "Montana Department of Corrections Policy Manual"?

A. Yes.

Q. Okay. I'm going to turn to page 64.

Do you see where subheading E says (as read):

Screening for risk of victimization or abusiveness.

A. Yes, yes I do.

Q. And then can you -- I'm scrolling down to paragraph 9.

Can you just read that paragraph into the record, and I'll Zoom in so I'm not asking you to strain your eyes.

A. Oh, thank you.

Q. Do see paragraph 9 now?

A. Yes. (As read):

In deciding whether to assign a transgender or intersex offender to a facility, and in making other housing and programming assignments, the department will consider on a

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case-by-case basis the placement's effect on the offender's safety, whether the placement would present management or security problems or whether such placement would likely endanger the safety of other offenders.

Q. Okay. In your opinion, is that policy sufficient to protect women in Montana's prisons?

MR. JOHNSON: Objection. Calls for a legal conclusion and beyond the scope of her expert opinion.

Go ahead and answer.

THE WITNESS: Well, I mean, that's very general. That's not going into any detail as to how they make the assessment, so I can't tell you.

BY MR. VANDEGRIFF:

Q. Okay. So because it doesn't tell you how those factors are weighed, you can't provide a --

THE REPORTER: You can't what?

THE WITNESS: I can't give an assessment -- I can't give an opinion because that's so general that that leaves room for all kinds of errors, in my opinion. I don't have one on that paragraph No. 9.

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BY MR. VANDEGRIFF:
Q. Okay. So you don't have an expert opinion on if paragraph 9 is sufficient to protect women in Montana's prisons?
MR. JOHNSON: Objection. Asked and answered.
THE REPORTER: Hold on. Hold on. Hold on.
Is sufficient to protect women...
MR. VANDEGRIFF: In Montana's prisons.
THE REPORTER: And then your objection?
MR. JOHNSON: It's been answered.
THE REPORTER: Go ahead.
THE WITNESS: I don't have an opinion on that one.
BY MR. VANDEGRIFF:
Q. Okay. I'm going to stop the screen share.
A. Okay.
Q. And then are you aware if there are any individuals who have identified male at birth who are currently in a women's prison in Montana?
A. No. I am unaware.
Q. Okay. Do you know if there's ever been an individual who was identified as male at birth

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who has been placed in a women's prison in Montana?
A. I do not know, so...
Q. Okay. You testified today repeatedly that some men lie about being transgender to enter women's prisons; is that correct?
MR. JOHNSON: Objection. Asked and answered.
Go ahead.
THE WITNESS: Correct, yes.
BY MR. VANDEGRIFF:
Q. All right. What's your basis for that belief?
MR. JOHNSON: Objection. Asked and answered.
Go ahead.
THE WITNESS: My basis for that belief is the things that I've seen with my own eyes. The firsthand -- the stories that I've received firsthand. Walking into the prison I paroled from and seeing whole ass men walking round with beards and tattoos from, you know, their ankles to their necks with gang affiliations that are there for sex crimes that are clearly not transgender or any form of female presentation. That would be the

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basis of my opinion.
BY MR. VANDEGRIFF:
Q. Okay. When you say the things you've seen with your own eyes, are you referring to your later statement that you walked around a prison and saw men in that prison?
A. Can you repeat that. I don't recall saying that before.
Q. So I believe when I asked you --
MR. VANDEGRIFF: Well, actually, can I ask the court reporter to read back the first part of her answer to the previous question.
THE REPORTER: Yep. Just a second.
MR. VANDEGRIFF: If you could read my question and her response, that would be great.
(Whereupon, a portion of the previous testimony was read back.)
BY MR. VANDEGRIFF:
Q. So my question is your original statement is "things I've seen with my own eyes," and then you go into detail about a time you were in a prisons that you've been paroled from.
Are you referring to the same thing in those answers?

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A. I'm referring to times that I've visited the prison for special events since the implementation of this law happened.
Q. Okay. Anything else you've seen with your own eyes that's the basis for that belief?
A. No.
Q. Okay. And then you said stories you've heard.
Are those things that the individual women you correspond with have told you?
A. Yes.
Q. Okay.
A. As well as staff.
Q. Okay. So your communication with others, they've told you that?
A. Yes.
Q. Okay. Have you ever actually talked to one of these individuals and they've admitted that they are not transgender?
A. Not personally. I do talk to people that have transferred from men's prisons. I do talk to transgender women, trans men, both in women's prison and out of prison. But I haven't talked to someone directly who is one of the people who's gaming the system -- well, or admittedly gaming

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the system.
Q. Okay. So no -- no individual has admitted to you personally that they are lying about their transgender status?
A. Really people that are lying and, you know, opportunistic criminals don't -- are not going to tell someone that who's trying to make sure they get out of the women's prison.
Q. Okay. And have you seen any data or research on this point about the genuineness of people's transgender identity --
A. There is no such thing --
THE REPORTER: Wait. Wait. Genuineness --
THE WITNESS: I'm sorry. I'm sorry, Kasey.
THE REPORTER: That's okay.
Have you seen any data or research on this point about the genuineness...
BY MR. VANDEGRIFF:
Q. Of a transferee's gender identity?
A. And my response would be no.
Q. Okay. Do you have an opinion about what percentage of these transferees are lying about their gender ID status --

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A. I'm sorry. I did it again. No.
Q. You're okay.
MR. VANDEGRIFF: Okay. I want to put up Exhibit -- it's going to be labeled 204 for you all, but I'm skipping what was 203.
So for the court reporter, it will be 203. It's the Amended Lay Witness Disclosure.
THE WITNESS: Oh, okay.
(Whereupon, Exhibit No. 203 was marked for purposes of identification.)
MR. VANDEGRIFF: And I'll put that in the chat so you have it, Kasey.
THE REPORTER: Thank you.
BY MR. VANDEGRIFF:
Q. Okay. Sharing my screen.
Okay. Do you see what is now being marked as Exhibit 203?
A. Yes.
Q. Okay.
MR. VANDEGRIFF: And I would like to ask the court reporter to mark that as Exhibit 203.
BY MR. VANDEGRIFF:
Q. Is that -- this document titled Defendant's Amended Lay Witness List?

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A. Yes.
Q. Okay. Can you scroll down to page 2 where it has a numbered list.
A. Yes.
Q. Okay. Do you see your name next to No. 14?
A. I do.
Q. Okay. So would you agree that you have been listed as a lay witness for defendants?
A. I see that I'm listed. It was my understanding that I would be an expert witness.
Q. Okay. So your current understanding is that you're not offering any lay testimony?
A. Correct.
Q. Okay.
MR. VANDEGRIFF: Okay. I'm going to go on to Exhibit -- what will be -- it's labeled 205 for you all, but it will be 204 for the court reporter.
THE WITNESS: Okay.
MR. VANDEGRIFF: It's the amended discovery responses.
THE WITNESS: Okay.
///
///

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(Whereupon, Exhibit No. 204 was marked for purposes of identification.)
BY MR. VANDEGRIFF:
Q. Are you able to see that exhibit?
MR. JOHNSON: She has it in front of her.
THE WITNESS: Yeah.
BY MR. VANDEGRIFF:
Q. I'll also share my screen.
Okay. Is this Exhibit 204 labeled the State of Montana's Amended Responses to Plaintiffs' First Combined Discovery Requests to Defendant State of Montana, the Governor of the State of Montana and the Attorney General of the State of Montana?
A. Yes.
Q. Okay. I'm sorry. I don't have a page number, but I know you are around here.
There we go.
Do you see where it says -- do you see the sentence I'm highlighting right there?
Again, happy to zoom in. I'm not trying to give you a -- strain your eyes -- that starts with your name?
A. Almost.

***

DEPONENT'S CERTIFICATE

I, AMIE ICHIKAWA, the deponent in the foregoing deposition, DO HEREBY CERTIFY, that I have read the foregoing - 233 - pages of typewritten material and that the same is, with any changes thereon made in ink on the corrections sheet, and signed by me a full, true and correct transcript of my oral deposition given at the time and place hereinbefore mentioned.

_____
AMIE ICHIKAWA

Subscribed and sworn to before me this _____ day of _____, 2026.

_____
PRINT NAME:_____
Notary Public, State of Montana
Residing at:_____
My commission expires:_____

KF - Casey Perkins, et al vs. State of Montana, et al

C E R T I F I C A T E

STATE OF MONTANA)
: Ss
COUNTY OF GALLATIN)

I, Kasey L. Fisher, Registered Professional Reporter and Notary Public for the State of Montana, residing in Bozeman, do hereby certify:

That I was duly authorized to and did swear in the witness and report the deposition of AMIE ICHIKAWA in the above-entitled cause; that the foregoing pages of this deposition constitute a true and accurate transcription of my stenotype notes of the testimony of said witness, all done to the best of my skill and ability; that the reading and signing of the deposition by the witness have been expressly reserved.

I further certify that I am not an attorney nor counsel of any of the parties, nor a relative or employee of any attorney or counsel connected with the action, nor financially interested in the action.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal on this the 12th day of March, 2026.

Kasey L. Fisher

KASEY L FISHER
NOTARY PUBLIC FOR THE
STATE OF MONTANA
RESIDING AT BOZEMAN
MY COMMISSION EXPIRES
FEBRUARY 06, 2027

EXHIBIT 26

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MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, et al., Plaintiffs, v. STATE OF MONTANA, et al., Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Dept. 1 DV-32-2025-282 Hon. Leslie Halligan **STATE OF MONTANA'S RESPONSES TO PLAINTIFFS' FIRST REQUESTS FOR ADMISSION TO DEFENDANTS STATE OF MONTANA, THE GOVERNOR OF THE STATE OF MONTANA, AND ATTORNEY GENERAL OF THE STATE OF MONTANA**

TO: Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe and John Doe, c/o Alex Rate, ACLU of Montana, PO Box 1968, Missoula, MT 59806-1968, Terry Ding, ACLU Foundation, 124 Broad Street, 17th Floor, New York, NY, Robin Turner, Legal Voice, PO Box 582, Missoula, MT 59806, and Julie A. Murray, ACLU Foundation, 915 15th Street, NW, Washington, DC 20005:

Defendant State of Montana (the State) responds to Plaintiffs' First Requests for Admission to Defendants (November 24, 2025).

General Objections

1. The State objects to the definitions and instructions contained in the Plaintiffs' First Requests for Admission to Defendants to the extent they seek to impose any obligation or responsibility exceeding the requirements of the Montana Rules of Civil Procedure.

2. The State objects to Plaintiffs' First Requests for Admission to Defendants to the extent they request information and/or documents prepared for or in anticipation of litigation, constitute attorney work product, constitute privileged attorney-client communications, or are otherwise privileged.

3. The State's responses to Plaintiffs' First Requests for Admission to Defendants are made without in any way waiving or intending to waive, but rather preserving and intending to preserve all questions as to the competence, relevance, materiality and admissibility as evidence for any purpose of the information in this or any other court action or judicial or administrative proceeding or investigation; the right to object on any ground to the use of the information or documents in this or the right to object at any time in any further response to this or any other Interrogatories documents.

4. The State reserves the right to supplement and/or modify its responses to Plaintiffs' First Requests for Admission to Defendants to the extent further information becomes available and/or responsive documents are discovered.

Subject to the foregoing General Objections, The State submits these Responses to Plaintiffs' First Requests for Admission to Defendants as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 1: Admit that, under HB 121, a transgender man is required to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 2: Admit that, under HB 121, a transgender man is not permitted to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 3: Admit that, under HB 121, a transgender woman is required to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 4: Admit that, under HB 121, a transgender woman is not permitted to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 5: Admit that HB 121 recognizes exactly two sexes, male and female, in human beings.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 6: Admit that gender dysphoria is a medical condition.

RESPONSE: Deny. Gender dysphoria is a mental health condition defined in the DSM-5.

REQUEST FOR ADMISSION NO. 7: Admit that, under HB 121, "[t]he sexes are determined by the biological and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 8: Admit that, under HB 121, a person born with male sex chromosomes is required to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 9: Admit that, under HB 121, a person born with male sex chromosomes is not permitted to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 10: Admit that, under HB 121, a person born with female sex chromosomes is required to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 11: Admit that, under HB 121, a person born with female sex chromosomes is not permitted to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 12: Admit that, under HB 121, a person born with male gonads is required to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 13: Admit that, under HB 121, a person born with male gonads is not permitted to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 14: Admit that, under HB 121, a person born with male nonambiguous internal genitalia is required to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 15: Admit that, under HB 121, a person born with male nonambiguous internal genitalia is not permitted to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 16: Admit that, under HB 121, a person born with male nonambiguous external genitalia is required to use covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 17: Admit that, under HB 121, a person born with male nonambiguous external genitalia is not permitted to use covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 18: Admit that HB 121 does not forbid a cisgender man from using covered facilities designated for men.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 19: Admit that HB 121 does not forbid a cisgender woman from using covered facilities designated for women.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 20: Admit that preventing transgender and intersex persons from using a facility that corresponds with their gender identity can harm their safety, privacy, and well-being.

RESPONSE: HB 121 does not use the term "facility" except in reference to a "correctional center," "juvenile detention facility," and as it relates to Section 3(5)(b). Regarding those three "facilities"—Deny. The State has not received any reports of harm.

REQUEST FOR ADMISSION NO. 21: Admit that allowing transgender and intersex persons to use a facility that corresponds with their gender identity can maintain their safety, privacy, and well-being.

RESPONSE: HB 121 does not use the term "facility" except in reference to a "correctional center," "juvenile detention facility," and as it relates to Section 3(5)(b). Regarding those three "facilities"—Deny. The State has not received any reports of harm.

REQUEST FOR ADMISSION NO. 22: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to abuse another person in a facility under Montana law.

RESPONSE: HB 121 does not use the term "facility" except in reference to a "correctional center," "juvenile detention facility," and as it relates to Section 3(5)(b).

Regarding those three "facilities"—Deny. The State has not received any reports of harm.

REQUEST FOR ADMISSION NO. 23: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to harass another person in a facility under Montana law.

RESPONSE: Object on the grounds that the term "harass" is not defined nor is facility and thus is ambiguous. The State lacks sufficient knowledge to fully admit or deny. The State has searched discrimination laws and criminal statutes. The term "harass" is not defined. MCA § 45-5-221 makes it a felony to purposely or knowingly harass.

REQUEST FOR ADMISSION NO. 24: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to sexually assault another person in a facility under Montana law.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 25: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to perpetuate violence against another person in a facility under Montana law.

RESPONSE: Object on the grounds that the term "violence" is not defined and thus is ambiguous. Assuming "violence" is assault—qualified admit.

REQUEST FOR ADMISSION NO. 26: Admit that the rationale for HB 121 is based on a presumption that transgender and intersex persons are more likely than

cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

RESPONSE: Deny. HB 121 has the stated purpose as provided in Section 1 of HB 121 both (1) and (2).

REQUEST FOR ADMISSION NO. 27: Admit that there were no reported instances of a transgender person abusing, harassing, sexually assaulting, or perpetrating violence in a facility in Montana prior to the enactment of HB 121.

RESPONSE: HB 121 does not use the term "facility" except in reference to a "correctional center," "juvenile detention facility," and as it relates to Section 3(5)(b). Regarding those three "facilities"—Admit.

REQUEST FOR ADMISSION NO. 28: Admit that there were no reported instances of an intersex person abusing, harassing, sexually assaulting, or perpetuating violence in a facility in Montana prior to the enactment of HB 121.

RESPONSE: HB 121 does not use the term "facility" except in reference to a "correctional center," "juvenile detention facility," and as it relates to Section 3(5)(b). Regarding those three "facilities"—Admit.

REQUEST FOR ADMISSION NO. 29: Admit that you are not in possession of any data pre-dating HB 121's adopting supporting the contention that transgender and intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetuate violence in a facility.

RESPONSE: Deny.

REQUEST FOR ADMISSION NO. 30: Admit that the installation of enclosed restroom stalls can prevent the perpetration of abuse, harassment, sexual assault, or violence in a facility.

RESPONSE: Deny.

REQUEST FOR ADMISSION NO. 31: Admit that enforcement of HB 121 would require transgender and intersex persons to disclose or verify their gender identity.

RESPONSE: Objection is made because HB 121 does not define "gender identity" thus it is ambiguous. Without waiving the objection, Deny.

REQUEST FOR ADMISSION NO. 32: Admit that HB 121 requires covered entities to take "reasonable steps" to ensure that only individuals whose gender identity corresponds to the sex designation of a covered facility is permitted to use that facility.

RESPONSE: Objection is made because "gender identity" is not defined and thus it is ambiguous. Without waiving the objection, Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 33: Admit that, under HB 121, covered entities may need to verify whether the gender identity of a person seeking to use a covered facility corresponds to the sex for which the facility is designated.

RESPONSE: Deny. The term "covered facilities" is not defined nor is it a part of HB 121.

REQUEST FOR ADMISSION NO. 34: Admit that, when an individual sues a covered entity pursuant to Section 4 of HB 121 for allegedly encountering an

individual of the opposite sex in a covered entity, the covered entity's liability will depend, at least in part, on the sex of the individual alleged to be of the opposite sex.

RESPONSE: Deny. No cause of action exits for encountering the opposite sex in a "covered entity."

REQUEST FOR ADMISSION NO. 35: Admit that you have not provided covered entities with any instructions, procedures, guidelines, or information on how to comply with HB 121.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 36: Admit that transgender persons represent a small and discrete group of people within Montana.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 37: Admit that intersex persons represent a small and discrete group of people within Montana.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 38: Admit that transgender persons are underrepresented among Montana's local, state, and national officeholders.

RESPONSE: Deny.

REQUEST FOR ADMISSION NO. 39: Admit that HB 121 does not define "biological or genetic condition" as used in the bill.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 40: Admit that access to restroom facilities is a basic necessity for all human beings.

RESPONSE: Admit. This admission is made based upon the purpose of HB 121 as stated in Section 1.

REQUEST FOR ADMISSION NO. 41: Admit that access to changing rooms is a basic necessity for all human beings when utilizing a public facility.

RESPONSE: Deny.

DATED this 23rd day of December 2025.

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Montana Attorney General

/s/ Thane Johnson
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MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER McDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual, and JOHN DOE, an individual, and MISSOULA COUNTY,

Plaintiffs,

v.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants,

and

KERRI SEEKINS-CROWE,

Intervenor-Defendant.

Dept. 1

DV-32-2025-282
Hon. Leslie Halligan

STATE OF MONTANA'S RESPONSES TO PLAINTIFFS' SECOND REQUESTS FOR ADMISSION TO DEFENDANTS STATE OF MONTANA, THE GOVERNOR OF THE STATE OF MONTANA, AND ATTORNEY GENERAL OF THE STATE OF MONTANA

TO: Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe and John Doe, c/o Alex Rate, ACLU of Montana, PO Box 1968, Missoula, MT 59806-1968, Terry Ding, ACLU Foundation, 124 Broad Street, 17th Floor, New York, NY, Robin Turner, Legal Voice, PO Box 582, Missoula, MT 59806, and Julie A. Murray, ACLU Foundation, 915 15th Street, NW, Washington, DC 20005:

Defendant State of Montana (the State) responds to Plaintiffs' Second Requests for Admission to Defendants (January 12, 2026).

GENERAL OBJECTIONS

1. The State objects to the definitions and instructions contained in the Plaintiffs' Second Requests for Admission to Defendants to the extent they seek to impose any obligation or responsibility exceeding the requirements of the Montana Rules of Civil Procedure.

2. The State objects to Plaintiffs' Second Requests for Admission to Defendants to the extent they request information and/or documents prepared for or in anticipation of litigation, constitute attorney work product, constitute privileged attorney-client communications, or are otherwise privileged.

3. The State's responses to Plaintiffs' Second Requests for Admission to Defendants are made without in any way waiving or intending to waive, but rather preserving and intending to preserve all questions as to the competence, relevance, materiality and admissibility as evidence for any purpose of the information in this or any other court action or judicial or administrative proceeding or investigation; the right to object on any ground to the use of the information or documents in this or the right to object at any time in any further response to this or any other Interrogatories documents.

4. The State reserves the right to supplement and/or modify its responses to Plaintiffs' Second Requests for Admission to Defendants to the extent further information becomes available and/or responsive documents are discovered.

Subject to the foregoing General Objections, The State submits these Responses to Plaintiffs' Second Requests for Admission to Defendants as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 42: Admit that, under HB 121, a transgender man is required to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 1). Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 43: Admit that, under HB 121, a transgender man is not permitted to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 2). Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 44: Admit that, under HB 121, a transgender woman is required to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 3). Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 45: Admit that, under HB 121, a transgender woman is not permitted to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 4). Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 46: Admit that, under HB 121, a person born with male sex chromosomes is required to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 8). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 47: Admit that, under HB 121, a person born with male sex chromosomes is not permitted to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 9). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 48: Admit that, under HB 121, a person born with female sex chromosomes is required to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 10). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 49: Admit that, under HB 121, a person born with female sex chromosomes is not permitted to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 11). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 50: Admit that, under HB 121, a person born with male gonads is required to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 12). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 51: Admit that, under HB 121, a person born with male gonads is not permitted to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 13). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 52: Admit that, under HB 121, a person born with male nonambiguous internal genitalia is required to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 14). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 53: Admit that, under HB 121, a person born with male nonambiguous internal genitalia is not permitted to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 15). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 54: Admit that, under HB 121, a person born with male nonambiguous external genitalia is required to use covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 16). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 55: Admit that, under HB 121, a person born with male nonambiguous external genitalia is not permitted to use covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 17). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 56: Admit that HB 121 does not forbid a cisgender man from using covered facilities designated for men.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 18). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 57: Admit that HB 121 does not forbid a cisgender woman from using covered facilities designated for women.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 19). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room. Based upon Definition No. 5—Admit.

REQUEST FOR ADMISSION NO. 58: Admit that preventing transgender and intersex persons from using a covered facility that corresponds with their gender identity can harm their safety, privacy, and well-being.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 20). Without waiving any objection—Deny. The term "covered

facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room.

REQUEST FOR ADMISSION NO. 59: Admit that allowing transgender and intersex persons to use a covered facility that corresponds with their gender identity can maintain their safety, privacy, and well-being.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 21). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room.

REQUEST FOR ADMISSION NO. 60: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to abuse another person in a covered facility under Montana law.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 22). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room.

REQUEST FOR ADMISSION NO. 61: Admit that there were no reported instances of a transgender person abusing, harassing, sexually assaulting, or perpetrating violence in a covered facility in Montana prior to the enactment of HB 121.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 28). Without waiving any objection—Deny. The term "covered

facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room.

REQUEST FOR ADMISSION NO. 62: Admit that there were no reported instances of an intersex person abusing, harassing, sexually assaulting, or perpetuating violence in a covered facility in Montana prior to the enactment of HB 121.

RESPONSE: Objection—asked and answered (*see* Answer to Request for Admission No. 29). Without waiving any objection—Deny. The term "covered facilities" is not defined nor is it part of HB 121. HB 121 does not penalize a person from using any room.

REQUEST FOR ADMISSION NO. 63: Admit that HB 121 requires covered entities to take "reasonable steps" to ensure that only individuals whose gender identity corresponds to the sex designation of a covered facility is permitted to use that covered facility.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 64: Admit that, under HB 121, covered entities may need to verify whether the gender identity of a person seeking to use a covered facility corresponds to the sex for which the facility is designated.

RESPONSE: Deny.

REQUEST FOR ADMISSION NO. 65: Admit that, when an individual sues a covered entity pursuant to Section 4 of HB 121 for allegedly encountering an individual of the opposite sex in the restroom, changing room, or sleeping quarter as

defined in HB 121, the covered entity's liability will depend, at least in part, on the sex of the individual alleged to be of the opposite sex.

RESPONSE: Deny.

DATED this 11th day of February 2026.

Austin Knudsen
Montana Attorney General

/s/ Thane Johnson
Thane Johnson
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Alwyn Lansing
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Assistant Attorneys General
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Date: February 11, 2026

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MONTANA FOURTH JUDICIAL DISTRICT COURT
MISSOULA COUNTY

CASEY PERKINS, et al., Plaintiffs, v. STATE OF MONTANA, et al., Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Dept. 1 DV-32-2025-282 Hon. Leslie Halligan **STATE OF MONTANA'S RESPONSES TO PLAINTIFFS' FIRST COMBINED DISCOVERY REQUESTS TO DEFENDANTS STATE OF MONTANA, THE GOVERNOR OF THE STATE OF MONTANA, AND ATTORNEY GENERAL OF THE STATE OF MONTANA**

TO: Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe and John Doe, c/o Alex Rate, ACLU of Montana, PO Box 1968, Missoula, MT 59806-1968, Terry Ding, ACLU Foundation, 124 Broad Street, 17th Floor, New York, NY, Robin Turner, Legal Voice, PO Box 582, Missoula, MT 59806, and Julie A. Murray, ACLU Foundation, 915 15th Street, NW, Washington, DC 20005:

Defendant State of Montana (the State) responds to Plaintiffs' First Combined Discovery Requests to Defendants (November 24, 2025).

GENERAL OBJECTIONS

1. The State objects to the definitions and instructions contained in the Plaintiffs' First Combined Discovery Requests to Defendants to the extent they seek to impose any obligation or responsibility exceeding the requirements of the Montana Rules of Civil Procedure.

2. The State objects to Plaintiffs' First Combined Discovery Requests to Defendants to the extent they request information and/or documents prepared for or in anticipation of litigation, constitute attorney work product, constitute privileged attorney-client communications, or are otherwise privileged.

3. The State's responses to Plaintiffs' First Combined Discovery Requests to Defendants are made without in any way waiving or intending to waive, but rather preserving and intending to preserve all questions as to the competence, relevance, materiality and admissibility as evidence for any purpose of the information in this or any other court action or judicial or administrative proceeding or investigation; the right to object on any ground to the use of the information or documents in this or the right to object at any time in any further response to this or any other Interrogatories documents.

4. The State reserves the right to supplement and/or modify its responses to Plaintiffs' First Combined Discovery Requests to Defendants to the extent further information becomes available and/or responsive documents are discovered.

Subject to the foregoing General Objections, the State submits these Responses to Plaintiffs' First Combined Discovery Requests to Defendants as follows:

INTERROGATORIES

INTERROGATORY NO. 1: Identify all persons who answered, supplied information for answers, or assisted in preparing answers to these discovery requests, and for each, identify the requests for admission, interrogatories, and requests for production that they answered, supplied information for, or assisted in answering.

ANSWER: Chad Vanisko (all the discovery requests) and Thane Johnson (all the Requests for Admission).

INTERROGATORY NO. 2: Identify each person whom you believe knows facts relating to this case and, for each, state the following:

(a) the general issue(s) or subject(s) of which you believe they know; and
(b) the facts you believe they know.

ANSWER: Objection. The State objects to this Interrogatory on the basis that it is vague, ambiguous, overly broad, and unduly burdensome in part due to its use of the phrase "facts relating to this case," which is not reasonably limited in time or scope, it seeks information equally accessible to or in the possession of Plaintiffs, and it seeks information that is in part irrelevant and not reasonably calculated to lead to the discovery of admissible evidence. The State further objects to the extent it seeks the mental impressions of counsel. Subject to and without waiving any objection, the State states that Plaintiffs are expected to have general and specific knowledge regarding alleged harms they have suffered as a result of HB 121 and the alleged facts reflected in Plaintiffs' First Amended Complaint. The individuals identified in

materials referenced or produced herein are also expected to have relevant knowledge as reflected in those materials, including Plaintiffs' and Defendants' disclosed experts and lay witness lists. Regarding the individuals on Defendants' lay witness list, Missoula County officials are expected to have knowledge about Plaintiffs' allegations related to Missoula County. Jessica Christian and Donna Jabs are expected to have knowledge about their personal experiences as victims of sexual assault. Kerri Seekins-Crowe is expected to have knowledge of the purpose of HB 121. Proponents and opponents who testified regarding HB 121 are expected to have knowledge of their respective positions on the law.

INTERROGATORY NO. 3: Identify and describe all public or non-public meetings involving you, anyone acting on your behalf, and the Montana Legislature in which HB 121 was discussed, listing the date of each meeting, the nature of each meeting, and the attendees of the meeting, and identifying any documents or other materials relating to those meetings in your custody or control.

ANSWER: Objection. The Montana Legislature is a separate entity not representative of the State of Montana. Without waiving this objection, no information responsive to Interrogatory No. 3 exists.

INTERROGATORY NO. 4: Identify and describe all communications, conversations, or other exchanges of data and information between you and any Montana state legislator, legislative office, or any agent, employee, or representative of a Montana state legislator or legislative office that occurred on or before March 27, 2025 that relate in any way to HB 121 or the subject of HB 121.

ANSWER: Objection. The Montana Legislature is a separate entity not representative of the State of Montana. Without waiving this objection, no information responsive to Interrogatory No. 4 exists.

INTERROGATORY NO. 5: Identify and describe all communications, conversations, or other exchanges of data and information between you and any Montana state legislator, legislative office, or any agent, employee, or representative of a Montana state legislator or legislative office that occurred on or after March 28, 2025 that relate in any way to HB 121 or the subject of HB 121.

ANSWER: Objection. The Montana Legislature is a separate entity not representative of the State of Montana. Without waiving this objection, no information responsive to Interrogatory No. 5 exists.

INTERROGATORY NO. 6: Identify and describe all communications, conversations, or other exchanges of data and information between you and any person or entity not identified in Interrogatory No. 4 that relate in any way to HB 121 or the subject of HB 121.

ANSWER: No information responsive to Interrogatory No. 6 exists.

INTERROGATORY NO. 7: Identify and describe any communications, conversations, or exchanges of data between you and any organization, including but not limited to any Covered Entity, operating in or outside of the state of Montana, or any of its agents, employees, or representatives, that relate to HB 121 or the subject of HB 121.

ANSWER: No information responsive to Interrogatory No. 7 exists.

INTERROGATORY NO. 8: Identify and describe any communications, conversations, or exchanges of data between you and any other state or federal offices in or outside of the state of Montana, or any of its agents, employees, or representatives, that relate to the subject of HB 121.

ANSWER: No information responsive to Interrogatory No. 8 exists.

INTERROGATORY NO. 9: Identify all people, other than the attorneys representing the parties in this lawsuit and the court presiding over this lawsuit, with whom you have communicated, shared data, information, plans, guidance, or questions concerning the enforcement of HB 121.

ANSWER: No information responsive to Interrogatory No. 9 exists.

INTERROGATORY NO. 10: Identify each person whom you intend to call as an expert witness in this case and, for each, provide the following information:

(a) all opinions to be expressed by the witness and the basis and reasons therefor;
(b) the data or other information considered by the witness in forming the opinions;
(c) any exhibits to be used as a summary of or support for the opinions;
(d) the qualifications of the witness, including a list of all publications written by the witness in the last ten years;
(e) the compensation to be paid for the witness' study, preparation, and testimony in this case; and
(f) other cases in which the witness has testified as an expert at trial or by deposition in the last ten years.

ANSWER: The State withdraws Kathy Broere as an expert and she will not be used as a witness. With regard to Dr. Nangia and Dr. Wright please see Defendant's expert disclosure filed and dated October 31, 2025 for purposes of answering (a) and (b). No exhibits exist at this time to be used as a summary. For purposes of (d)

please see STATE-0084–0092. Dr. Nangia is being paid at a rate of $400.00 per hour for all services listed in (e). Dr. Wright is being paid at a rate of $300.00 per hour for all services listed in (e). The State has no information at this time with regard to (d), but will supplement this answer as information is produced.

INTERROGATORY NO. 11: Identify and describe each instance you are aware of from January 1, 2020, to present, where a transgender or intersex person abused, harassed, sexually assaulted, or subjected another person to violence in a facility.

ANSWER: Objection. The State objects on the basis that the term "facility" is vague and it is not known what the Interrogatory is referring to. Subject to and without waiving the objection:

(1) On October 2, 2021, an assault occurred in a Loudoun County, Virginia public school by a "transgender female" on a female student in the school bathroom.

(2) On October 26, 2022, in Oklahoma, an assault occurred in a school bathroom at Edmond Memorial High School by a "transgender female" on a female student.

(3) Sean Ojeda, a "transgender woman," assaulted a 16-year-old female in a Walmart bathroom. The exact date and location is unknown, but the incident presumably occurred in Sherman, Texas because KXII reported it.

(4) On June 7, 2024, Cobalt Sovereign, a "transgender female," assaulted a female in Minnetonka, Minnesota.

(5) On February 15, 2025, a "transgender woman" raped a boy in Manhattan, New York.

(6) Mozzy Clark was sexually assaulted by Christopher Scott Williams, a "transgender woman," in a female prison in Washington State as reported in an article on December 29, 2024.

INTERROGATORY NO. 12: Identify and describe all data supporting the contention that transgender or intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

ANSWER: Please see *The Transgender Movement and Bad Stats: 2024 Edition* (https://suedonym.substack.com/p/the-transgender-movement-and-bad?utm_source=publication-search), *Keep Prisons Single Sex* (https://usa.kpssinfo.org/), and UCLA Law Williams Institute's *How Many Adults and Youth Identify as Transgender in the United States?* (https://williamsinstitute.law.ucla.edu/publications/trans-adults-united-states/).

INTERROGATORY NO. 13: Identify and describe all public and non-public meetings at which you discussed the potential impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons and identify all research, data, reports, publications, testimony, or other documents considered, reviewed, or relied upon in determining the impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons.

ANSWER: No information responsive to Interrogatory No. 13 exists.

INTERROGATORY NO. 14: Identify and describe all facts supporting your contention that HB 121 will protect the privacy and safety of women and girls from acts of abuse, harassment, sexual assault, and violence. A complete answer to this

Interrogatory should list all public and non-public meetings at which you discussed how HB 121 will protect the privacy and safety of women and girls from acts of abuse, harassment, sexual assault, and violence, and identify all research, data, reports, publications, testimony, or other documents considered, reviewed, or relied upon in determining whether HB 121 will protect the privacy and safety of women and girls from acts of abuse, harassment, sexual assault, and violence.

ANSWER: No meetings were attended. Please see the answers to Interrogatory Nos. 11 and 12.

INTERROGATORY NO. 15: Identify and describe any communications, instructions, procedures, guidance, and information you exchanged with any covered entity on how to comply with HB 121.

ANSWER: No information responsive to Interrogatory No. 15 exists.

INTERROGATORY NO. 16: Identify and describe all communications, information, and data you exchanged with any person and all information you provided to any person regarding the enforcement of HB 121 against covered entities under HB 121 § 4.

ANSWER: No information responsive to Interrogatory No. 16 exists.

INTERROGATORY NO. 17: Identify any data, communications, or other information you have or have seen regarding methods of enforcement of HB 121, including but not limited to documents such as memoranda of understanding indicating whether and how HB 121 could be enforced, development of "bench cards"

or any other judicial guidance for judges who may preside over a case under HB 121, or any other means.

ANSWER: No information responsive to Interrogatory No. 17 exists.

INTERROGATORY NO. 18: Identify and describe any instructions, policy changes, or procedure changes that were provided to your officers, employees, or agents as a result of the temporary restraining order or the preliminary injunction entered in this case.

ANSWER: No information responsive to Interrogatory No. 18 exists.

INTERROGATORY NO. 19: Identify and describe any instructions, policy changes, or procedure changes that were provided to covered entities in Montana as a result of the temporary restraining order or the preliminary injunction entered in this case.

ANSWER: No information responsive to Interrogatory No. 19 exists.

INTERROGATORY NO. 20: If your responses to the Requests for Admission are anything other than unqualified admissions, please provide every fact supporting your response.

ANSWER: Please see answers to each Request for Admission.

INTERROGATORY NO. 21: Identify and describe the factual basis for each affirmative defense in your Answer to Plaintiffs' Amended Complaint.

ANSWER: None of the Plaintiffs are minors under the age of 18 years. By information and belief none of Plaintiffs are on inmate status or on probation in the

Department of Corrections. By information and belief none of the Plaintiffs are students in a public school.

INTERROGATORY NO. 22: Describe your understanding of the meaning of the phrase "provided the other individual permission" contained in HB 121 § 4 (1)(a), including but not limited to the words "provided" and "permission," within the context of the phrase.

ANSWER: Objection. Interrogatory No. 22 calls for a legal conclusion and invades the province of the Court. Without waiving this objection, it means they provided consent to use in some manner.

INTERROGATORY NO. 23: Describe your understanding of the meaning of the phrase "is required by a covered entity" contained in HB 121 § 4(2), including but not limited to the meaning of "required" within the context of the phrase.

ANSWER: Objection. Interrogatory No. 23 calls for a legal conclusion and invades the province of the Court. Without waiving this objection, it means they provided consent to use in some manner.

INTERROGATORY NO. 24: Identify and describe any medical or other bases supporting or pertaining to the definition of "female" in HB 121 § 2(4).

ANSWER: No information responsive to Interrogatory No. 24 exists. This information is public and in the possession of the Montana Legislature.

INTERROGATORY NO. 25: Identify and describe any medical or other bases supporting or pertaining to the definition of "male" in HB 121 § 2(7).

ANSWER: No information responsive to Interrogatory No. 25 exists. This information is public and in the possession of the Montana Legislature.

INTERROGATORY NO. 26: Identify and describe any medical or other bases supporting or pertaining to the definition of "sex" in HB 121 § 2(12).

ANSWER: No information responsive to Interrogatory No. 26 exists. This information is public and in the possession of the Montana Legislature.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 1: Produce all documents and communications identified, referenced, referred to, or relied upon in response to any of these discovery requests.

RESPONSE: Please see documents Bates stamped as STATE-0001–0083; STATE-0084–0092.

REQUEST FOR PRODUCTION NO. 2: Produce all documents and communications in your possession or control that refers or relates to the subject matter of this litigation, including HB 121.

RESPONSE: Please see documents Bates stamped as GOV-0001–0150.

REQUEST FOR PRODUCTION NO. 3: Produce all documents and comments about HB 121 or the subject of HB 121, including but not limited to all documents and communications involving the Montana Legislature.

RESPONSE: Objection on the grounds that this invades the Legislative privilege. Without waiving the objection, please see documents Bates stamped as GOV-0001–0150.

REQUEST FOR PRODUCTION NO. 4: Produce each document that refers or relates to any investigation, consideration, or evaluation by you relating to the public health consequences of denying transgender persons access to facilities that correspond with their gender identity.

RESPONSE: No documents responsive to Request for Production No. 4 exist.

REQUEST FOR PRODUCTION NO. 5: Produce each document that refers or relates to any investigation, consideration, or evaluation by you relating to the public health consequences of denying intersex persons access to facilities that correspond with their gender identity.

RESPONSE: No documents responsive to Request for Production No. 5 exist.

REQUEST FOR PRODUCTION NO. 6: Produce each document in your possession or control that refers or relates to the potential impact of HB 121 on the safety, privacy, and well-being of transgender persons.

RESPONSE: No documents responsive to Request for Production No. 6 exist.

REQUEST FOR PRODUCTION NO. 7: Produce each document in your possession or control that refers or relates to the potential impact of HB 121 on the safety, privacy, and well-being of intersex persons.

RESPONSE: No documents responsive to Request for Production No. 7 exist.

REQUEST FOR PRODUCTION NO. 8: Produce each document that refers or relates to your contention that HB 121 will protect the privacy and safety of women and girls from acts of abuse, harassment, sexual assault, and violence.

RESPONSE: Please see articles referenced in the Answer to Interrogatory No. 12.

REQUEST FOR PRODUCTION NO. 9: Produce each document in your possession or control that refers or relates to each instance you are aware of from January 1, 2020, to present, where a transgender or intersex person abused, harassed, sexually assaulted, or subjected another person to violence in a facility in Montana.

RESPONSE: The instances were obtained by searching the internet. No documents responsive to Request for Production No. 9 exist.

REQUEST FOR PRODUCTION NO. 10: Produce each document in your possession or control that refers or relates to each instance you are aware of from January 1, 2020, to present, where a cisgender person abused, harassed, sexually assaulted, or subjected another person to violence in a facility in Montana.

RESPONSE: No documents responsive to Request for Production No. 10 exist.

REQUEST FOR PRODUCTION NO. 11: Produce each document in your possession or control that refers or relates to all data supporting the contention that transgender or intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

RESPONSE: Please see articles referenced in the Answer to Interrogatory No. 12.

REQUEST FOR PRODUCTION NO. 12: Produce all documents and communications in your control with covered entities regarding HB 121. This includes but is not limited to documents you provided to covered entities' agents,

employees, administrators, attorneys, representatives, and all other persons and entities working or purporting to act on behalf of, or in concert with, or in participation with any covered entity.

RESPONSE: No documents responsive to Request for Production No. 12 exist.

REQUEST FOR PRODUCTION NO. 13: Produce each document that refers or relates to your communications with covered entities regarding HB 121. This includes but is not limited to communications with covered entities' agents, employees, administrators, attorneys, representatives, and all other persons and entities working or purporting to act on behalf of, or in concert with, or in participation with any covered entity.

RESPONSE: No documents responsive to Request for Production No. 13 exist.

REQUEST FOR PRODUCTION NO. 14: Produce each document that refers or relates to the FBI Crime statistics for Montana that you referenced in your Response in Opposition to Plaintiff's Motion for Preliminary Injunction, filed on April 16, 2025.

RESPONSE: Please see the following website: https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend.

REQUEST FOR PRODUCTION NO. 15: Produce each document that refers or relates to all data and research, including but not limited to scientific studies, crime statistics, and criminal reports and complaints, you relied upon regarding the alleged safety risks cisgender people face as a result of transgender and intersex persons using facilities that correspond with their gender identity.

RESPONSE: No documents responsive to Request for Production No. 15 exist.

REQUEST FOR PRODUCTION NO. 16: Produce each document in your possession or control that refers to or relates to any action against a covered entity brought under HB 121 § 4.

RESPONSE: No documents responsive to Request for Production No. 16 exist.

REQUEST FOR PRODUCTION NO. 17: Produce all documents and communications in your control concerning, regarding, or related to any medical or other bases supporting or pertaining to the definition of "female" in HB 121 § 2(4).

RESPONSE: Any records from the Legislature are public and available to Plaintiffs. Having stated this, no records responsive to Request for Production No. 17 exist.

REQUEST FOR PRODUCTION NO. 18: Produce all documents and communications in your control concerning, regarding, or related to any medical or other bases supporting or pertaining to the definition of "male" in HB 121 § 2(7).

RESPONSE: Any records from the Legislature are public and available to Plaintiffs. Having stated this, no records responsive to Request for Production No. 18 exist.

REQUEST FOR PRODUCTION NO. 19: Produce all documents and communications in your control concerning, regarding, and related to any medical or other bases supporting or pertaining to the definition of "sex" in HB 121 § 2(12).

RESPONSE: Any records from the Legislature are public and available to Plaintiffs. Having stated this, no records responsive to Request for Production No. 19 exist.

REQUEST FOR PRODUCTION NO. 20: Produce all documents and communications in your control concerning, regarding, or related to the number and location of single-occupancy restrooms, changing rooms, or sleeping quarters, as referenced in HB 121 § 3(6)(b), owned or operated by any covered entity.

RESPONSE: The State does not have any record of the number of single-use bathrooms in any privately owned buildings. The State will supplement this response if such information becomes available.

REQUEST FOR PRODUCTION NO. 21: Produce all documents and communications in your control concerning, regarding, or related to the number and location of family restrooms, changing rooms, or sleeping quarters, as referenced in HB 121 § 3(6)(b), owned or operated by any covered entity.

RESPONSE: Please see the Answer to Request for Production No. 20. The State has no record of these types of rooms in any State owned or leased buildings or privately owned buildings. The State will supplement this response if such information becomes available.

REQUEST FOR PRODUCTION NO. 22: Produce all documents and communications in your control concerning, regarding, or related to the impact, applicability, and enforcement of HB 121 on covered entities in Montana.

RESPONSE: No documents responsive to Request for Production No. 22 exist.

REQUEST FOR PRODUCTION NO. 23: Produce all documents and communications in your control concerning, regarding, or related to the impact, applicability, and enforcement of HB 121 on any college or university campus in the

Montana University System, including but not limited to the University of Montana, Montana State University, and Montana Technical University.

RESPONSE: No documents responsive to Request for Production No. 23 exist.

REQUEST FOR PRODUCTION NO. 24: Produce all documents and communications in your control concerning, regarding, or related to HB 121's compliance with Title IX of the Education Amendments of 1972.

RESPONSE: Objection. This request calls for a legal conclusion. Without waiving this objection, no documents responsive to Request for Production No. 24 exist.

REQUEST FOR PRODUCTION NO. 25: Produce each document on which you relied in preparing the background section of your response to Plaintiff's Motion for Preliminary Injunction.

RESPONSE: The State relied on the Complaint, Answer, and Brief in Support of Motion for Preliminary Injunction, all of which have been filed and are public record.

REQUEST FOR PRODUCTION NO. 26: Produce each nonprivileged document that you provided to any potential testifying witness in this matter, or to any other third party other than a consulting expert who will not be testifying in this matter, that relates to the subject matter of this litigation.

RESPONSE: The State provided the Complaint, Answer, and Brief in Support of Motion for Preliminary Injunction, all of which have been filed and are public record.

REQUEST FOR PRODUCTION NO. 27: Produce each document obtained from third parties as a result of authorizations, releases, and/or subpoenas relating to the subject matter of this lawsuit.

RESPONSE: No documents responsive to Request for Production No. 27 exist.

REQUEST FOR PRODUCTION NO. 28: Produce each document that supports the affirmative defenses in your Answer to Plaintiffs' Amended Complaint.

RESPONSE: No documents responsive to Request for Production No. 28 exist.

REQUEST FOR PRODUCTION NO. 29: Produce copies of all official statements you have made related to HB 121, including but not limited to in-person, phone, virtual, written, or broadcast interviews, social media posts, and press releases.

RESPONSE: Please see documents Bates stamped as GOV-0146–0150.

REQUEST FOR PRODUCTION NO. 30: Produce copies of all explanatory documents, including but not limited to memorandums, fact sheets, guidance documents, handbooks, manuals, research reports, statistical compilations, and any other explanatory documents in your possession related to HB 121 or the subject of HB 121.

RESPONSE: Please see articles referenced in the Answer to Interrogatory No. 12.

REQUEST FOR PRODUCTION NO. 31: Produce all documents that you contend support each and every governmental interest you contend justifies HB 121.

RESPONSE: Please see articles referenced in the Answer to Interrogatory No. 12.

DATED this 16th day of January 2026.

Austin Knudsen
Montana Attorney General

/s/ Alwyn Lansing
Alwyn Lansing
Michael D. Russell
Thane Johnson
Michael Noonan
George Carlo L. Clark
Assistant Attorneys General
MONTANA DEPARTMENT OF JUSTICE

Attorneys for the Defendants

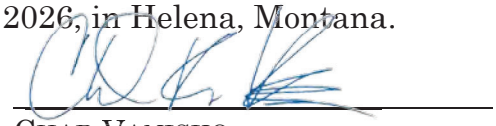
VERIFICATION

STATE OF MONTANA)
:ss
County of Lewis and Clark)

Pursuant to Montana Code Annotated § 1-6-105, I, Chad Vanisko, declare that I am the authorized representative of the State of Montana, in the above-titled action; that I have read the State of Montana's Responses to Plaintiffs' First Combined Discovery Requests to Defendants; that the responses were prepared with the assistance and advice of counsel; that some of the information is accordingly outside the scope of the State's personal knowledge; and that the answers, subject to inadvertent or undiscovered errors, are based on and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in the course of the preparation of these responses. Consequently, the State of Montana reserves the right to make any changes to the responses if it appears at any time that omission or errors have been made or that more accurate information is available. Subject to these limitations, the responses are true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 16th day of January 2026, in Helena, Montana.



CHAD VANISKO

CERTIFICATE OF SERVICE

I certify that I served a true and accurate copy of the foregoing by email to the following:

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Date: January 16, 2026

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EXHIBIT 29

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**MONTANA FOURTH JUDICIAL DISTRICT COURT,
MISSOULA COUNTY**

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; JOHN DOE, an individual; and MISSOULA COUNTY, *Plaintiffs*, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, *Defendants*,	Cause No. DV 32-2025-282 Dept. 1 - Hon. Leslie Halligan **PLAINTIFFS CASEY PERKINS, SPENCER MCDONALD, KASANDRA REDDINGTON, JANE DOE, AND JOHN DOE'S RESPONSES TO INTERVENOR-DEFENDANT'S FIRST COMBINED DISCOVERY REQUESTS**

and KERRI SEEKINS-CROWE, *Intervenor-Defendant*.	

Plaintiffs Casey Perkins, et al. ("Plaintiffs"), by and through their counsel of record, hereby submit the following responses and objections ("Responses") to Intervenor-Defendant's First Set of Discovery Requests to Plaintiffs Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe, and John Doe ("First Set of Discovery Requests"). Discovery is not yet complete, and Plaintiffs' investigation is ongoing. Plaintiffs reserve the right to supplement or amend these Responses as the case develops and more facts are discovered. Plaintiffs' Responses are provided without waiving, and instead expressly reserving, all appropriate objections regarding the information produced, including, without limitation, objections concerning relevance, materiality, propriety, admissibility, foundation, and privilege, which may be raised at any subsequent hearing, proceeding, or trial of this or any other action.

OBJECTIONS TO DEFINITIONS

Plaintiffs object to the "Definitions" to the extent that the definitions seek to impose any obligations exceeding or differing from the requirements of the Montana Rules of Civil Procedure, the Local Rules, any orders of the presiding

Court, or other applicable law. Specific Definitions that purport to impose such obligations, or are otherwise objectionable, include:

1. Definition 1, which defines "Plaintiffs" or "you." Plaintiffs object to this definition because it is vague, ambiguous, overly broad, and unduly burdensome, including because it purports to require Plaintiffs to provide responses on behalf of persons or entities other than Plaintiffs. Plaintiffs further object to this definition to the extent that it purports to expand the scope of discovery by seeking information that is not currently in the possession, custody, or control of Plaintiffs, and to the extent that it purports to require Plaintiffs to produce information subject to applicable privileges. For purposes of these Responses, Plaintiffs interpret "Plaintiffs" or "You" to mean Plaintiffs Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe, and John Doe. Plaintiffs Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe, and John Doe respond on behalf of themselves only, not on behalf of any other person or entity.

2. The instruction appearing at paragraph 2 purports to require Plaintiffs to supplement these Responses "if Plaintiffs, directly or indirectly, obtain further information between the time the answers are served and the time of trial." Plaintiffs object to this instruction because it seeks to impose obligations exceeding the requirements of Rule 26(d) Montana Rules of Civil Procedure. Plaintiffs will

supplement or amend their responses in accordance with Rule 26(d) of the Montana Rules of Civil Procedure, any orders of the presiding Court, or other applicable law.

3. Definition 3, which defines "Document." Plaintiffs object to this definition because it is vague, overly broad, unduly burdensome, and not reasonably tailored to Defendants' legitimate discovery needs. For purposes of these Responses, Plaintiffs interpret "Document" consistent with Rule 34(a) of the Montana Rules of Civil Procedure and Rule 1001 of the Montana Rules of Evidence.

4. Definition 4, which defines "identity" or "identification" when used with respect to persons. Plaintiffs object to this definition because it is vague, overly broad, unduly burdensome, and not reasonably tailored to Defendants' legitimate discovery needs. For purposes of these Responses, Plaintiffs interpret "Identify," in this context, to mean "provide reasonably available identification information."

5. Definition 5, which defines "identify" or "identification" when used with respect to documents. Plaintiffs object to this definition because it is vague, overly broad, unduly burdensome, and not reasonably tailored to Defendants' legitimate discovery needs. Plaintiffs further object to this definition because it purports to require Plaintiffs to interpret Defendants' definition of "address(es)"

and then to provide that information for each person who has a possession, custody, or control of the document, including third parties with no relation to this case. For purposes of these Responses, Plaintiffs interpret "Identify," in this context, to mean "provide reasonably available descriptive information."

GENERAL OBJECTIONS

6. Plaintiffs object to these First Set of Discovery Requests on the grounds that they are overly broad and seek disclosure of information that is irrelevant and/or not calculated to lead to the discovery of admissible evidence. Plaintiffs will therefore only provide responses in accordance with and to the extent required by the Montana Rules of Civil Procedure.

7. Plaintiffs object to these First Set of Discovery Requests on the grounds that they are onerous and unduly burdensome and that the burden placed on Plaintiff in providing such information outweighs any benefit to Defendants.

8. Plaintiffs object to these First Set of Discovery Requests on the grounds that they are overbroad and unduly burdensome insofar as some requests include no time restrictions whatsoever.

9. Plaintiffs object to these First Set of Discovery Requests to the extent that they call for information protected by the attorney-client privilege, the attorney work product doctrine, or any other privilege or immunity, and/or to the extent that they call for confidential and proprietary information.

10. Plaintiffs object to producing any confidential medical information or documents that call for information protected by healthcare provider-patient privilege or that is protected from compulsory disclosure by Montana and federal statute.

11. Plaintiffs object to providing any information that is not specifically in Plaintiffs' possession, custody, or control.

12. Plaintiffs object to providing any information or documents that are also in the possession, custody, or control of Defendants.

13. Plaintiffs object to providing any information or documents that are in the public domain, the public legislative record, and equally accessible to Defendants.

14. Plaintiffs object to providing any information that is in the possession, custody, or control of third parties and may more reasonably be obtained therefrom.

15. Plaintiffs object to providing any information, the production of which exceeds Plaintiffs' responsibility to comply with the Montana Rules of Civil Procedure.

16. Plaintiffs object to any discovery Request that seeks information beyond the scope of the issues of this case and that is irrelevant and not reasonably calculated to lead to the discovery of relevant information.

17. Due to the extensive use of compound Interrogatories, Plaintiffs object to all Interrogatories as exceeding the number of Interrogatories allowed under Rule 33 of the Montana Rules of Civil Procedure.

18. Plaintiffs incorporate by reference these General Objections in response to each of Intervenor-Defendants' Interrogatories, Requests for Production of Documents, and Requests for Admission. Plaintiffs state that the following responses are true and complete to the best of Plaintiffs' knowledge currently, while reserving the right to identify additional facts, amend or supplement any answer, or raise additional objections during these proceedings.

DISCOVERY RESPONSES

INTERROGATORY NO. 1:

Please identify each and every person who prepared or assisted in the preparation of answering these discovery requests.

ANSWER TO INTERROGATORY NO. 1:

Plaintiffs object as follows:

1. This Interrogatory appears to require Plaintiffs to identify all individuals who have had any responsibility, however minor, relating to Plaintiffs' Response to Defendants' First Set of Discovery Requests. To the extent that Defendants intend a different meaning, Plaintiffs object because this Interrogatory is vague and ambiguous. Plaintiffs expressly incorporate by

reference each and every General Objection and the above objections to the definition of "identify."

2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory is overly broad and unduly burdensome and seeks information that is irrelevant and not proportional to the needs of the case because it purports to require Plaintiffs to identify "every person" who assisted with the matters described above, including persons with minor or insubstantial involvement with those matters.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs answer that they worked with counsel to prepare these Responses.

INTERROGATORY NO. 2:

Please state the name, telephone number, and address of every person who has knowledge of any facts pertaining to this action, including a brief summary of the facts purportedly known by each person.

ANSWER TO INTERROGATORY NO. 2:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

2. This Interrogatory is overly broad and unduly burdensome and seeks information that is irrelevant and not proportional to the needs of the case because it purports to require Plaintiffs to identify "every person" who has knowledge of any facts of this action, including third parties with no relation to the case.

3. This Interrogatory requires Plaintiffs to provide third-party information not in Plaintiffs' custody and control, such as the name, telephone number, and address of any third-party that knows about this case and summary of the third party's knowledge of this case.

4. Plaintiffs object to this Interrogatory to the extent that it requires Plaintiffs to identify any information or documents that are in the public legislative record, and equally accessible to Defendants and Intervenor-Defendant.

5. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.

6. This Interrogatory violates the mental health professional-client privilege under Mont. Code Ann. § 26-1-807.

7. This Interrogatory violates the doctor-patient privilege under Mont. Code Ann. § 26-1-805.

Subject to and without waiving Plaintiffs' general and specific objections, some individual plaintiffs shared their plans to join this lawsuit with family and friends. Some individual plaintiffs have communicated with their therapists about HB 121 and the subsequent lawsuit, and these plaintiffs assert their counselor-patient privilege under the Montana Code Annotated. Further, the named parties and any individual or entity named in the parties' respective Lay Witness Lists or disclosed in discovery may have knowledge of the facts in this case.

In addition, the following individuals have knowledge of this case:

Name	**Contact Info**	**Brief Summary of Facts**
Casey Perkins	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	See Declaration, filed March 27, 2025
Kas Reddington	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	(1) Declaration, filed March 27, 2025 (2) Supplemental Declaration, filed April 20, 2025
Spencer McDonald	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	See Declaration, filed March 27, 2025
John Doe	ACLU of Montana c/o Alex Rate P.O. Box 1968	See Declaration, filed March 27, 2025

	Missoula, MT 59806 (406) 224-1447	
Jane Doe	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	See Declaration, filed March 27, 2025
Defendant State of Montana	c/o Attorney General State of Montana	
Defendant Governor Greg Gianforte	c/o Attorney General State of Montana	
Defendant Austin Knudsen	c/o Attorney General State of Montana	
Intervenor-Defendant Kerri Seekins-Crowe	Jones Law Firm, PLLC 115 N. Broadway, Suite 410 Billings, MT 59101	Intervenor-Defendant requested, introduced, and was the primary sponsor of House Bill 121.
Kristin Juras	Lt. Governor, State of Montana	Lt. Governor Juras represented the Governor's office in support of House Bill 121 in public legislative hearings.
Jessica Flint	Alliance Defending Freedom (406) 546-5104 Jessica.flint@adfaction.org	Jessica Flint is listed in the HB 121 legislative junque file as the main contact during HB 121's drafting process.
Alexis Sandru, Legislative Services Staff Attorney	Legislative Services Division, State of Montana	Alexis Sandru drafted HB 121 at Intervenor-Defendant Kerri Seekins-Crowe's request.
Hannah Van Hoose	Former Chief of Staff, Montana Democrats	Hannah Van Hoose was Plaintiff Spencer McDonald's supervisor at the State Capitol during the 2025 Legislative Session. Ms. Van Hoose was made aware

		of Spencer's plans to join this lawsuit and discussed the impacts of HB 121 on Spencer during the legislative session.
Ann Willcockson	Director of TRIO and Special Retention, Helena College	Ann is Plaintiff Kas Reddington's direct supervisor. Ann is aware of Kas's concerns about the implementation of HB 121 on Helena College campuses, and of Kas's plans to join this litigation. Ann was the supervisor involved in determining Kas's past sleeping arrangements during work travel.
Cari Schwen	Executive Director of TRIO	Plaintiff Kas Reddington asked Ms. Schwen questions about Helena College's plans to implement HB 121.
Valerie Curtin	Executive Director of TRIO	Plaintiff Kas Reddington notified Ms. Curtin that she would be joining the lawsuit and asked Ms. Curtin questions about how Helena College would implement HB 121.
Jed Breker	Section Manager, Registration Section Montana DOLI Helena, Montana	Mr. Breker is Plaintiff Casey Perkins's immediate supervisor. Mr. Breker was made aware of Plaintiff's plans to join this lawsuit.
Crystal Keleti	Human Resources Generalist, DOLI, State of Montana	Ms. Keleti initiated contact with Casey Perkins regarding the use of a restroom in her work building. This conversation occurred after this lawsuit was filed.

INTERROGATORY NO. 3: If you, or anyone acting on your behalf, ever took or obtained statements, whether oral or in writing, from anyone regarding the facts pertaining to this action, please state the name, telephone number and address of each and every person from whom a statement was obtained, the date and place

where each such statement was taken, and the substance and content of each such statement.

ANSWER TO INTERROGATORY NO. 3:

Plaintiffs expressly incorporate by reference each and every General Objection and the above objections to the definition of "identify" and "you." Plaintiffs further object to this Interrogatory as follows:

1. This Interrogatory is vague, overly broad, unduly burdensome and seeks information that is irrelevant and not proportional to the needs of the case because it purports to require Plaintiffs to assume the definitions of multiple undefined terms, including "statement," "obtained," and "source" and to then identify any or all "statements obtained" from "any person or source" concerning the Plaintiffs' claims in this case, including those with minor or insubstantial impact on the legal issues in this case.

2. This Interrogatory is overly broad and unduly burdensome because it includes no time restriction whatsoever.

3. Plaintiffs object to this Interrogatory to the extent that it requires Plaintiffs to identify any information or documents that are in the public domain, public legislative record, and equally accessible to Defendants.

4. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

5. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.

Subject to and without waiving Plaintiffs' General and specific objections, Plaintiffs respond that statements responsive to this request are set forth in:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, specifically the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, specifically the Supplemental Declaration of K. Reddington (Dkt. 017);
- HB 121/LC2129 combined junque file produced by Montana Legislative Services Division during the 2025 Session.
- Commissioner's Directive, Montana University System, dated March 27, 2025, regarding MUS's compliance with HB 121.
- Email from Sandra Bauman, Dean of Helena College, sent March 2025, regarding Helena College's compliance with HB 121.

REQUEST FOR PRODUCTION NO. 1:

Please produce all statements identified in your Answer to Interrogatory No. 3, including audio recordings and transcriptions if applicable.

RESPONSE TO REQUEST FOR PRODUCTION NO. 1:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as follows:

1. This Request is vague, overly broad, unduly burdensome and seeks information that is irrelevant and not proportional to the needs of the case for the same reasons identified in Plaintiffs' Answer to Interrogatory No. 3.
2. Plaintiffs object to this Request to the extent that it requires Plaintiffs to identify any information or documents that are in the public legislative record, and equally accessible to Defendants.
3. This Request seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that all the facts currently known to Plaintiffs that support their claims are set forth in the following documents currently in Intervenor-Defendant's possession:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, specifically the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);

- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, specifically the Supplemental Declaration of K. Reddington (Dkt. 017).

The following documents are disclosed as **Perkins_Ind_RFP1_000001 – 000072:**

- HB 121/LC2129 combined junque file produced by Montana Legislative Services Division during the 2025 Session;
- Commissioner's Directive, Montana University System, dated March 27, 2025, regarding MUS's compliance with HB 121;
- Email from Sandra Bauman, Dean of Helena College, sent March 2025, regarding Helena College's compliance with HB 121.

INTERROGATORY NO. 4:

Please state with specificity how the Act that is the subject of this litigation has caused you harm. Include specific dates that the alleged harm occurred, identify all witnesses who will testify at the trial of this matter regarding the alleged harm, and identify any documents which support your allegations of harm.

ANSWER TO INTERROGATORY NO. 4:

Plaintiffs expressly incorporate by reference each and every General Objection and the above objections to the definition of "identify" and "you." Plaintiffs further object to this Interrogatory as follows:

1. Plaintiffs object to this Interrogatory to the extent that it requires Plaintiffs to identify any information or documents that are in the public domain, public legislative record, and equally accessible to Defendants.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond as follows:

Name	**Contact Info**	**Responsive Statements**
Casey Perkins	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	Declaration, filed March 27, 2025
Kas Reddington	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	(1) Declaration, filed March 27, 2025; (2) Supplemental Declaration, filed April 20, 2025
Spencer McDonald	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806	Declaration, filed March 27, 2025 Plaintiff McDonald produced social media posts speaking of the impacts that HB 121 will have on him.

	(406) 224-1447	
John Doe	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	Declaration, filed March 27, 2025 Plaintiff Doe wrote three emails to Montana House members outlining the potential impacts that HB 121 would have on him.
Jane Doe	ACLU of Montana c/o Alex Rate P.O. Box 1968 Missoula, MT 59806 (406) 224-1447	Declaration, filed March 27, 2025

REQUEST FOR PRODUCTION NO. 2:

Please produce all documents in your possession, custody, or control identified in your Answer to Interrogatory No. 4.

ANSWER TO REQUEST FOR PRODUCTION NO. 2:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as follows:

1. This Request is vague, overly broad, unduly burdensome and seeks information that is irrelevant and not proportional to the needs of the case for the same reasons identified in Plaintiffs' Answer to Interrogatory No. 4.

2. Plaintiffs object to this Request to the extent that it requires Plaintiffs to identify any information or documents that are in the public legislative record, and equally accessible to Intervenor-Defendants.
3. This Request seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
4. Some of these documents will lead to the identification of John Doe, and there is no order granting leave to proceed under pseudonym or stipulated protective order in place.

Subject to and without waiving Plaintiffs' general and specific objections, please refer to the following documents filed in this matter:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397; Oct. 14, 2025).

Copies of Plaintiff McDonald's social media posts regarding HB 121 and Plaintiff John Doe's emails to legislators (14 pages total) are in counsel's

possession and will be provided upon entry of a protective order, by stipulation or by the court.

INTERROGATORY NO. 5:

Regarding the allegations in Paragraph 101 of your Amended Complaint that the "medical consensus in the United States, agreed upon by the American College of Physicians, the American Psychiatric Association, and other major medical organizations, is that gender identity is innate and that efforts to change a person's gender identify are harmful to their health and well-being and unethical," please state the facts supporting this allegation, identify every person who will testify at trial regarding this allegation, and identify all documents supporting this allegation.

ANSWER TO INTERROGATORY NO. 5:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects that this Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33. Subject to and without waiving Plaintiffs' General and specific objections, Plaintiffs respond that the facts currently known to Plaintiffs that support Plaintiffs' allegations are set forth in:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);

- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397; Oct. 14, 2025).

Plaintiffs' expert witness Dr. Randi Ettner will provide background on issues relating to sex, gender identity, transgender people, gender transition, and gender dysphoria and its treatment, as noted in Plaintiffs' Expert Disclosure Statement (Dkt. 068).

REQUEST FOR PRODUCTION NO. 3:

Produce all documents in your possession, custody, or control supporting your Answer to Interrogatory No. 5.

ANSWER TO REQUEST FOR PRODUCTION NO. 3:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain, and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' general and specific objections, please refer to:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397; Oct. 14, 2025);
- Plaintiffs' Expert Disclosure Statement (Dkt. 068).

INTERROGATORY NO. 6:

Regarding the allegations of Paragraph 105 of your Amended Complaint that the "recognized standard of care for gender dysphoria is to eliminate the clinically significant distress a patient is experiencing by bringing their body and gender expression into alignment with the gender identity," please stated the facts supporting this allegation, identify all witnesses who will testify at the trial of this matter regarding this allegation, and identify all documents that support this allegation.

ANSWER TO INTERROGATORY NO. 6:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' General and specific objections, Plaintiffs respond that the facts currently known to Plaintiffs that support Plaintiffs' allegations are set forth in:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025);

- Plaintiffs' Expert Disclosure Statement (Dkt. 068).

Plaintiffs' expert witness Dr. Randi Ettner will provide background on issues relating to sex, gender identity, transgender people, gender transition, and gender dysphoria and its treatment.

REQUEST FOR PRODUCTION NO. 4:

Please produce all documents in your possession, custody, or control identified in your Answer to Interrogatory No. 6.

ANSWER TO REQUEST FOR PRODUCTION NO. 4:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain, and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' general and specific objections, please refer to:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);

- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington, (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Oct. 14, 2025; Mont. Sup. Ct. Cause No. DA 25-0397).
- Plaintiffs' Expert Disclosure Statement (Dkt. 068).

INTERROGATORY NO. 7:

Regarding the allegations of Paragraph 118 of your Amended Complaint that the "evidence makes clear that allowing transgender and intersex people to use sex-separated facilities consistent with their gender identity harms no one," that the "widespread adoption of anti-discrimination laws has not resulted in sexual assaults or violence in public bathrooms," and that an "empirical survey found no evidence that privacy and safety in public restrooms changed because of the passage of ordinances proscribing discrimination on the basis of gender identity in public accommodations," please state the facts that support these allegations, identify all witnesses who will testify at the trial of this matter regarding these allegations, and identify all documents supporting these allegations.

ANSWER TO INTERROGATORY NO. 7:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that the facts currently known to Plaintiffs that support Plaintiffs' allegations are set forth in:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025);
- Plaintiffs' Expert Disclosure Statement (Dkt. 068);
- Plaintiffs' Expert Rebuttal Disclosure Statement (Dec. 12, 2025).

Individual plaintiffs may provide testimony regarding this matter at trial. Plaintiffs' expert witness Dr. Randi Ettner will provide background on issues relating to sex, gender identity, transgender people, gender transition, and gender dysphoria and its treatment. Plaintiffs' expert witness Dr. Cynthia Calkins' is expected to testify that, statistically, transgender people do not perpetuate more sex crimes than cisgender individuals. Further, Dr. Calkins' is expected to testify that requiring transgender people to use bathrooms and other covered facilities corresponding to their sex assigned at birth (1) will not increase public safety; (2) will not decrease sexual violence against cisgender women; and (3) will harm transgender and intersex individuals.

REQUEST FOR PRODUCTION NO. 5:

Produce all documents in your possession, custody, or control supporting your Answer to Interrogatory No. 7.

ANSWER TO REQUEST FOR PRODUCTION NO. 5:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain, and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' General and specific objections, please refer to:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025);
- Plaintiffs' Expert Disclosure Statement (Dkt. 068);
- Plaintiffs' Expert Rebuttal Disclosure Statement (Dec. 12, 2025).

INTERROGATORY NO. 8:

Regarding the allegations of Paragraph 119 of your Amended Complaint that "it is transgender and intersex people who are most vulnerable to harassment and violence in sex-separated spaces such as restrooms," and that surveys "have shown that transgender Americans are verbally harassed and physically attached in public restrooms at much higher rates than cisgender people," please state the facts supporting these allegations, identify all witnesses who will testify at the trial of

this matter regarding these allegations, and identify all documents supporting these allegations.

ANSWER TO INTERROGATORY NO. 8:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Defendants.

The language quoted in this Interrogatory is unfaithful to the language in paragraph 118 of the Amended Complaint and should read: "surveys 'have shown that transgender Americans are verbally harassed and physically *attacked* in public restrooms at much higher rates than cisgender people".

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that the facts currently known to Plaintiffs that support Plaintiffs' allegations are set forth in:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);

- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025).

Plaintiffs' expert witness Dr. Randi Ettner will provide background on issues relating to sex, gender identity, transgender people, gender transition, and gender dysphoria and its treatment. Plaintiffs' expert witness Dr. Cynthia Calkins' is expected to testify that, statistically, transgender people do not perpetuate more sex crimes than cisgender individuals. Further, Dr. Calkins' is expected to testify that requiring transgender people to use bathrooms and other covered facilities corresponding to their sex assigned at birth (1) will not increase public safety; (2) will not decrease sexual violence against cisgender women; and (3) will harm transgender and intersex individuals.

REQUEST FOR PRODUCTION NO. 6:

Produce all documents in your possession, custody, or control supporting your Answer to Interrogatory No. 8.

ANSWER TO REQUEST FOR PRODUCTION NO. 6:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain, and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' General and specific objections, please refer to

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025);
- Plaintiffs' Expert Disclosure Statement (Dkt. 068);
- Plaintiffs' Expert Rebuttal Disclosure Statement (Dec. 12, 2025).

INTERROGATORY NO. 9:

Regarding the allegations of Paragraph 120 of your Amended Complaint that "[i]t is particularly uncomfortable—and often dangerous—for transgender and

intersex people to have to use sex-separated facilities that do not correspond to their gender identity" and that "[m]any transgender and intersex people avoid using public restrooms for fear of being harassed and attacked," please state the facts supporting these allegations, identify all witnesses who will testify at trial regarding these allegations, and identify all documents supporting these allegations.

ANSWER TO INTERROGATORY NO. 9:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Intervenor-Defendant.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that the facts currently known to Plaintiffs are set forth in:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);

- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025).

Plaintiffs' expert witness Dr. Randi Ettner will provide background on issues relating to sex, gender identity, transgender people, gender transition, and gender dysphoria and its treatment. Plaintiffs' expert witness Dr. Cynthia Calkins' is expected to testify that, statistically, transgender people do not perpetuate more sex crimes than cisgender individuals. Further, Dr. Calkins' is expected to testify that requiring transgender people to use bathrooms and other covered facilities corresponding to their sex assigned at birth (1) will not increase public safety; (2) will not decrease sexual violence against cisgender women; and (3) will harm transgender and intersex individuals.

Further, the individual plaintiffs are expected to testify regarding their safety concerns related to using the restroom, changing room, or sleeping quarter that corresponds to their sex assigned at birth.

REQUEST FOR PRODUCTION NO. 7:

Please produce all documents in your possession, custody, and control identified in your Answer to Interrogatory No. 9.

ANSWER TO REQUEST FOR PRODUCTION NO. 7:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain, and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' General and specific objections, please refer to:

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397, Oct. 14, 2025);
- Plaintiffs' Expert Disclosure Statement (Dkt. 068);
- Plaintiffs' Expert Rebuttal Disclosure Statement (Dec. 12, 2025).

REQUEST FOR ADMISSION NO. 1: Please admit that it is uncomfortable and often dangerous for a female, as defined by HB 121, to have to share a public restroom or other private space with a male, as defined by HB 121.

ANSWER TO REQUEST FOR ADMISSION NO. 1:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague, ambiguous, and misleading, including because it does not include any information regarding a specific study or source that supports the statement that "it is uncomfortable and often dangerous for a female to have to share a public restroom or other private space with a male." Thus, Plaintiffs cannot admit or deny a statement from which the source is undisclosed. Plaintiffs further object to this Request to the extent it calls for an expert opinion, the disclosure of which is subject to a separate deadline.

Subject to and without waiving Plaintiffs' General and specific objections, Plaintiffs respond that they cannot truthfully admit or deny this Request as written without additional context. Plaintiffs invite Intervenor-Defendant to meet and confer to discuss the sources or studies from which the assertion in this Request was obtained.

INTERROGATORY NO. 10:

Identify any specific and actual instances wherein you were threatened, harassed, abused, or assaulted in a sex-separated, public facility that you intend to

offer into evidence in this case in support of your claims for relief. Include the date such incident took place, a brief description of what transpired, and any witnesses that observed the alleged threat, harassment, abuse, or assault.

ANSWER TO INTERROGATORY NO. 10:

Plaintiffs expressly incorporate by reference each and every General Objection.

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Defendants.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond as follows:

Plaintiff Casey Perkins: Several times at her job at the State of Montana, Casey has heard comments from both customers and co-workers asking what she is doing in the women's restroom. Outside of work, one person tried to physically stop her from using a women's restroom in the past. Given these experiences, Casey avoids incidents by avoiding using restrooms at work. This creates physical

discomfort during her workday. If Casey was not harassed or in danger of physical contact in a women's public restroom, she would use them regularly.

Plaintiff Spencer McDonald: Spencer presents as a cisgender male. Since his transition, he has not experienced harassment or harm when using men's restrooms or changing rooms. Spencer is concerned that under HB 121 he would be required to use women's restrooms if there were no all-gender restrooms available.

Plaintiff Kasandra Reddington: In 2016, Kasandra was physically threatened in the student union building's main floor men's restroom at MSU-Billings. Kasandra was in the men's bathroom because she was early in her transition and thought it would be less disruptive to use the men's restroom. MSU-Billings had no gender-neutral restrooms at the time. Kasandra was in the enclosed stall at the time of the incident. The individual must have followed her into the restroom, because that individual stated: "get the fuck out of here. I better never catch you in this bathroom again, or I'm going to beat the shit out of you." After this, Kasandra used the women's restrooms to feel safer.

Kasandra has shared her transgender identity publicly in local and regional media. After publication, Kasandra regularly receives messages from individuals stating, "if I ever catch you using the restroom, I will shoot and kill you" and, "I

will beat you to death." Kasandra no longer has these social media accounts and does not have copies of the messages.

Plaintiff Jane Doe: Jane Doe presents as a cisgender female and therefore has not recently experienced harassment when using a restroom designated for women. When Jane first transitioned, she avoided sex-designated restrooms or changing rooms in order to escape any harassment. Now, if Jane were to follow the law as written, she would be required to use the men's room if there is no all-gender restroom/changing room available.

Plaintiff John Doe: John Doe has not encountered any problems when using public restrooms that correspond with his identified gender. However, John Doe is concerned that he would not be able to use any gender-designated restrooms at all, given that he is intersex and does not conform to HB 121's definition of either "female" or "male". He is concerned about potential future harm and harassment in his attempts to follow the law.

REQUEST FOR PRODUCTION NO. 8:

Produce all documents supporting or referenced by your response to Interrogatory No. 10.

ANSWER TO REQUEST FOR PRODUCTION NO. 8:

Plaintiffs expressly incorporate by reference each and every General Objection. Further, this Request seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond as follows:

Please see enclosed a representation of news articles which may be connected to the harassment Plaintiff Reddington has experienced in the past (**Perkins_Ind_RFP8_000001-000006).** Plaintiff Reddington was unable to download the full articles, given the passage of time.

INTERROGATORY NO. 11:

Regarding the allegations of Paragraph 121 of your Amended Complaint, please identify the "statements made by the Act's proponents reveal that [the Act] is motivated by animus against transgender people rather than any legitimate concern for public safety or privacy" that you consider to be denigrating towards transgender people.

ANSWER TO INTERROGATORY NO. 11:

Plaintiffs expressly incorporate by reference each and every General Objection, and additionally objects:

1. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
2. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Defendants.

Subject to and without waiving Plaintiff's general and specific objections, statements include those made during the legislative process, when proponents for HB 121 repeatedly denigrated transgender people and expressed the view that their gender identities should not be respected and that the mere presence of transgender people poses a threat to cisgender people. Representative Kerri Seekins-Crowe, the sponsor of the Act, said: "Men do not belong in women['s] spaces, and ignoring the biological differences creates real victims and jeopardizes the dignity and safety of girls." Attempting to justify the Act, she insisted that "[w]omen should not have to sacrifice their privacy or their safety because of political agendas or cultural trends." Similarly, Lieutenant Governor Kristen Juras testified that "[a]cknowledging biological realities should not be complicated or controversial," and touted the Act as part of the Legislature and the Governor's "shared record of defending Montanans from the far left's ideological crusade that has swept the nation." Lieutenant Governor Juras drew an explicit connection between the Act and several other recent pieces of legislation discriminating against the transgender community: 2023's Senate Bill 99 ("SB 99"), which prohibited gender-affirming medical care for

transgender youth; Senate Bill 458 ("SB 458"), also from 2023, which required Montanans to be classified by "exactly two sexes, male and female," as defined by their reproductive capabilities; and 2021's House Bill 112 ("HB 112"), which barred transgender girls from competing in girls' sports. Additional statements can be found in legislative hearings:

- January 10, 2025 House Judiciary Hearing
- January 13, 2025 House Judiciary Committee Action
- January 15, 2025 House Floor Debate
- January 25, 2025 Senate Judiciary Hearing
- February 5, 2025 Senate Judiciary Committee Action
- February 10, 2025 Senate Floor Debate

REQUEST FOR PRODUCTION NO. 8:

Produce all documents supporting or referenced by your response to Interrogatory No. 11.

ANSWER TO REQUEST FOR PRODUCTION NO. 8:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain,

and equally accessible to Defendants and Intervenor-Defendant. Subject to and without waiving Plaintiffs' general and specific objections, please refer to

- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Oct. 14, 2025; Mont. Sup. Ct. Cause No. DA 25-0397).

Please also see publicly available legislative hearings regarding HB 121 at the Montana Legislative webpage:

- January 10, 2025 House Judiciary Hearing
- January 13, 2025 House Judiciary Committee Action
- January 15, 2025 House Floor Debate
- January 25, 2025 Senate Judiciary Hearing
- February 5, 2025 Senate Judiciary Committee Action
- February 10, 2025 Senate Floor Debate

Additional legislative information regarding HB 121 is also publicly available on the Montana Legislative website under HB 121's bill page.

INTERROGATORY NO. 12:

Regarding the allegations of Paragraphs 122 and 123 of your Amended Complaint, please state with specificity how the alleged statements demonstrate animus toward transgender people, identify all witnesses who will testify at the trial of this matter that these statements demonstrate animus toward transgender people, and identify all documents which support the allegations of Paragraph 122 and 123.

ANSWER TO INTERROGATORY NO. 12:

Plaintiffs object to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Intervenor-Defendant.

Subject to and without waiving Plaintiff's general and specific objections, statements repeatedly denigrated transgender people, expressing the view that their gender identities should not be respected, and that the mere presence of transgender people poses a threat to cisgender people. The language of the Act itself erases official recognition of transgender and intersex identities by defining sex to exclude "an individual's psychological, behavioral, social, chosen, or subjective experience

of gender." HB 121 § 2(12). The Act seeks to undermine transgender Montanans' personhood and ability to participate in public life. And the Act's restrictive definitions of "female" and "male" exclude intersex individuals entirely, also undermining their personhood and ability to participate in public life.

REQUEST FOR PRODUCTION NO. 9:

Please produce all documents in your possession, custody, or control identified in your Answer to Interrogatory No. 12.

ANSWER TO REQUEST FOR PRODUCTION NO. 9:

Plaintiff expressly incorporates by reference each and every General Objection and further objects to this Request as vague, overly broad, unduly burdensome and seeks information that is not proportional to the needs of the case, including because it seeks information or documents that are in the public domain, and equally accessible to Defendants.

Plaintiff notes that this request for production includes a duplicative request to provide document production responsive to Interrogatory No. 10. Plaintiff presumes that this was in error and that Intervenor-Defendant meant to request documents responsive to Answer to Interrogatory No. 16. Therefore, Plaintiff responds based upon that presumption.

Subject to and without waiving Plaintiffs' General and Specific objections, please refer to:

- House Bill 121 (2025), bill page located at https://bills.legmt.gov/#/laws/bill/2/LC2129?open_tab=sum;
- Amended Complaint for Declaratory and Injunctive Relief (Dkt. 043);
- Plaintiffs' Motion for Temporary Restraining Order and Preliminary Injunction, including the Declarations of C. Perkins, K. Reddington, S. McDonald, John Doe, and Jane Doe (Dkt. 007);
- Plaintiffs' Reply Brief in Support of Motion for Preliminary Injunction, with Supplemental Declaration of K. Reddington (Dkt. 017);
- Appellees' Answering Brief in the State's appeal to the preliminary injunction (Mont. Sup. Ct. Cause No. DA 25-0397; Oct. 14, 2025).

Please also see publicly available legislative hearings regarding HB 121 at the Montana Legislative webpage:

- January 10, 2025 House Judiciary Hearing
- January 13, 2025 House Judiciary Committee Action
- January 15, 2025 House Floor Debate
- January 25, 2025 Senate Judiciary Hearing
- February 5, 2025 Senate Judiciary Committee Action
- February 10, 2025 Senate Floor Debate

REQUEST FOR ADMISSION NO. 2:

Please admit that Montana law does not recognize "transgender status" or "gender identity" as a suspect class for purposes of the equal protection doctrine.

ANSWER TO REQUEST FOR ADMISSION NO. 2:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request because it calls for a legal conclusion, including because it requires Plaintiffs to assume the standard for the legal concepts of "a suspect class" and "the equal protection doctrine."

Subject to and without waiving the foregoing objections, Plaintiffs deny this Request, as "transgender status is a suspect class for the purposes of equal protection analysis." *See* Dkt. 025 at 27-28.

REQUEST FOR ADMISSION NO. 3:

Please admit that federal law does not recognize "transgender status" or "gender identity" as a suspect class for purposes of the equal protection doctrine.

ANSWER TO REQUEST FOR ADMISSION NO. 3:

Plaintiff expressly incorporates by reference each and every General Objection and further object to this Request because it calls for a legal conclusion, as it requires Plaintiff to assume the standard for the legal concepts of "a suspect class" and "the equal protection doctrine."

Subject to and without waiving the foregoing objections, Plaintiff denies this Request, as the historical and ongoing realities of the discrimination against and limited political power of transgender people confirm that transgender status is a suspect classification. Numerous federal courts have recognized that transgender people constitute at least a quasi-suspect class because, among other factors, they have "historically been subject to discrimination" and "lack[] political power." *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 610-13; *accord Karnoski v. Trump*, 926 F.3d 1180, 1200-01 (9th Cir. 2019); *Ray v. McCloud*, 507 F. Supp. 3d 925, 936–38 (S.D. Ohio 2020); *Flack v. Wis. Dep't of Health Serv.*, 395 F. Supp. 3d. 1001, 1019–22 (W.D. Wis. 2019); *Stone v. Trump*, 400 F. Supp. 3d 317, 355 (D. Md. 2019); *F.V. v. Barron*, 286 F. Supp. 3d 1131, 1142–45 (D. Idaho 2018); *M.A.B. v. Bd. of Educ. of Talbot Cnty.*, 286 F. Supp. 3d 704, 718–22 (D. Md. 2018); *Evancho v. Pine–Richland Sch. Dist.*, 237 F. Supp. 3d 267, 288 (W.D. Pa. 2017); *A.H. v. Minersville Area Sch. Dist.*, 290 F. Supp. 3d 321, 331 (M.D. Pa. 2017); *Bd. of Educ. of the Highland Loc. Sch. Dist. v. United States Dep't of Educ.*, 208 F. Supp. 3d 850, 874 (S.D. Ohio 2016), *stay of preliminary injunction denied sub nom. Dodds v. United States Dep't of Educ.*, 845 F.3d 217, 222 (6th Cir. 2016); *Adkins v. City of New York*, 143 F. Supp. 3d 134, 139–40 (S.D.N.Y. 2015); *Norsworthy v. Beard*, 87 F. Supp. 3d 1104, 1119 (N.D. Cal. 2015); *Marlett v. Harrington*, No. 15–cv–01382, 2015 WL 6123613, at *4 (E.D. Cal. Oct. 16, 2015).

REQUEST FOR ADMISSION NO. 4:

Please admit that an individual's transgender identity does not necessarily implicate gender dysphoria.

ANSWER TO REQUEST FOR ADMISSION NO. 4:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request because it is vague, overly broad, unduly burdensome and seeks information not proportional to the needs of the case, including because it purports to require Plaintiffs to assume the definition of the undefined phrases "transgender identity" and "gender dysphoria" and then to state whether one is implicated by the other. Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without clear definitions of the phrases "transgender identity" and "gender dysphoria."

REQUEST FOR ADMISSION NO. 5:

Please admit that not all transgender individuals suffer from gender dysphoria.

ANSWER TO REQUEST FOR ADMISSION NO. 5:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request because it is vague, overly broad, unduly burdensome and seeks information not proportional to the needs of the case, including because it purports to require Plaintiffs to assume the definition of the undefined phrases "transgender individuals" and "gender dysphoria" and then to state whether all transgender individuals suffer from gender dysphoria. Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without clear definitions of the phrases "transgender individuals" and "gender dysphoria."

REQUEST FOR ADMISSION NO. 6:

Please admit that not all individuals who suffer from gender dysphoria are transgender.

ANSWER TO REQUEST FOR ADMISSION NO. 6:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request because it is vague, overly broad, unduly burdensome and seeks information not proportional to the needs of the

case, including because it purports to require Plaintiffs to assume the definition of the undefined phrases "transgender" and "gender dysphoria" and then to state whether who experience gender dysphoria are transgender. Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without clear definitions of the phrases "transgender" and "gender dysphoria."

REQUEST FOR ADMISSION NO. 7:

Please admit that gender dysphoria can desist over time.

ANSWER TO REQUEST FOR ADMISSION NO. 7:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request because it is vague, overly broad, unduly burdensome and seeks information not proportional to the needs of the case, including because it purports to require Plaintiffs to assume the definition of the undefined phrase "gender dysphoria" and then to state whether gender dysphoria can desist over time. Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without a clear definition of the phrase "gender dysphoria."

REQUEST FOR ADMISSION NO. 8:

Please admit that a person's subjective gender identity is separate and distinct from that person's objective biological sex.

ANSWER TO REQUEST FOR ADMISSION NO. 8:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined terms "sex" and "gender identity." Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge. Plaintiffs also object to this Request to the extent that it requires Plaintiffs to accept that gender identity is subjective.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that the undefined term "sex" makes it impossible for Plaintiffs to truthfully admit or deny this Request as framed because there are multiple characteristics related to sex, and those characteristics do not always align with each other. *See* Amended Complaint for Declaratory and Injunctive Relief at ¶¶ 80, 96-107. Plaintiffs deny this Request to the extent it requires Plaintiffs to accept Defendants' definition of "sex," which, again, was not provided in this Request.

Plaintiffs further deny this Request to the extent that it suggests that gender identity is not a component of sex, and to the extent that it suggests that gender identity is subjective.

REQUEST FOR ADMISSION NO. 9:

Please admit that sex is immutable.

ANSWER TO REQUEST FOR ADMISSION NO. 9:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined terms "sex" and "gender identity." Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge. Plaintiffs also object to this Request to the extent that it requires Plaintiffs to accept that gender identity is subjective.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that the undefined term "sex" makes it impossible for Plaintiffs to truthfully admit or deny this Request as framed because there are multiple characteristics related to sex, and those characteristics do not always align with each other. *See* Amended Complaint for Declaratory and Injunctive Relief at ¶¶ 80, 96-107. Plaintiffs deny this Request to the extent it requires Plaintiffs to accept Defendants' definition of "sex," which, again, was not provided in this Request.

Plaintiffs further deny this Request to the extent that it suggests that gender identity is not a component of sex.

REQUEST FOR ADMISSION NO. 10:

Please admit that a person's sex is determined by objective biological factors.

ANSWER TO REQUEST FOR ADMISSION NO. 10:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined terms "objective," "biological," and "sex." Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond that the undefined term "sex" makes it impossible for Plaintiffs to truthfully admit or deny this Request as framed because there are multiple characteristics related to sex and they do not always align with each other. *See* Amended Complaint for Declaratory and Injunctive Relief at ¶¶ 80, 96-107. Plaintiffs deny this Request to the extent it requires Plaintiffs to accept Defendants' definition of "sex," which again was not provided in this Request. Plaintiffs further deny this Request to the extent that it suggests that gender identity is not a component of sex.

REQUEST FOR ADMISSION NO. 11:

Please admit that a person's subjective gender identity cannot change that person's objective biological sex.

ANSWER TO REQUEST FOR ADMISSION NO. 11:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined term "gender identity" and "objective biological sex."

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs deny this RFA as written for lack of necessary context. Gender identity refers to a person's core sense of belonging to a particular gender. Plaintiffs further deny this Request to the extent that it suggests that gender identity is not a component of sex, and to the extent that it suggests that gender identity is subjective.

REQUEST FOR ADMISSION NO. 12:

Please admit that your gender identity has changed over time.

ANSWER TO REQUEST FOR ADMISSION NO. 12:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined term "gender identity."

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs deny as written for lack of necessary context. Gender identity refers to a person's core sense of belonging to a particular gender. Every person has a gender identity. It is not a personal decision, preference, or belief. A person's understanding or expression of their gender identity is distinct from that person's gender identity itself, which is durable, has a strong biological basis, and is resistant to voluntary change.

REQUEST FOR ADMISSION NO. 13:

Please admit that your gender identity could change in the future.

ANSWER TO REQUEST FOR ADMISSION NO. 13:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined term "gender identity."

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs deny as written for lack of necessary context. Gender identity refers to a person's core sense of belonging to a particular gender. Every person has a gender identity. It is not a personal decision, preference, or belief. A person's understanding or expression of their gender identity is distinct from that person's gender identity itself, which is durable, has a strong biological basis, and is resistant to voluntary change.

REQUEST FOR ADMISSION NO. 14:

Please admit that the State of Montana has a compelling interest in providing objective definitions of terms used widely in Montana law.

ANSWER TO REQUEST FOR ADMISSION NO. 14:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined term "compelling interest." Plaintiffs also object to this Request because it calls for a legal conclusion, including because it requires Plaintiffs to assume the standard for the legal concept of "compelling interest."

Subject to and without waiving the foregoing objections, Plaintiffs admit that while Montana possesses a general "police power by which it can regulate for the health and safety of its citizens," *Wiser v. State*, 2006 MT 20, P 19, 331 Mont. 28, 129 P.3d 133, this power cannot be exercised to infringe on the constitutional and fundamental right of Montanans, *Armstrong v. State*, 1999 MT 261, P 45, 296 Mont. 361, 378, 989 P.2d 364, 376. Plaintiffs deny that HB 121 furthers this interest in any capacity. *See* Dkt. 043 at 35.

REQUEST FOR ADMISSION NO. 15:

Please admit that the State of Montana has a compelling interest in protecting victims of sexual assault.

ANSWER TO REQUEST FOR ADMISSION NO. 15:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined term "compelling interest." Plaintiffs also object to this Request because it calls for a legal conclusion, including because it requires Plaintiffs to assume the standard for the legal concept of "compelling interest."

Subject to and without waiving the foregoing objections, Plaintiffs admit that while Montana possesses a general "police power by which it can regulate for the health and safety of its citizens," *Wiser v. State*, 2006 MT 20, P 19, 331 Mont. 28, 129 P.3d 133, this power cannot be exercised to infringe on the constitutional and fundamental right of Montanans, *Armstrong v. State*, 1999 MT 261, P 45, 296 Mont. 361, 378, 989 P.2d 364, 376. Plaintiffs deny that HB 121 furthers this interest in any capacity. *See* Dkt. 043 at 35.

REQUEST FOR ADMISSION NO. 16:

Please admit that the State of Montana has a compelling interest in protecting the safety of females in private spaces.

ANSWER TO REQUEST FOR ADMISSION NO. 16:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined term "compelling interest." Plaintiffs also object to this

Request because it calls for a legal conclusion, including because it requires Plaintiffs to assume the standard for the legal concept of "compelling interest."

Subject to and without waiving the foregoing objections, Plaintiffs admit that while Montana possesses a general "police power by which it can regulate for the health and safety of its citizens," *Wiser v. State*, 2006 MT 20, P 19, 331 Mont. 28, 129 P.3d 133, this power cannot be exercised to infringe on the constitutional and fundamental right of Montanans, *Armstrong v. State*, 1999 MT 261, P 45, 296 Mont. 361, 378, 989 P.2d 364, 376. Plaintiffs deny that HB 121 furthers this interest in any capacity. *See* Dkt. 043 at 35.

REQUEST FOR ADMISSION NO. 17:

Please admit that the State of Montana has a compelling interest in ensuring separation of prison populations by sex for safety.

ANSWER TO REQUEST FOR ADMISSION NO. 17:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague and ambiguous including because of the undefined term "compelling interest." Plaintiffs also object to this Request because it calls for a legal conclusion, including because it requires Plaintiffs to assume the standard for the legal concept of "compelling interest."

Subject to and without waiving the foregoing objections, Plaintiffs admit that while Montana possesses a general "police power by which it can regulate for

the health and safety of its citizens," *Wiser v. State*, 2006 MT 20, P 19, 331 Mont. 28, 129 P.3d 133, this power cannot be exercised to infringe on the constitutional and fundamental right of Montanans, *Armstrong v. State*, 1999 MT 261, P 45, 296 Mont. 361, 378, 989 P.2d 364, 376. Plaintiff denies that HB 121 furthers this interest in any capacity. *See* Dkt. 043 at 35.

REQUEST FOR ADMISSION NO. 19:

Please admit that your gender identity is generally known by your family, friends, co-workers, acquaintances, and circle of influence.

ANSWER TO REQUEST FOR ADMISSION NO. 19:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous, including because of the undefined terms "gender identity", "acquaintances," and "circle of influence," and because the requested information is irrelevant and not calculated to lead to the discovery of admissible relevance. Further, while certain individuals may know Plaintiffs gender identity, they may not specifically know whether or not a plaintiff is intersex or transgender. Plaintiffs respond that the undefined terms "gender identity," "acquaintances," and "circle of influence" makes it impossible for Plaintiffs to truthfully admit or deny this Request as framed.

REQUEST FOR ADMISSION NO. 20:

Please admit that a privacy expectation in the use of female spaces by natal males whose gender identity does not conform to their sex is not an expectation that society accepts as reasonable.

ANSWER TO REQUEST FOR ADMISSION NO. 20:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague and ambiguous including because of the undefined terms "privacy expectation," "female spaces," and "natal males." Plaintiffs also object to this Request because it calls for a legal conclusion, including because it requires Plaintiffs to assume the standard for the legal concept of "a privacy expectation."

Subject to and without waiving the foregoing objections, Plaintiffs assert that each Plaintiff has an actual and reasonable expectation of privacy in their decision to use restrooms, changing rooms, and sleeping quarters that correspond with their gender identity. Plaintiffs deny that HB 121 protects or furthers this expectation in any capacity. *See* Dkt. 043 at 37.

REQUEST FOR ADMISSION NO. 21:

Please admit that separate lavatory, bathing, or dressing facilities based on the distinction of sex is expressly excepted from prohibited discriminatory practices pursuant to Mont. Code Ann. § 49-2-404.

ANSWER TO REQUEST FOR ADMISSION NO. 21:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined terms “sex” and “discriminatory practices.”

Subject to and without waiving the foregoing objections, Plaintiffs admit that under Mont. Code Ann. § 49-2-404, separate lavatories, bathing, or dressing facilities based on the distinction of sex may be maintained for modesty or privacy-related purposes. Those distinctions are permissive, not mandatory. Plaintiffs further note that a statute cannot override constitutional prohibitions on discrimination.

REQUEST FOR ADMISSION NO. 22:

Please admit that there are only two sexes, male and female.

ANSWER TO REQUEST FOR ADMISSION NO. 22:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined terms “sexes," "male,” and “female.” Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs’ personal knowledge.

Subject to and without waiving the foregoing objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without a clear definition of the phrases “sexes,” “male,” and “female.”

REQUEST FOR ADMISSION NO. 23:

Please admit that the term "intersex" refers to individuals with disorders of sexual development.

ANSWER TO REQUEST FOR ADMISSION NO. 23:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined terms "intersex" and "disorders of sexual development." Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving the foregoing objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without a clear definition of the phrases "intersex" and "disorders of sexual development."

REQUEST FOR ADMISSION NO. 24:

Please admit that "intersex" is not a third sex.

ANSWER TO REQUEST FOR ADMISSION NO. 24:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request as vague and ambiguous including because of the undefined terms "intersex" and "sex." Plaintiffs further object to

this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving the foregoing objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without a clear definition of the phrases "intersex" and "sex."

REQUEST FOR ADMISSION NO. 25:

Please admit that an "intersex" individual is either male or female.

ANSWER TO REQUEST FOR ADMISSION NO. 25:

Plaintiffs expressly incorporate by reference each and every General Objection and further object to this Request as vague and ambiguous including because of the undefined terms "intersex," "male," and "female." Plaintiffs further object to this Request to the extent it calls for an expert opinion and is not within Plaintiffs' personal knowledge.

Subject to and without waiving the foregoing objections, Plaintiffs respond that they are unable to truthfully admit or deny this Request as written without a clear definition of the phrases "intersex," "male," and "female."

INTERROGATORY NO. 13:

Please define the terms "sex," "gender," "male," "female," "man," "woman," "intersex," "transgender," and "cisgender."

ANSWER TO INTERROGATORY NO. 13:

Plaintiffs object to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.
3. This Interrogatory seeks information or documents that are in the public domain and equally accessible to Defendants.
4. This Interrogatory refers to words that have a variety of contexts within the English language. To define them fully would be unduly burdensome, and not reasonably tailored to Intervenor-Defendant and Defendants' legitimate discovery needs.

Subject to and without waiving the foregoing objections, Plaintiffs respond within the context of this litigation:

- **Sex**: A person's sex is comprised of a number of components, including, chromosomal composition, gonads and internal reproductive organs, external genitalia, sexual differentiations in brain development and structure, and gender identity. When there is divergence between anatomy and identity, one's gender identity is paramount and the primary determinant of an individual's sex.

- **Gender**: Gender identity is a person's inner sense of belonging to a particular sex. It is a deeply felt and core component of human identity.
- **Male**: Of male sex.
- **Female:** Of female sex.
- **Man**: Of male sex.
- **Woman**: Of female sex.
- **Intersex**: A general term used for a variety of conditions in which a person is born with a reproductive or sexual anatomy that does not fit the typical definitions of female or male.
- **Transgender**: A person whose gender identity does not align with the sex assigned to them at birth.
- **Cisgender**: A person whose gender identity does align with the sex assigned to them at birth.

INTERROGATORY NO. 14:

Please identify all expert witnesses you intend to call to testify at the hearing of this matter and for each expert, please state the subject matter on which the expert is expected to testify, the substance of the facts and opinions to which the expert is expected to testify, and a summary of the grounds for each opinion.

ANSWER TO INTERROGATORY NO. 14:

Plaintiff expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

2. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.

Subject to and without waiving Plaintiff's general and specific objections, Plaintiffs respond that Dr. Randi Ettner and Dr. Cynthia Calkins will serve as experts in this case. Plaintiffs' Expert Witness Disclosure Statement (Dkt. 068) and Expert Rebuttal Disclosure (Dec. 12, 2025) contain information responsive to this request.

REQUEST FOR PRODUCTION NO. 10:

Please produce all expert reports created by each expert and all documents relied upon by your experts in forming their opinions in this case.

ANSWER TO REQUEST FOR PRODUCTION NO. 10:

Plaintiff expressly incorporates by reference each and every General Objection and further objects to that this Request seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving Plaintiff's general and specific objections, please see Plaintiffs' Expert Disclosure Statement (Dkt. 068) and Plaintiffs' Expert Rebuttal Disclosure Statement (Dec. 12, 2025). Plaintiff will further employ reasonable efforts to produce responsive documents, if any. Plaintiff reserves the right to supplement this response upon the discovery of documents further supporting this response.

INTERROGATORY NO. 15:

Please identify all lay witnesses you intend to call to testify in this matter.

ANSWER TO INTERROGATORY NO. 15:

Plaintiffs expressly incorporate by reference each and every general objection and further objects that this Interrogatory seeks materials and/or information protected by the attorney client privilege and the attorney work product doctrine. Subject to those objections, please reference Plaintiffs' Lay Witness List (Dkt. 066) and individuals identified in all parties' responses to discovery requests.

REQUEST FOR PRODUCTION NO. 11:

Please produce all exhibits you intend to use in any way at trial in this matter.

ANSWER TO REQUEST FOR PRODUCTION NO. 11:

Plaintiff expressly incorporates by reference each and every general objection and further objects that this request for production seeks materials and/or

information protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving Plaintiff's general and specific objections, Plaintiff responds that it will produce any exhibits in accordance with the Montana Rules of Civil Procedure, the Fourth Judicial District Court Local Rules, orders of the presiding Court, or other applicable law.

INTERROGATORY NO. 16:

If your response to any Request for Admission propounded on you is anything other than an unqualified "Admit," please state the facts supporting your response, identify all witnesses who will testify at the trial of this matter regarding your response, and identify all documents supporting your response.

ANSWER TO INTERROGATORY NO. 16:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Interrogatory as follows:

1. This Interrogatory is an improper compound interrogatory intended to evade the limitations of Montana Rules of Civil Procedure Rule 33.
2. This Interrogatory seeks materials and/or information protected by the attorney-client privilege and the attorney work product doctrine.

Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs respond by directing Intervenor-Defendant to Plaintiffs' responses to the applicable Requests for Admission.

REQUEST FOR PRODUCTION NO. 12:

Please produce all documents in your possession, custody, or control identified in your Answer to Interrogatory No. 15.

ANSWER TO REQUEST FOR PRODUCTION NO. 12:

In response to Interrogatory No. 15: Plaintiffs' Lay Witness List contains the information requested.

REQUEST FOR PRODUCTION NO. 13:

To the extent not already produced, please produce all documents in your possession, custody, or control that support your Answers to any Interrogatory propounded upon you by any Defendant.

ANSWER TO REQUEST FOR PRODUCTION NO. 13:

Plaintiffs expressly incorporate by reference each and every General Objection and further objects to this Request for Production as duplicative of Request Nos. 1–12, which each seeks documents that support each preceding Interrogatory. Subject to and without waiving Plaintiffs' general and specific objections, Plaintiffs incorporate their responses to Request Nos. 1–12.

REQUEST FOR PRODUCTION NO. 14:

Please produce a privilege log for any documents responsive to the Requests for Production of any Defendant that you are redacting or withholding on the basis of any claimed privilege.

ANSWER TO REQUEST FOR PRODUCTION NO. 14:

Subject to and without waiving Plaintiffs' General and specific objections, Plaintiffs respond that they will produce any privilege log in accordance with Rule 26(b)(6) of the Montana Rules of Civil Procedure; any ESI stipulation entered into by the Parties and filed with this Court; any orders of the Court; or any other applicable law.

Dated: December 15, 2025

Respectfully submitted,

By: /s/ *Alex Rate*
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* Admitted *pro hac vice*

CERTIFICATE OF SERVICE

I, Robin Turner, hereby certify on December 15, 2025, that a true and accurate copy of the foregoing document was electronically served on counsel for Intervenor-Defendant and Defendants:

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Attorney for Intervenor-Defendant Kerri Seekins-Crowe

BY: /s/ *Robin Turner*

VERIFICATION OF INTERROGATORIES

I, Casey Perkins, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

ELECTRONICALLY SIGNED AND DATED BELOW.

12/12/2025

Casey Perkins (Dec 12, 2025 15:13:36 MST)

CP Verification of Interrogatories

Final Audit Report 2025-12-12

Created:	2025-12-12
By:	Robin Turner (rturner@legalvoice.org)
Status:	Signed
Transaction ID:	[redacted]

"CP Verification of Interrogatories" History

[redacted] Document created by Robin Turner (rturner@legalvoice.org)
[redacted]

[redacted]

Document e-signed by Casey Perkins ([redacted])
[redacted]

Agreement completed.
2025-12-12 - 10:13:36 PM GMT

VERIFICATION OF INTERROGATORIES

I, John Doe, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

ELECTRONICALLY SIGNED AND DATED BELOW.

15/12/2025

John Doe

John Doe (Dec 15, 2025 14:54:39 MST)

John Doe Verification of Interrogatories

Final Audit Report 2025-12-15

Created:	2025-12-12
By:	Robin Turner (rturner@legalvoice.org)
Status:	Signed
Transaction ID:	[redacted]

"John Doe Verification of Interrogatories" History

[redacted] Document created by Robin Turner (rturner@legalvoice.org)
[redacted]

[redacted]

Document e-signed by John Doe ([redacted])
Signature Date: [redacted]

Agreement completed.
2025-12-15 - 9:54:39 PM GMT

VERIFICATION OF INTERROGATORIES

I, Kasandra Reddington, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

ELECTRONICALLY SIGNED AND DATED BELOW.

12/12/2025

Kasandra Reddington

Kasandra Reddington (Dec 12, 2025 20:45:34 MST)

KR Verification of Interrogatories

Final Audit Report 2025-12-13

Created:	2025-12-12
By:	Robin Turner (rturner@legalvoice.org)
Status:	Signed
Transaction ID:	[redacted]

"KR Verification of Interrogatories" History

[redacted] Document created by Robin Turner (rturner@legalvoice.org)
[redacted]

[redacted]

[redacted]

Document e-signed by Kasandra Reddington ([redacted])
[redacted]

Agreement completed.
2025-12-13 - 3:45:34 AM GMT

Adobe Acrobat Sign

VERIFICATION OF INTERROGATORIES

I, Spencer McDonald, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

ELECTRONICALLY SIGNED AND DATED BELOW.

12/12/2025

Spencer McDonald (Dec 12, 2025 16:59:46 MST)

SM Verification of Interrogatories

Final Audit Report 2025-12-12

Created:	2025-12-12
By:	Robin Turner (rturner@legalvoice.org)
Status:	Signed
Transaction ID:	[redacted]

"SM Verification of Interrogatories" History

[redacted] Document created by Robin Turner (rturner@legalvoice.org)
2025-12-12 - 9:48:17 PM GMT

[redacted]

Document e-signed by Spencer McDonald ([redacted])
[redacted]

Agreement completed.
2025-12-12 - 11:59:46 PM GMT

EXHIBIT 30

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Attorneys for Intervenor-Defendant
Kerri Seekins-Crowe

MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER McDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual; and MISSOULA COUNTY, Plaintiffs, v. STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana, Defendants, and KERRI SEEKINS-CROWE, Intervenor-Defendant.	Cause No. DV 25–282 Judge Leslie Halligan **INTERVENOR-DEFENDANT KERRI SEEKINS-CROWE'S RESPONSES TO PLAINTIFFS' FIRST COMBINED DISCOVERY REQUESTS AND REQUESTS FOR ADMISSION**

TO: Plaintiffs CASEY PERKINS, SPENCER MCDONALD, KASANDRA REDDINGTON, JANE DOE, JOHN DOE and MISSOULA COUNTY and their attorneys of record, Alex Rate, ACLU OF MONTANA, P. O. Box 1968, Missoula, MT 59806, Robin Turner, LEGAL VOICE, P. O. Box 582, Missoula, MT 59806, Terry Ding, ACLU FOUNDATION, 125 Broad Street, 17th Floor, New York, NY 10004, Julie A. Murray, ACLU FOUNDATION, 915 15th Street, NW, Washington, DC 20005, Billie Mandelbaum and Eva Dorrough, COVINGTON & BURLING LLP, Salesforce Tower, 415 Mission Street, San Francisco, CA 94105, Matthew Schlesinger and Max Larson, COVINGTON & BURLING LLP, One City Center, 850 Tenth Street, NW, Washington, DC 20001, and Joseph Vandegriff, COVINGTON & BURLING LLP, 30 Hudson Yards, New York, NY 10001:

GENERAL OBJECTIONS

1. Intervenor-Defendant Kerri Seekins-Crowe objects to Plaintiffs' First Combined Discovery Requests and Requests for Admission to the extent that they request information and/or documents which were prepared for or in anticipation of litigation, constitute attorney work product, constitute privileged attorney-client communications, or are otherwise privileged.

2. Kerri Seekins-Crowe's responses to Plaintiffs' First Combined Discovery Requests and Requests for Admission are made without in any way waiving or intending to waive, but rather preserving and intending to preserve, all questions as to the competence, relevance, materiality, and admissibility as evidence for any purpose of the information in this or any other court action or judicial or administrative proceeding or investigation; the right to object on any ground to the use of the information or documents in this or any other court action or judicial or

administrative proceeding or investigation; and the right to object at any time in any further response to this or any other requests for production of documents.

3. Kerri Seekins-Crowe reserves the right to supplement and/or modify her responses to Plaintiffs' First Combined Discovery Requests to the extent further information becomes available and/or responsive documents are discovered.

Subject to the foregoing General Objections, Kerri Seekins-Crowe responds to Plaintiffs' First Combined Discovery Requests as follows:

RESPONSES

INTERROGATORY NO. 1: Identify all persons who answered, supplied information for answers, or assisted in preparing answers to these discovery requests, and for each, identify the requests for admission, interrogatories, and requests for production that they answered, supplied information for, or assisted in answering.

ANSWER:

Rep. Kerri Seekins-Crowe, Intervenor-Defendant
c/o Emily Jones and Justin Oliveira
Jones Law Firm
115 N. Broadway, Suite 410
Billings, MT 59101
(406) 384-7990
emily@joneslawmt.com
justin@joneslawmt.com

Rep. Kerri Seekins-Crowe answered, supplied information for answers, or assisted in preparing answers to all of these discovery requests with assistance from her counsel of record.

INTERROGATORY NO. 2: Identify each person whom you believe knows facts relating to this case and, for each, state the following:

(a) the general issue(s) or subject(s) of which you believe they know; and
(b) the facts you believe they know.

ANSWER:

Please see Rep. Kerri Seekins-Crowe's Lay Witness List previously filed with the Court as Doc. 64 on October 17, 2025.

INTERROGATORY NO. 3: Identify and describe all public or non-public meetings involving you or anyone acting on your behalf, and the Montana Legislature in which HB 121 was discussed, listing the date of each meeting, the nature of each meeting, and the attendees of the meeting, and identifying any documents or other materials relating to those meetings in your custody or control.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. Subject to this objection and without waiving it, she responds as follows: As a state legislator and the primary bill sponsor for HB 121, Intervenor-Defendant Rep. Kerri Seekins-Crowe was involved in innumerable discussions involving HB 121, including but not limited to, legislative hearings within the House Judiciary Committee meeting and on the House floor; and numerous conversations with other legislators such as Rep. Brad Barker, Rep. John Fuller, Rep. Brandon Ler, and Rep. Sherry Essmann concerning various aspects of

HB 121. Rep. Seekins-Crowe did not record or keep track of every meeting she attended involving HB 121, but is providing information responsive to this request to the best of her recollection.

Most of these meetings did not involve any written communication. Certain publicly available legislative materials related to HB 121 can be found at https://www.legmt.gov/ and other documents related to HB 121 can be found within the legislative JUNQUE file that Intervenor-Defendant Rep. Kerri Seekins-Crowe does not have in her possession. Sometime between Christmas 2024 and New Year's Day 2025, she spoke with House Speaker Brandon Ler regarding expanding the scope of the bill to encompass public spaces including restrooms. Intervenor-Defendant Rep. Kerri Seekins-Crowe also recalls a conversation in which a proposed amendment to HB 121 to carve out an exception for individuals who had undergone sex reassignment surgery was discussed but does not recall the details about that conversation. Intervenor-Defendant Rep. Kerri Seekins-Crowe also recalls another conversation in which another proposed amendment to HB 121 was discussed that would have had the effect of extending the effective date of the bill to allow covered entities to establish appropriate policies and procedures, but she cannot recall the details of that conversation.

INTERROGATORY NO. 4: Identify and describe all communications, conversations, meetings, or other exchanges of information between you and any

Montana state legislator (including the Montana State Senate President and Montana State House Speaker and their offices), or any agent, employee, or representative of any Montana state legislator.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. Subject to this objection and without waiving it, please see Rep. Seekins-Crowe's Answer to Interrogatory No. 3.

INTERROGATORY NO. 5: Identify and describe all communications, conversations, meetings, or other exchanges of information between you and another legislator and the Montana Legislative Services Division or Montana Legislative Fiscal Division that related in any way to HB 121 or the subject of HB 121.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. Subject to this objection and without waiving it, she responds as follows: Intervenor-Defendant Rep. Kerri Seekins-Crowe dropped a draft of HB 121 with the Montana Legislative Services Division in early November 2024, but did not interact with the Montana Legislative Fiscal Division concerning HB 121.

INTERROGATORY NO 6: Identify and describe all communications, conversations, meetings, or other exchanges of information between you and any

staff or government-appointed employee of the Montana Legislative Services Division or Montana Legislative Fiscal Division that related in any way to HB 121 or the subject of HB 121.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. Subject to this objection and without waiving it, please see Rep. Seekins-Crowe's Answer to Interrogatory No. 5.

INTERROGATORY NO. 7: Identify and describe all communications, conversations, or other exchanges of information between you and any person or entity not identified in Interrogatory Nos. 4, 5, and 6 that relate in any way to HB 121 or the subject of HB 121.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to this objection and without waiving it, she responds as follows: As a state legislator and the primary bill sponsor for HB 121, Intervenor-Defendant Rep. Kerri Seekins-Crowe was involved in innumerable discussions involving HB 121. Sometime in the Summer of 2024, Intervenor-Defendant Rep. Kerri Seekins-Crowe agreed to work with Alliance Defending Freedom to carry HB 121. At that time, the proposed legislation pertained to Montana prisons, but it was later expanded to other private spaces within covered entities. She reviewed draft bill language in conjunction with

Alliance Defending Freedom shortly after her election in 2024. Intervenor-Defendant Rep. Kerri Seekins-Crowe was also involved in various strategy meetings with representatives of the Montana Family Foundation and Alliance Defending Freedom on the eve of legislative hearings, one of which was held on January 6, 2025. Between the Summer of 2024 and the present, Intervenor-Defendant Rep. Kerri Seekins-Crowe has also had numerous in-person conversations and various phone calls concerning or related to HB 121 with media outlets such as Montana Talks and Voices of Montana, at events such as the Montana Governor's Gala, and with organizations such as the National Federation of Republican Women and the Montana League of Cities and Towns.

INTERROGATORY NO. 8: Identify and describe any communications, conversations, meetings, or exchanges of information between you and any organization, including but not limited to any "covered entity," operating in or outside of the state of Montana, or any of its agents, employees, or representatives, that relate to HB 121 or the subject of HB 121.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to this objection and without waiving it, she responds as follows: Sometime during the first week of the 2025 legislative session, Intervenor-Defendant Rep. Kerri Seekins-Crowe discussed the topic of reasonable accommodations in connection

with HB 121 with Warden Salmonsen of the Montana Department of Corrections. Sometime during her tour of the Montana Rescue Mission in the Fall of 2024, Intervenor-Defendant Rep. Kerri Seekins-Crowe discussed the topic of reasonable accommodations in connection with HB 121 with Matt Lundgren of the Montana Rescue Mission. Sometime in June or July of 2025, Intervenor-Defendant Rep. Kerri Seekins-Crowe discussed the topic of reasonable accommodations in connection with HB 121 with Erwin Garcia, the Superintendent of School District 2 in Billings.

INTERROGATORY NO. 9: Identify and describe any communications, conversations, or exchanges of information between you and any other state or federal offices in or outside of the state of Montana, or any of its agents, employees, or representatives, that relate to the subject of HB 121.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to this objection and without waiving it, she responds as follows: There were no other communications, conversations, or exchanges of information between Intervenor-Defendant Rep. Kerri Seekins-Crowe and any other state or federal offices in or outside of the state of Montana, or any of its agents, employees, or representatives, that relate to the subject of HB 121 other than those described in the responses to Interrogatory Nos. 2–8.

INTERROGATORY NO. 10: Identify all people, other than the attorneys representing the parties in this lawsuit and the court presiding over this lawsuit, with whom you have communicated, shared information, plans, guidance, or questions concerning the enforcement of HB 121.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to this objection and without waiving it, she responds as follows: Refer to the responses to Interrogatory Nos. 2–9.

INTERROGATORY NO. 11: Identify each person whom you intend to call as an expert witness in this case and, for each, provide the following information:

(a) all opinions to be expressed by the witness and the basis and reasons therefor;
(b) the other information considered by the witness in forming the opinions;
(c) any exhibits to be used as a summary of or support for the opinions;
(d) the qualifications of the witness, including a list of all publications written by the witness in the last ten years;
(e) the compensation to be paid for the witness' study, preparation, and testimony in this case; and
(f) other cases in which the witness has testified as an expert at trial or by deposition in the last ten years.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe has not designated any experts in this case but reserves the right to question any expert designated by any party in this case and further reserves the right to supplement this response in accordance with the Montana Rules of Civil Procedure.

INTERROGATORY NO. 12: Identify and describe each instance you are aware of from January 1, 2020, to present, where a transgender or intersex person abused, harassed, sexually assaulted, or subjected another person to violence in a facility in Montana.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe is not aware of any such instances occurring in a facility in Montana but is aware of several instances outside of Montana. Rep. Seekins-Crowe rejects the premise that harm to women and girls needs to occur before the Legislature can act to prevent such harm.

INTERROGATORY NO. 13: Identify and describe all data supporting the contention that transgender or intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome to the extent it requests "all data," whether or not such data is in Rep. Seekins-Crowe's possession, custody, or control or whether Rep. Seekins-Crowe is aware of such data. Requiring Rep. Seekins-Crowe to provide all responsive data that exists or has ever existed is overbroad and unduly burdensome.

Subject to and without waiving these objections, Rep. Seekins-Crowe states that the stated purposes of HB 121 as set forth in Section 1 thereof are to "(1) reaffirm the longstanding meanings of the terms "sex", "male", and "female" in law; and (2)

preserve women's restrooms, changing rooms, and sleeping quarters for women in facilities where women have traditionally been afforded privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by men." Various news articles from across the nation describing incidents of abuse, harassment, sexual assault, or violence committed by males who had access to female private spaces serve as anecdotal evidence that HB 121 is necessary. Reports of such incidents nationwide are increasing in frequency. Consequently, males, regardless of "gender identity," should not be lawfully permitted access to female private.

INTERROGATORY NO. 14: Identify and describe the potential impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons. A complete answer to this Interrogatory should list all public and non-public meetings at which you discussed the potential impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons and identify all research, data, reports, publications, testimony, legislative testimony, committee comment, or other documents considered, reviewed, or relied upon in determining the impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. She further objects to this Interrogatory to the extent it calls for expert witness testimony. Subject to these objections and without waiving them,

she responds as follows: The impact of HB 121 on transgender and intersex persons depends on the measures implemented by each covered entity to comply with the law, but the intended effect of the legislation is for covered entities to ensure that males are not permitted to access private spaces designated for females. Intervenor-Defendant Rep. Kerri Seekins-Crowe is presently unaware of any research, data, reports, publications, testimony, legislative testimony, committee comment, or other documents considered, reviewed, or relied upon in determining the impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons other than the statements of opponents or proponents of the bill offered at the legislative hearings on HB 121, the recordings of which can be found at https://www.legmt.gov/.

INTERROGATORY NO. 15: Identify and describe all facts supporting your contention that HB 121 will protect the privacy and safety of women and girls from acts of abuse, harassment, sexual assault, and violence. A complete answer to this Interrogatory should list all public and non-public meetings at which you discussed how HB 121 will protect the privacy and safety of women from acts of abuse, harassment, sexual assault, and violence, and identify all research, data, reports, publications, testimony, legislative testimony, committee comment, or other documents considered, reviewed, or relied upon in determining whether HB 121 will

protect the privacy and safety of women and girls from acts of abuse, harassment, sexual assault, and violence.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. Subject to this objection and without waiving it, she responds as follows: The stated purposes of HB 121 as set forth in Section 1 thereof are to "(1) reaffirm the longstanding meanings of the terms "sex", "male", and "female" in law; and (2) preserve women's restrooms, changing rooms, and sleeping quarters for women in facilities where women have traditionally been afforded privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by men." Various news articles from across the nation describing incidents of abuse, harassment, sexual assault, or violence committed by males who had access to female private spaces serve as anecdotal evidence that HB 121 is necessary. Consequently, males, regardless of "gender identity," should not be lawfully permitted access to female private. Please also see Rep. Seekins-Crowe's Answers to Interrogatories 3–9.

Additionally, Rep. Seekins-Crowe understands the following common-sense and widely known facts and social norms to be relevant:

- Males commit the majority of sexual offenses worldwide, whereas females are less often the perpetrators.

- Because the risk is disproportionately male-on-female, policies that limit male access to intimate female spaces are framed as targeted risk reduction rather than a blanket restriction on everyone.

- Women and girls are at particular risk of sexual crimes when they are undressing, showering, or using toilets, because they are partially or fully naked and less able to protect themselves.

- Safeguarding organizations argue that providing female-only changing rooms and bathrooms is a simple, effective and common-sense way to reduce opportunities for voyeurism, harassment, and assault in those moments of heightened vulnerability.

- More sexual incidents are reported in mixed-sex changing spaces compared with single-sex equivalents.

- Restricting males from private female areas reduces the number of unrelated males present, which reduces the number of potential offenders and bystanders who might exploit the environment.

- Many women report that their history of sexual harassment or assault is a key reason they value single-sex spaces and feel unsafe or anxious when males are present while they are undressing.

- When women believe that only other females are allowed in a private spaces, they tend to feel more at ease, which supports their sense of bodily privacy.

- Safeguarding practice in other contexts (e.g., trauma services, shelters, some school settings) frequently uses female-only or single-sex environments to create "safe spaces" where girls and women can participate and seek help without fear of male intrusion.

- General prevention logic is that controlling access to intimate spaces decreases opportunities for abuse, harassment, sexual assault, and violence to occur in those spaces.

- In view of these facts, it would be illogical to force females to surrender their boundaries and autonomy based on an individual's subjective gender identity.

INTERROGATORY NO. 16: Identify and describe all communications, information, and data you have received or shared with others regarding the enforcement of HB 121 on covered entities under HB 121 § 4.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Interrogatory on the grounds that it is overly broad and unduly burdensome. Subject to this objection and without waiving it, she responds as follows: Refer to the responses to Interrogatory Nos. 3–9.

INTERROGATORY NO. 17: Identify and describe the factual basis for each affirmative defense in your Answer to Plaintiffs' Amended Complaint.

ANSWER: Rep. Seekins-Crowe objects to this Interrogatory as vague and compound. Subject to and without waiving these objections, please see Rep. Seekins-Crowe's Answer to Interrogatory Nos. 13 and 15, as well as long-settled Montana law that statutes are presumed constitutional and must be proven unconstitutional beyond a reasonable doubt. Further, HB 121 serves and is supported by rational, legitimate, and compelling state interests, including but not limited to providing objective definitions of terms used widely in Montana law, protecting victims of sexual assault, protecting the safety of women and girls in private spaces, and ensuring separation of prison populations by sex for safety. HB 121 is narrowly tailored and rationally related to these important State interests.

INTERROGATORY NO. 18: Describe your understanding of the meaning of the phrase "provided the other individual permission" contained in HB 121 § 4 (1)(a), including but not limited to the words "provided" and "permission," within the context of the phrase.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe understands the phrase "provided the other individual permission" contained in HB 121 § 4 (1)(a) to mean allowing a male to use a restroom or changing room designated for females.

INTERROGATORY NO. 19: Describe your understanding of the meaning of the phrase "reasonable steps," as included in HB 121 §§ 3(3); 4(1)(b).

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe understands "reasonable steps" as included in HB 121 §§ 3(3); 4(1)(b) to mean having a private space for males so that they are not using female private spaces or otherwise ensuring that males who do not desire to use private spaces designated for males, are not using female private spaces.

INTERROGATORY NO. 20: Describe your understanding of the meaning of the phrase "failed to take reasonable steps to prohibit," contained in HB 121 §4(1)(b), including but not limited to the meaning of the word "failed" within the context of the phrase.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe understands the phrase "failed to take reasonable steps to prohibit," contained in HB 121 §4(1)(b) to mean allowing males to use private spaces designated for females.

INTERROGATORY NO. 21: Describe your understanding of the meaning of the phrase "is required by a covered entity" contained in HB 121 § 4(2), including but not limited to the meaning of "required" within the context of the phrase.

ANSWER: Intervenor-Defendant Rep. Kerri Seekins-Crowe understands the phrase "is required by a covered entity" as contained in HB 121 § 4(2) to refer to when a covered entity assigns males and females to the same sleeping quarters.

INTERROGATORY NO. 22: Identify and describe any medical or other bases supporting or pertaining to the definition of "female" in HB 121 § 2(4).

ANSWER: The term "female" is defined by HB 121 § 2(4) as "a member of the human species who, under normal development, has XX chromosomes and produces or would produce relatively large, relatively immobile gametes, or eggs, during her life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is female." This definition of female reaffirms the longstanding common-sense meaning of that term in law consistent with the purpose of HB 121 as stated in HB 121 § 1(1).

INTERROGATORY NO. 23: Identify and describe any medical or other bases supporting or pertaining to the definition of "male" in HB 121 § 2(7).

ANSWER: The term "male" is defined by HB 121 § 2(7) as "a member of the human species who, under normal development, has XY chromosomes and produces or would produce small, mobile gametes, or sperm, during his life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is male." This definition of male reaffirms the longstanding common-sense meaning of that term in law consistent with the purpose of HB 121 as stated in HB 121 § 1(1).

INTERROGATORY NO. 24: Identify and describe any medical or other bases supporting or pertaining to the definition of "sex" in HB 121 § 2(12).

ANSWER: The term "sex" is defined by HB 121 § 2(12) as "the organization of the body parts and gametes for reproduction in human beings and other organisms. In human beings, there are exactly two sexes, male and female, with two corresponding types of gametes. The sexes are determined by the biological and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, behavioral, social, chosen, or subjective experience of gender." This definition of sex reaffirms

the longstanding common-sense meaning of that term in law consistent with the purpose of HB 121 as stated in HB 121 § 1(1).

INTERROGATORY NO. 25: Identify and describe each and every government interest or objective that you contend is served by HB 121 and explain how each is served.

ANSWER: Rep. Seekins-Crowe objects to this Interrogatory as overbroad and unduly burdensome to the extent it requests "each and every" government interest. Laws do not need to serve every possible government interest that might be implicated to be constitutional. Subject to and without waiving this objection, please refer to Rep. Seekins-Crowe's responses to Interrogatory Nos. 13 and 15. The stated purposes of HB 121 as set forth in HB 121 § 1 are to "(1) reaffirm the longstanding meanings of the terms "sex", "male", and "female" in law; and (2) preserve women's restrooms, changing rooms, and sleeping quarters for women in facilities where women have traditionally been afforded privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by men." HB 121 serves and is supported by rational, legitimate, and compelling state interests, including but not limited to providing objective definitions of terms used widely in Montana law, protecting victims of sexual assault, protecting safety of women and girls in private spaces; and ensuring separation of prison populations by sex for safety. HB 121 is narrowly tailored and rationally related to these important State interests.

REQUEST FOR ADMISSION NO. 1: Admit that, under HB 121, a transgender man is required to use covered facilities designated for women**.**

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that the term "transgender man" has not been sufficiently defined by the Request for Admission, that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 2: Admit that, under HB 121, a transgender man is not permitted to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that the term "transgender man" has not been sufficiently defined by the Request for Admission, that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 3: Admit that, under HB 121, a transgender woman is required to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that the term "transgender

woman" has not been sufficiently defined by the Request for Admission, that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 4: Admit that, under HB 121, a transgender woman is not permitted to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that the term "transgender woman" has not been sufficiently defined by the Request for Admission, that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 5: Admit that HB 121 recognizes exactly two sexes, male and female, in human beings.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 6: Admit that gender dysphoria is a medical condition.

RESPONSE: Rep. Seekins-Crowe admits that gender dysphoria is a mental health condition, but the fact that an individual may suffer from gender dysphoria

does not mean women and girls should be forced to endure the presences of males in their private spaces in covered entities, nor does it render HB 121 unconstitutional.

REQUEST FOR ADMISSION NO. 7: Admit that, under HB 121, "[t]he sexes are determined by the biological and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth."

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 8: Admit that, under HB 121, a person born with male sex chromosomes is required to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 9: Admit that, under HB 121, a person born with male sex chromosomes is not permitted to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient

latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 10: Admit that, under HB 121, a person born with female sex chromosomes is required to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 11: Admit that, under HB 121, a person born with female sex chromosomes is not permitted to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 12: Admit that, under HB 121, a person born with male gonads is required to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 13: Admit that, under HB 121, a person born with male gonads is not permitted to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 14: Admit that, under HB 121, a person born with male nonambiguous internal genitalia is required to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 15: Admit that, under HB 121, a person born with male nonambiguous internal genitalia is not permitted to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 16: Admit that, under HB 121, a person born with male nonambiguous external genitalia is required to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 17: Admit that, under HB 121, a person born with male nonambiguous external genitalia is not permitted to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 18: Admit that HB 121 allows a cisgender man to use covered facilities designated for men.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that the term "cisgender man" has not been defined by this Request for Admission, that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 19: Admit that HB 121 allows a cisgender woman to use covered facilities designated for women.

RESPONSE: This Request for Admission is denied on the grounds that HB 121 does not expressly reference "covered facilities," that the term "cisgender woman" has not been defined by this Request for Admission, that HB 121 regulates "covered entities" rather than individuals, and that HB 121 provides for sufficient

latitude in implementation that categorical requirements or exclusions such as the one suggested by this Request for Admission are inappropriate.

REQUEST FOR ADMISSION NO. 20: Admit that preventing transgender and intersex persons from using a facility that corresponds with their gender identity can harm their safety, privacy, and well-being.

RESPONSE: Deny. Intervenor-Defendant Kerri Seekins-Crowe is unaware of any facts that would indicate that preventing transgender and intersex persons from using a facility that corresponds with their gender identity can harm their safety, privacy, and well-being. Men and women have been using separate private spaces for centuries.

REQUEST FOR ADMISSION NO. 21: Admit that allowing transgender and intersex persons to use a facility that corresponds with their gender identity can maintain their safety, privacy, and well-being.

RESPONSE: Deny. Intervenor-Defendant Kerri Seekins-Crowe is unaware of any facts that would indicate that allowing transgender and intersex persons to use a facility that corresponds with their gender identity can maintain their safety, privacy, and well-being. Men and women have been using separate private spaces for centuries.

REQUEST FOR ADMISSION NO. 22: Admit that allowing transgender and intersex persons to use a facility that corresponds with their gender identity can improve their safety and well-being.

RESPONSE: Deny. Intervenor-Defendant Kerri Seekins-Crowe is unaware of any facts that would indicate that allowing transgender and intersex persons to use a facility that corresponds with their gender identity can improve their safety and well-being. Men and women have been using separate private spaces for centuries.

REQUEST FOR ADMISSION NO. 23: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to abuse another person in a facility under Montana law.

RESPONSE: This Request for Admission is denied to the extent that the term "facility" corresponds to a "correctional center," a "juvenile detention facility," or to the meaning of that term as found in Section 3(5)(b) of HB 121. In all other respects, the Request for Admission is denied for lack of knowledge. However, Rep. Seekins-Crowe states that even if such conduct was unlawful prior to HB 121, that fact does not render HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 24: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to harass another person in a facility under Montana law.

RESPONSE: Intervenor-Defendant Kerri Seekins-Crowe objects to this Request for Admission on the grounds that the terms "harass" and "facility" are not defined. Subject to this objection, this Request for Admission is denied for lack of knowledge. However, Rep. Seekins-Crowe states that even if such conduct was unlawful prior to HB 121, that fact does not render HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 25: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to sexually assault another person in a facility under Montana law.

RESPONSE: Admit. However, Rep. Seekins-Crowe states that even if such conduct was unlawful prior to HB 121, that fact does not render HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 26: Admit that, prior to HB 121's enactment, it was unlawful for any person, regardless of their status as a transgender, intersex, or cisgender person, to perpetuate violence against another person in a facility under Montana law.

RESPONSE: This Request for Admission is admitted to the extent that "violence" means assault. Otherwise, it is denied. However, Rep. Seekins-Crowe states that even if such conduct was unlawful prior to HB 121, that fact does not render HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 27: Admit that the justification for HB 121 is based on a presumption that transgender and intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

RESPONSE: Deny. The justification for HB 121 is that males, regardless of gender identity, are more likely to abuse, harass, sexually assault, or perpetrate violence against females when they have unfettered access to facilities where females have traditionally been afforded privacy and safety from such acts. This justification is evident from a plain reading of Section 1(1) of HB 121.

REQUEST FOR ADMISSION NO. 28: Admit that there were no reported instances of a transgender person abusing, harassing, sexually assaulting, or perpetrating violence in a facility in Montana prior to the enactment of HB 121.

RESPONSE: This Request for Admission is admitted to the extent that the term "facility" corresponds to a "correctional center," a "juvenile detention facility," or to the meaning of that term as found in Section 3(5)(b) of HB 121. In all other respects, the Request for Admission is denied for lack of knowledge. However, Rep. Seekins-Crowe rejects the premise that harm must occur before the Legislature is empowered to act.

REQUEST FOR ADMISSION NO. 29: Admit that there were no reported instances of an intersex person abusing, harassing, sexually assaulting, or perpetuating violence in a facility in Montana prior to the enactment of HB 121.

RESPONSE: This Request for Admission is admitted to the extent that the term "facility" corresponds to a "correctional center," a "juvenile detention facility," or to the meaning of that term as found in Section 3(5)(b) of HB 121. In all other respects, the Request for Admission is denied for lack of knowledge. However, Rep. Seekins-Crowe rejects the premise that harm must occur before the Legislature is empowered to act.

REQUEST FOR ADMISSION NO. 30: Admit that you are not in possession of any data or other information supporting the contention that preventing transgender

or intersex persons from accessing facilities that correspond with their gender identity will prevent abuse, harassment, sexual assault, or perpetration of violence in a facility.

RESPONSE: Deny. There have been numerous reports of abuse, harassment, sexual assault, or perpetration of violence against females by males that were precipitated by males having access to female private spaces.

REQUEST FOR ADMISSION NO 31: Admit that you are not in possession of any data or other information supporting the contention that transgender and intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

RESPONSE: Deny. There have been numerous reports of abuse, harassment, sexual assault, or perpetration of violence against females by males that were precipitated by males having access to female private spaces.

REQUEST FOR ADMISSION NO. 32: Admit that enforcement of HB 121 would require transgender and intersex persons to disclose or verify their gender identity.

RESPONSE: This Request for Admission is denied on the grounds that the stated definition of "gender identity" as "a person's internal sense of belonging to a particular gender, which may differ from the sex they were assigned at birth" is so vague and subjective that a definitive response is not practicable. Furthermore, HB 121 provides for sufficient latitude in implementation that it is not feasible to

determine the extent to which an individual's "gender identity" would be "disclosed" or "verified."

REQUEST FOR ADMISSION NO. 33: Admit that HB 121 requires covered entities to take "reasonable steps" to ensure that only individuals whose gender identity corresponds to the sex designation of a covered facility is permitted to use that facility.

RESPONSE: Deny. Section 3(3) of HB 121 provides that "a covered entity shall take reasonable steps to provide individuals with privacy from members of the opposite sex in designated restrooms, changing rooms, and sleeping quarters." HB 121 also does not use the term "gender identity" or the term "covered facility."

REQUEST FOR ADMISSION NO. 34: Admit that you have not provided "covered entities" as defined in HB 121 with any instructions, procedures, guidelines, or information on how to comply with or avoid liability under HB 121.

RESPONSE: Admit, but deny any legal duty to do so.

REQUEST FOR ADMISSION NO. 35: Admit that, when an individual sues a covered entity pursuant to Section 4 of HB 121 for allegedly encountering an individual of the opposite sex in a covered entity, the covered entity's liability will depend, at least in part, on the sex of the individual alleged to be of the opposite sex.

RESPONSE: This Request for Admission is objectionable on the grounds that the hypothetical situation presented contains limited facts and HB 121 provides

sufficient latitude in implementation that categorical assessments such as the one demanded by this Request for Admission are inappropriate. Accordingly, this Request for Admission is denied.

REQUEST FOR ADMISSION NO. 36: Admit that you have not provided intersex individuals who require access to covered entities with any instructions, procedures, guidelines, or information on how to comply with or avoid liability under HB 121.

RESPONSE: Admit, but deny any legal duty to do so.

REQUEST FOR ADMISSION NO. 37: Admit that § 45-5-502, MCA provides a definition of and penalties for the crime of sexual assault in Montana.

RESPONSE: Admit, but deny that this fact renders HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 38: Admit that § 45-5-625, MCA provides a definition of and penalties for the crime of sexual abuse of children in Montana.

RESPONSE: Admit, but deny that this fact renders HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 39: Admit that § 45-5-220, MCA provides a definition of and penalties for the crime of stalking in Montana.

RESPONSE: Admit, but deny that this fact renders HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 40: Admit that § 45-5-206, MCA provides a definition of and penalties for the crime of partner or family member assault in Montana.

RESPONSE: Admit, but deny that this fact renders HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 41: Admit that § 45-5-504, MCA provides a definition of and penalties for the crime of indecent exposure in Montana.

RESPONSE: Admit, but deny that this fact renders HB 121 unconstitutional. Many laws in Montana overlap, and the argument that HB 121 is somehow "unnecessary" is not sufficient to obtain declaratory or injunctive relief in this case.

REQUEST FOR ADMISSION NO. 42: Admit that the Montana Legislature did not allocate funds for covered entities to comply with HB 121.

RESPONSE: Admit, but deny any legal duty to do so.

REQUEST FOR ADMISSION NO. 43: Admit that the Montana Legislature did not allocate funds for covered entities to enclose areas and dividers in public restrooms and facilities.

RESPONSE: Admit, but deny any legal duty to do so.

REQUEST FOR ADMISSION NO. 44: Admit that an individual's gender identity is disclosed when they choose a public restroom marked by gender.

RESPONSE: This Request for Admission is denied on the grounds that the stated definition of "gender identity" as "a person's internal sense of belonging to a particular gender, which may differ from the sex they were assigned at birth" is so vague and subjective that a definitive response is not practicable. Furthermore, HB 121 provides for sufficient latitude in implementation that it is not feasible to determine the extent to which an individual's "gender identity" would be "disclosed."

REQUEST FOR ADMISSION NO. 45: Admit that transgender people have been harmed in public restrooms and facilities as a result of attacks motivated by animus towards transgender people.

RESPONSE: Deny. Intervenor-Defendant Kerri Seekins-Crowe is unaware of any facts that would indicate that transgender people have been harmed in public restrooms and facilities as a result of attacks motivated by animus towards transgender people.

REQUEST FOR ADMISSION NO. 46: Admit that HB 121 requires covered entities to take action to designate multi-occupancy restrooms, changing rooms, and sleeping quarters for the exclusive use of men and women.

RESPONSE: Intervenor-Defendant Kerri Seekins-Crowe admits that Section 3(1) of HB 121 provides that "a covered entity shall designate each multioccupancy restroom, changing room, or sleeping quarters for the exclusive use of females or males," but denies this Request for Admission in all other respects. Specifically, Section 3(6)(b) of HB 121 provides that Section 3 may not be construed to prohibit a covered entity from (a) adopting policies necessary to accommodate individuals protected under the Americans with Disabilities Act of 1990 or young children or elderly persons in need of assistance; (b) establishing single-occupancy restrooms, changing rooms, or sleeping quarters or family restrooms, changing rooms, or sleeping quarters; or (c) redesignating a multi-occupancy restroom, changing room, or sleeping quarters designated for exclusive use by one sex to a designation for exclusive use by the opposite sex.

REQUEST FOR ADMISSION NO. 47: If your responses to the Requests for Admission are anything other than unqualified admissions, please provide every fact supporting your response.

RESPONSE: Rep. Seekins-Crowe objects to this request because it is a compound Interrogatory styled as a Request for Admission, and the number of Interrogatories propounded on Rep. Seekins-Crowe therefore exceeds the maximum interrogatories allowed by the Montana Rules of Civil Procedure. Subject to and without waiving these objections, Intervenor-Defendant Kerri Seekins-Crowe

responds as follows: The grounds for the denial of each request for admission are set forth in the response thereto.

REQUEST FOR ADMISSION NO. 48: Admit that access to restroom facilities is a basic necessity for all human beings.

RESPONSE: Deny. Access to restroom facilities is a privilege enjoyed by the citizens of developed countries that is to be used responsibly.

REQUEST FOR ADMISSION NO. 49: Admit that access to changing rooms is a basic necessity for all human beings when utilizing a public facility.

RESPONSE: Deny. Access to changing rooms when utilizing a public facility is a privilege enjoyed by the citizens of developed countries that is to be used responsibly.

REQUEST FOR PRODUCTION NO. 1: Produce all documents and communications identified, referenced, referred to, or relied upon in response to any of these discovery requests.

RESPONSE: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Request for Production on the grounds that it lacks specificity, is overly broad, and unduly burdensome. Subject to this objection and without waiving it, she responds as follows: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000001-000284.

REQUEST FOR PRODUCTION NO. 2: Produce all documents and communications that refer to or relate to the subject matter of this litigation, including HB 121 or the subject of HB 121.

RESPONSE: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Request for Production on the grounds that it is overly broad, unduly burdensome, and encompasses privileged communications. Subject to this objection and without waiving it, she responds as follows: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000001-000284.

REQUEST FOR PRODUCTION NO. 3: Produce each document that refers or relates to your communications with or involving members of the Montana Legislature, political party staff, or Montana Legislative and Fiscal Division staff concerning HB 121.

RESPONSE: Intervenor-Defendant Rep. Kerri Seekins-Crowe objects to this Request for Production on the grounds that it is overly broad, unduly burdensome, and invades the legislative privilege. Subject to this objection and without waiving it, she responds as follows: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000009-000118.

REQUEST FOR PRODUCTION NO. 4: Produce each document that refers or relates to any investigation, consideration, or evaluation by you relating to the public

health consequences of denying transgender and intersex persons access to facilities that correspond with their gender identity.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 5: Produce each document in your possession or control that refers or relates to the potential impact of HB 121 on the safety, privacy, and well-being of transgender and intersex persons.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 6: Produce each document that refers or relates to your contention that HB 121 will protect the privacy and safety of women from acts of abuse, harassment, sexual assault, and violence.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

REQUEST FOR PRODUCTION NO. 7: Produce each document in your possession or control that refers or relates to each instance you are aware of from January 1, 2020, to present, where a transgender or intersex person abused, harassed, sexually assaulted, or subjected another person to violence in a facility in Montana.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 8: Produce each document that refers or relates to any investigation, consideration, or evaluation by you relating to the public health consequences of denying transgender persons access to facilities that correspond with their gender identity.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 9: Produce each document that refers or relates to any investigation, consideration, or evaluation by you relating to the public health consequences of denying intersex persons access to facilities that correspond with their gender identity.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 10: Produce each document in your possession or control that refers or relates to each instance you are aware of from January 1, 2020, to present, where a cisgender person abused, harassed, sexually assaulted, or subjected another person to violence in a facility in Montana.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 11: Produce each document in your possession or control that refers or relates to all data or other information supporting

the contention that transgender or intersex persons are more likely than cisgender persons to abuse, harass, sexually assault, or perpetrate violence in a facility.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

REQUEST FOR PRODUCTION NO. 12: Produce all of your communications with covered entities with the defined covered entities regarding HB 121. This includes but is not limited to communications with covered entities' agents, employees, administrators, attorneys, representatives, and all other persons and entities working or purporting to act on behalf of, or in concert with, or in participation with any covered entity.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 13: Produce each document that you provided to "covered entities" regarding HB 121. This includes but is not limited to documents you provided to covered entities' agents, employees, administrators, attorneys, representatives, and all other persons and entities working or purporting to act on behalf of, or in concert with, or in participation with any covered entity.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 14: Produce each document in your possession or control that relates to the safety risk of transgender persons using facilities that correspond with their gender identity.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

REQUEST FOR PRODUCTION NO. 15: Produce each document in your possession or control that relates to the safety risk of intersex persons using facilities that correspond with their gender identity.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

REQUEST FOR PRODUCTION NO. 16: Produce each document in your possession or control that refers or relates to the consequences of HB 121 on the safety and well-being of transgender persons.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 17: Produce each document in your possession or control that refers or relates to the consequences of HB 121 on the safety and well-being of intersex persons.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 18: Produce each document that refers or relates to all data and research, including but not limited to scientific studies, crime statistics, and criminal reports and complaints, you relied upon regarding the safety risk of transgender and intersex persons using facilities that correspond with their gender identity.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

REQUEST FOR PRODUCTION NO. 19: Produce each document in your possession or control that refers to or relates to transgender and intersex persons using facilities that correspond with their gender identity.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000001-000284.

REQUEST FOR PRODUCTION NO. 20: Produce all documents and communications concerning, regarding, or related to any medical or other bases supporting or pertaining to the definition of "female" in HB 121 § 2(4).

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 21: Produce all documents and communications concerning, regarding, or related to any medical or other bases supporting or pertaining to the definition of "male" in HB 121 § 2(7).

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 22: Produce all documents and communications concerning, regarding, and related to any medical or other bases supporting or pertaining to the definition of "sex" in HB 121 § 2(12).

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 23: Produce all documents concerning, regarding, or related to the number and location of single-occupancy restrooms, changing rooms, or sleeping quarters, as referenced in HB 121 § 3(6)(b), owned or operated by any "covered entity" defined in the statute.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 24: Produce all documents concerning, regarding, or related to the number and location of family restrooms, changing rooms, or sleeping quarters, as referenced in HB 121 § 3(6)(b), owned or operated by any covered entity.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 25: Produce all documents and communications concerning, regarding, or related to the impact, applicability, and enforcement of HB 121 on any college or university campus in the Montana University System, including but not limited to the University of Montana, Montana State University, and Montana Technical University.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 26: Produce all documents concerning, regarding, or related to HB 121's compliance with Title IX of the Education Amendments of 1972.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 27: Produce each nonprivileged document that you provided to any potential testifying witness in this matter, or to any other third party other than a consulting expert who will not be testifying in this matter, that relates to the subject matter of this litigation.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 28: Produce each document obtained from third parties as a result of authorizations, releases, and/or subpoenas relating to the subject matter of this lawsuit.

RESPONSE: After a reasonable search, Rep. Seekins-Crowe identified no responsive documents in her possession, custody, or control.

REQUEST FOR PRODUCTION NO. 29: Produce each document that supports the affirmative defenses in your Answer to Plaintiffs' Amended Complaint.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

REQUEST FOR PRODUCTION NO. 30: Produce copies of all official statements you have made related to HB 121, including but not limited to in-person, phone, virtual, written, or broadcast interviews, social media posts, podcasts, and press releases.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000207-000284.

REQUEST FOR PRODUCTION NO. 31: Produce copies of all statements you have made related to HB 121 in a personal capacity, including but not limited to in-person, phone, virtual, written, or broadcast interviews, social media posts, podcasts, and press releases.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000207-212 and 000214-000284.

REQUEST FOR PRODUCTION NO. 32: Produce all explanatory documents, including but not limited to memorandums, fact sheets, guidance documents, handbooks, manuals, research reports, statistical compilations, and any other explanatory documents in your possession related to HB 121 or the subject of HB 121.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000001-000284.

REQUEST FOR PRODUCTION NO. 33: Produce all documents and communications that you contend support each and every governmental interest you contend justifies HB 121.

RESPONSE: Documents responsive to this Request for Production have been identified and are produced herewith as KSC 000120-000212.

DATED this 19th day of January 2026.

JONES LAW FIRM, PLLC

By: _____

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I certify that a true and correct copy of this document was sent to the following via electronic mail this 19th day of January 2026:

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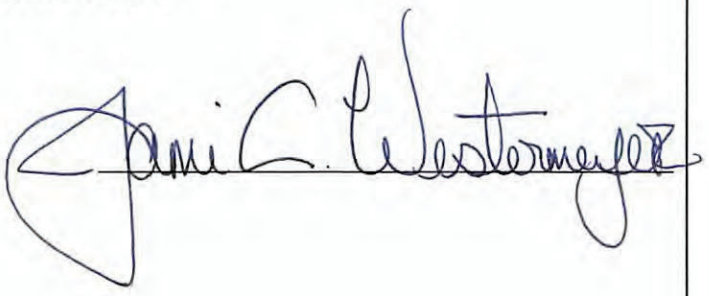
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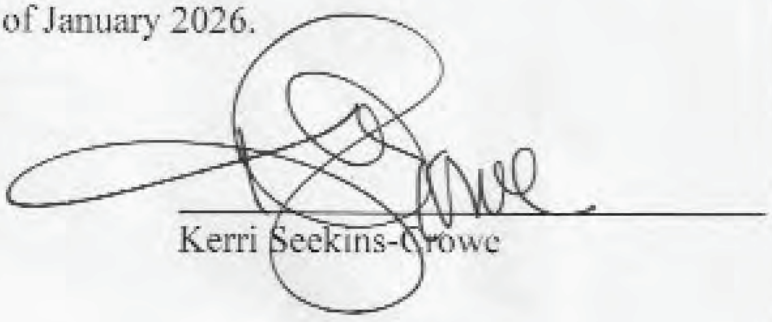
VERIFICATION

STATE OF MONTANA)
:ss
County of Yellowstone)

Kerri Seekins-Crowe states under oath that she is the Intervenor-Defendant in the above-titled action; that she has read Intervenor-Defendant Kerri Seekins Crowe's Responses to Plaintiffs' First Combined Discovery Requests and Requests for Admission; that the responses were prepared with the assistance and advice of counsel; that some of the information is accordingly outside the scope of her personal knowledge; and that the responses, subject to inadvertent or undiscovered errors, are based on and necessarily limited by the records and information still in existence, presently recollected, and thus far discovered in the course of the preparation of these responses. Consequently, Kerri Seekins-Crowe reserves the right to make any changes in the responses if it appears at any time that omission or errors have been made or that more accurate information is available. Subject to these limitations, the responses are true to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct.

DATED this 18 day of January 2026.



Kerri Seekins-Crowe

EXHIBIT 31

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MONTANA FOURTH JUDICIAL DISTRICT COURT, MISSOULA COUNTY

CASEY PERKINS, an individual; SPENCER McDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual, and JOHN DOE, an individual, and MISSOULA COUNTY,

Plaintiffs,

v.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants,

and

KERRI SEEKINS-CROWE,

Intervenor-Defendant.

Dept. 1

DV-32-2025-282
Hon. Leslie Halligan

STATE OF MONTANA'S RESPONSES TO PLAINTIFFS' SECOND COMBINED DISCOVERY REQUESTS AND THIRD REQUESTS FOR ADMISSION TO DEFENDANTS STATE OF MONTANA, THE GOVERNOR OF THE STATE OF MONTANA, AND ATTORNEY GENERAL OF THE STATE OF MONTANA

TO: Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe and John Doe, c/o Alex Rate, ACLU of Montana, PO Box 1968, Missoula, MT 59806-1968, Terry Ding, ACLU Foundation, 124 Broad Street, 17th Floor, New York, NY, Robin Turner, Legal Voice, PO Box 582, Missoula, MT 59806, and Julie A. Murray, ACLU Foundation, 915 15th Street, NW, Washington, DC 20005:

Defendant State of Montana (the State) responds to Plaintiffs' Second Combined Discovery Requests and Third Requests for Admission to Defendants (February 19, 2026).

GENERAL OBJECTIONS

1. The State objects to the definitions and instructions contained in the Plaintiffs' Second Combined Discovery Requests and Third Requests for Admission to Defendants to the extent they seek to impose any obligation or responsibility exceeding the requirements of the Montana Rules of Civil Procedure.

2. The State objects to Plaintiffs' Second Combined Discovery Requests and Third Requests for Admission to Defendants to the extent they request information and/or documents prepared for or in anticipation of litigation, constitute attorney work product, constitute privileged attorney-client communications, or are otherwise privileged.

3. The State's responses to Plaintiffs' Second Combined Discovery Requests and Third Requests for Admission to Defendants are made without in any way waiving or intending to waive, but rather preserving and intending to preserve all questions as to the competence, relevance, materiality and admissibility as evidence for any purpose of the information in this or any other court action or judicial or administrative proceeding or investigation; the right to object on any ground to the

use of the information or documents in this or the right to object at any time in any further response to this or any other Interrogatories documents.

4. The State reserves the right to supplement and/or modify its responses to Plaintiffs' Second Combined Discovery Requests and Third Requests for Admission to Defendants to the extent further information becomes available and/or responsive documents are discovered.

Subject to the foregoing General Objections, The State submits these Responses to Plaintiffs' Second Combined Discovery Requests and Third Requests for Admission to Defendants as follows:

REQUESTS FOR ADMISSION

REQUEST FOR ADMISSION NO. 66: Admit that you will not call any witnesses other than Ian Gutierrez to testify in an official capacity on behalf of the State's Defendants at trial in this matter.

RESPONSE: Deny. The State will not call any other witnesses on behalf of the State so long as no new events occur.

REQUEST FOR ADMISSION NO. 67: Admit that you will not rely at trial on any documents outside of those already produced in discovery.

RESPONSE: Deny. The State has the right to supplement if new events occur or if new information is discovered.

REQUEST FOR ADMISSION NO. 68: Admit that, other than the information related to Montana's jails and prisons cited in your original and amended responses to Plaintiffs' discovery requests, you have no evidence to support your claims that

House Bill 121 will improve the safety of Montana women and girls in restrooms, sleeping rooms, and changing rooms in covered entities, as these terms are defined in Sect. 2 of the bill.

RESPONSE: Deny. The State has the testimony of Dr. Nangia and Donna Osbourne.

REQUEST FOR ADMISSION NO. 69: Admit that, other than the data related to Montana's jail and prisons cited in your original and amended responses to Plaintiffs' discovery request, you have no evidence to support your claims that House Bill 121 will improve the safety of Montana women and girls in restrooms, sleeping rooms, and changing rooms in covered facilities, as these terms are defined in Sect. 2 of the bill.

RESPONSE: Deny. The State has the testimony of Dr. Nangia and Donna Osbourne.

REQUEST FOR ADMISSION NO. 70: Admit that prior to the enactment of HB 121 that there were no reported instances in Montana of a transgender person abusing, harassing, sexually assaulting, or perpetrating violence in any restroom, sleeping room, and changing room in a covered entity (as these terms are defined in Sect. 2 of the bill), outside of correctional facilities.

RESPONSE: Admit.

REQUEST FOR ADMISSION NO. 71: Admit that prior to the enactment of HB 121 that there were no reported instances in Montana of an intersex person abusing, harassing, sexually assaulting, or perpetrating violence in any restroom, sleeping

room and changing room in a covered entity (as these terms are defined in Sect. 2 of the bill), outside of correctional facilities.

RESPONSE: Admit.

INTERROGATORIES

INTERROGATORY NO. 27: If your responses for the Requests for Admission 66-71 are anything other than unqualified admissions, please provide every fact supporting your response.

ANSWER: Please see responses to each of the Requests for Admission.

REQUESTS FOR PRODUCTION

REQUEST FOR PRODUCTION NO. 32: Produce all documents and communications identified, reference, referred to, or relied upon in response to any of these discovery requests.

RESPONSE: No documents responsive to Request for Production No. 32 exist.

REQUEST FOR PRODUCTION NO. 33: Produce all documents and data that Ian Gutierrez testified to receiving or accessing from the Department of Corrections during his deposition.

RESPONSE: All documents responsive to Request for Production No. 33 were provided to Plaintiffs during Mr. Gutierrez's deposition.

DATED this 13th day of March 2026.

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Montana Attorney General

/s/ Thane Johnson
Thane Johnson
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Assistant Attorneys General
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I certify that I served a true and accurate copy of the foregoing by email to the following:

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Date: March 13, 2026

Rochell Standish

EXHIBIT 32

FILED
08/13/2025
Bowen Greenwood
CLERK OF THE SUPREME COURT
STATE OF MONTANA
Case Number: DA 25-0397

IN THE SUPREME COURT OF THE STATE OF MONTANA
No. DA 25-0397

CASEY PERKINS, an individual; SPENCER MCDONALD, an individual; KASANDRA REDDINGTON, an individual; JANE DOE, an individual; and JOHN DOE, an individual,

Plaintiffs and Appellees,

v.

STATE OF MONTANA; GREGORY GIANFORTE, in his official capacity as Governor of the State of Montana; and AUSTIN KNUDSEN, in his official capacity as Attorney General of the State of Montana,

Defendants and Appellants.

APPELLANTS' OPENING BRIEF

On Appeal from the Montana Fourth Judicial District Court, Missoula County
Cause No. ADV-2025-282, The Honorable Shane A. Vannatta, Presiding

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STATEMENT OF THE ISSUES

Defendants-Appellants (collectively, the "State") raise the following issues:

1. Whether Plaintiffs' claims are ripe?

2. Whether Plaintiffs established standing?

3. Whether the district court erred and abused its discretion by enjoining an important State law absent a showing of likelihood of success or irreparable harm, and where the balance of equities and public interest support the State?

4. Whether the district court erred and abused its discretion by issuing an overbroad injunction that extends to unchallenged applications of State law?

STATEMENT OF THE CASE

Plaintiffs challenged House Bill 121 (2025) ("HB 121" or "the Act"), which provides in part that "[a] restroom, changing room, or sleeping quarters within a covered entity that is designated for females or males may be used only by members of that sex." HB 121 § 3(2); *see also* Dkt.1 (complaint). HB 121 defines a person's "sex" based on sex chromosomes, gonads, and genitalia at birth. HB 121 § 2(12). Though HB 121 applies without regard to subjective gender identity, Plaintiffs claim that it "singl[es] out transgender and intersex people for discriminatory treatment[.]" Dkt.1 ¶5. Plaintiffs allege that the Act infringes their "rights to equal protection, privacy, to pursue life's basic necessities, and due process[.]" Dkt.8 at 3.

On March 27, 2025, the same day the Act became effective and the Plaintiffs filed their Complaint, Plaintiffs also moved for a preliminary injunction. Dkt.8. On April 2, 2025, the district court entered a temporary restraining order until it could rule on Plaintiffs' request for a preliminary injunction. Dkt.11. The parties briefed the preliminary injunction motion, and the district court held a hearing, then issued an injunction. Dkt.25 at 1. The district court first found that Plaintiffs' claims were ripe and that Plaintiffs had standing. *Id.* at 10-17. Then, the district court found Plaintiffs were likely to succeed on the merits of both their equal protection claim and their privacy claim; the district court did not address Plaintiffs' remaining claims. *Id.* at 3.

Regarding Plaintiffs' equal protection claim, the district court concluded the similarly situated classes relevant to its analysis are "cis female/male individuals" and "individuals who identify as transgender/intersex female/male." *Id.* at 22. The district court then concluded that because the act allows "cis female/male individuals" to use restrooms or changing rooms "that correspond to their gender identity and transgender/intersex female/male individuals [can]not" the Act treats different classes of people differently. *Id.* at 22. The district court determined that strict scrutiny applied for three different reasons. First, because "[t]ransgender status is a suspect class for the purposes of equal protection analysis." *Id.* at 27. Second,

because sex is a "suspect classification." *Id.* at 28. And finally, because "[t]ransgender discrimination is, by nature, sex discrimination." *Id.* at 29-30.

The district court also found "Plaintiffs have shown that the Act burdens their fundamental right of privacy." *Id.* at 31. Specifically, the Court found Plaintiffs had an actual or subjective expectation of privacy in their transgender or intersex identity, anatomy, genetics, and medical history and in their decision to use restrooms, changing rooms, and sleeping quarters that correspond with their gender identity and "[e]ach individual observed walking into a restroom of a covered entity does directly and indirectly disclose that individual's transgender or intersex identity, anatomy, and genetics." *Id.* at 41-42. And, relying on this Court's statement in *Gryczan v. State*, 283 Mont. 433, 450, 942 P.2d 112, 122 (1997), that "all adults regardless of gender, fully and properly expect that their consensual sexual activities will not be subject to the prying eyes of others or to governmental snooping or regulation," the district court concluded that "[a]ll Montanans regardless of gender, fully and properly expect their transgender or intersex identity, anatomy, and genetics will not be subject to the prying eyes of others or to governmental snooping or regulation." *Id.* at 43. The district court also relied on this Court's reasoning regarding homosexuals' privacy expectations in their consensual, sexual activities to conclude that society is willing to recognize these stated privacy expectations. *Id.* at 45.

Consequently, the district court analyzed the Act under strict scrutiny, applying middle-tier and rational-basis review in the alternative. *Id.* at 31-40. The district court's analysis was essentially the same under each. It concluded that the State's proffered evidence "(FBI crime statistics for Montana) supports a compelling government interest in preserving women's covered entities to afford women privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by *cis* men." *Id.* at 34 (emphasis added). To be narrowly tailored then, the district court concluded the Act could only prohibit "*cis* males from entering female restrooms, changing rooms, and sleeping quarters." *Id.* at 35 (emphasis added). Because the Act also "includes trans females into the category of male without evidence of that population being a threat to the privacy and safety of women," the Act was not "substantially related to achieving the objective of affording women privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by cis men," or "rationally related to [its] interest." *Id.* at 31-40.

The district court then collapsed the remaining injunction factors into the merits. Its discussion of irreparable harm, balance of equities, and the public interest focused entirely on Plaintiffs' purported likelihood-of-success. The Court said that the "violations of their fundamental rights (equal protection, right of privacy) under the Montana Constitution … constitutes irreparable harm here as a matter of law."

Id. at 47. The Court waved away the last two factors, too, reasoning that alleged constitutional violation outweighs any interest in enforcing the Act. *Id.* at 48-50.

The district court preliminarily enjoined *all* applications of the Act, including those about which Plaintiffs never alleged harm, such as juvenile detention facilities, correctional centers, domestic violence programs, and public schools (other than colleges). Instead, the district court concluded "[w]hether Plaintiffs have alleged irreparable harm as to each covered entity does not negate the irreparable harm already shown." *Id.* at 47.

The State timely appealed from the preliminary injunction. Dkt.33.

STATEMENT OF THE FACTS

The Governor signed HB 121 into law on March 27, 2025, and it took effect immediately. 2025 Mont. Laws ch. 33. HB 121 added a new part to Chapter 4, Title 50 of the Montana Code Annotated. These sections provide that "a covered entity shall designate each multi-occupancy restroom, changing room, or sleeping quarters for the exclusive use of females or males," and "[a] restroom, changing room, or sleeping quarters within a covered entity that is designated for females or males may be used only by members of that sex." HB 121 § 3(1)-(2).

A "covered entity" includes "a correctional center, a juvenile detention facility, a local domestic violence program, a public building, or a public school." HB 121 § 2(3). The Act defines a person's "sex" to be "determined by the biological

and genetic indication of male or female, including sex chromosomes, naturally occurring sex chromosomes, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, behavioral, social, chosen, or subjective experience of gender."

The Act also defines "male" and "female":

> "Female" means a member of the human species who, under normal development, has XX chromosomes and produces or would produce relatively large, relatively immobile gametes, or eggs, during her life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is female.
>
> . . . .
>
> "Male" means a member of the human species who, under normal development, has XY chromosomes and produces or would produce small, mobile gametes, or sperm, during his life cycle and has a reproductive and endocrine system oriented around the production of those gametes. An individual who would otherwise fall within this definition, but for a biological or genetic condition, is male.

HB 121 § 2(4), (7).

The Act also provides "a private cause of action for declaratory and injunctive relief, nominal damages, and any other appropriate relief against the covered entity" to "[a]n individual who, while accessing a restroom or changing room designated for use by the individual's sex, encounters another individual of the opposite sex in the restroom or changing room" if the covered entity either "(a) provided the other individual permission to use a restroom or changing room designated for the

opposite sex; or (b) failed to take reasonable steps to prohibit the other individual from using the restroom or changing room designated for the opposite sex." HB 121 § 4(1). The Act provides the same private right of action against a covered entity if the individual was required "to share sleeping quarters with an individual of the opposite sex[.]" HB 121 § 4(2).

Plaintiffs-Appellees ("Plaintiffs") are Casey Perkins and Jane Doe, "transgender women" "assigned the sex designation of male at birth but [whose] gender identity is female"; Spencer McDonald, "a transgender man ... assigned the sex designation of female at birth but his gender identity is male"; Kasandra Reddington, a "transfeminine … assigned the sex designation of male at birth but she identifies as more feminine than masculine, without identifying as a specific gender"; and John Doe, who is "intersex … assigned the sex designation of male at birth but has traits and reproductive anatomy corresponding to both the male gender and the female gender … [and] identifies as male." Dkt.1 at ¶¶13, 21, 35, 55, 66, 69.[1] Defendants-Appellants are the State of Montana, Governor Greg Gianforte, and Attorney General Austin Knudsen in their official capacities. Dkt.1 at ¶¶80-82.

[1] Plaintiffs subsequently filed their Amended Complaint for Declaratory and Injunctive Relief (Dkt.45), adding Missoula County as a Plaintiff. The addition of this Plaintiff has no bearing on this appeal. *See Cross v. State*, 2024 MT 303, ¶ 20, 419 Mont. 290, 560 P.3d 637.

STANDARD OF REVIEW

"A preliminary injunction is an extraordinary remedy never awarded as of right." *Montanans Against Irresponsible Densification, LLC v. State*, 2024 MT 200, ¶ 10, 418 Mont. 78, 555 P.3d 759 (*MAID*) (quoting *Winter v. NRDC, Inc.*, 555 U.S. 7, 24 (2008)). This Court reviews a district court's grant or denial of a preliminary injunction "for manifest abuse of discretion." *Mercer v. Mont. HHS*, 2025 MT 9, ¶ 9, 420 Mont. 201, 562 P.3d 502. "A court abuses its discretion when it acts arbitrarily, without employment of conscientious judgment, or exceeds the bounds of reason resulting in substantial injustice." *Id.* "If the district court's decision on a preliminary injunction was based upon legal conclusions, this Court will review those conclusions for correctness." *Id.* (citing *MAID*, ¶ 8).

"A statute is presumed constitutional unless it conflicts with the Montana Constitution, in the judgement of the court, beyond a reasonable doubt." *State v. Akhmedli*, 2023 MT 120, ¶ 3, 412 Mont. 538, 531 P.3d 562 (cleaned up). Every presumption must be indulged in favor of a legislative act. *Powell v. State Comp. Ins. Fund*, 2000 MT 321, ¶ 13, 302 Mont. 518, 15 P.3d 877.

"'Issues of justiciability—such as standing, mootness, ripeness, and political question—are questions of law that [this Court] also review de novo.'" *Advocs. for Sch. Tr. Lands v. State*, 2022 MT 46, ¶ 5, 408 Mont. 39, 505 P.3d 825.

SUMMARY OF THE ARGUMENT

The preliminary injunction should be reversed or vacated.

First, Plaintiffs claims are not ripe, and they lack standing. The Act applies only to "covered entities," and the only remedy is a private right of action against the "covered entity." HB 121 §§ 3, 4. Plaintiffs cannot point to anyone suing or threatening to sue a covered entity under the Act, let alone a concrete threat that as a result of the suit or potential suit a covered entity will take any specific action that will harm Plaintiffs. There is thus no "factually adequate record upon which to base effective review," only speculation about what might happen.

Second, Plaintiffs failed to meet their burden of establishing the Act is unconstitutional in all its applications as is necessary to succeed on their facial challenges.

Third, Plaintiffs do not state a discrimination claim under equal protection principles. No one, regardless of sex, transgender status, intersex status, or gender identity, can use a restroom designated for the sex opposite theirs at birth. And even though the Act designates based on sex, it does not discriminate on that basis because the law treats the sexes equally. Thus, the appropriate level of review is rational basis, which the Act survives.

The Act's stated purpose is to affirm definitions of the sexes and preserve women's facilities "from acts of abuse, harassment, sexual assault, and violence

committed by men." HB 121 § 1(2). This is a proper and important use of the State's police powers. And the Act is appropriately focused on areas such as restrooms, changing rooms, and sleeping quarters, which have certain vulnerabilities such as being typically more secluded and lacking security cameras or other monitoring.

Fourth, Plaintiffs' right to privacy claim also fails. Regardless of whether Plaintiffs believe they have an expectation of privacy as to which facilities they use, this is not an expectation society accepts as reasonable for the simple fact that, for the vast majority of individuals, this information is not private. A "cis" woman's sex and gender identity is generally immediately knowable upon her entering a public restroom. To hold that transgender people have a privacy expectation that society is willing to recognize in this same information bestows upon them greater rights and more protected privacy interests than others in the same society.

Fifth, the district court collapsed the remaining injunction factors to likelihood of success. That was error. Not every potential legal violation involves irreparable harm or the absence of countervailing interests. The district court also failed to determine if Plaintiffs were harmed by each covered entity. And the balance of equities and public interests are stated by the law adopted by the People's representatives—a law that adopts a biological definition of "sex" in pursuit of protecting women.

This Court should reverse, or at a minimum vacate and remand.

ARGUMENT

I. The district court erred by concluding Plaintiffs' claims are justiciable.

Montana courts' judicial power "is limited to 'justiciable controversies.'" *Reichert v. State ex rel. McCulloch*, 2012 MT 111, ¶ 53, 365 Mont. 92, 278 P.3d 455. Here, Plaintiffs adopted a litigate first-approach by filing their lawsuit and moving for a preliminary injunction the very day the Act became effective, which resulted in fatal jurisdictional flaws, including a lack of ripeness and standing. *See Colwell v. HHS*, 558 F.3d 1112, 1123 (9th Cir. 2009) (dismissing based on prudential ripeness where parties rushed to sue over policy guidance without any concrete example of how the agency will use the policy guidance).

Here, the Act applies to "covered entities," which are correctional centers, juvenile detention facilities, local domestic violence programs that receive certain public funding, public buildings, and public schools. HB 121 § 1(3). And the only remedy in the text of the Act is a private right of action against the "covered entity," *See* HB 121 § 4. Even then, the only award a plaintiff can obtain is "declaratory and injunctive relief, nominal damages, and … other appropriate relief" against the covered entity. *Id.*

Plaintiffs cannot point to anyone suing or threatening to sue a covered entity under the Act, let alone a concrete threat that as a result of the suit or potential suit a covered entity will take any specific action that will harm Plaintiffs. There is thus

no "factually adequate record upon which to base effective review," only speculation about what might happen.

A. Plaintiffs' claims are not ripe.

"[C]ases are unripe when the parties point only to hypothetical, speculative, or illusory disputes as opposed to actual, concrete conflicts." *McDonald v. Jacobsen*, 2022 MT 160, ¶ 8, 409 Mont. 405, 515 P.3d 777 (citing *Reichert*, ¶ 54). The "basic purpose" of ripeness is "to prevent the courts, through avoidance of premature adjudication, from entangling themselves in abstract disagreements." *Reichert*, ¶ 54.

HB 121 requires the covered entity—not the individual—ensure that the law is followed. Because Plaintiffs brought a pre-enforcement challenge, it is currently unclear what covered entities will do to comply with the Act, including providing additional single occupancy restrooms. *See* Dkt. 8, Perkins Declaration, ¶ 5 ("DLI Human Resources created a unisex restroom for me[.]"); *Adams v. Sch. Bd. of St. Johns Cnty.*, 57 F.4th 791, 798 (11th Cir. 2022) ("Transgender students will be given access to a gender-neutral restroom and will not be required to use the restroom corresponding to their biological sex.").

The district court improperly rejected this reality, concluding instead that "[t]he fact that the Act itself does not create a private cause of action against an individual who does not comply with § 3 (rather against the covered facility), does not mean Plaintiffs do not have to comply with the Act or *that they will not be made*

a party to such a suit." Dkt.25 at 12 (emphasis added). First, any reliance on the fact that Plaintiffs might be made a party to a future suit to conclude Plaintiffs' claims are ripe is inappropriate, as the Act does not permit such a joinder. Second, the district court failed to give proper weight to the pre-enforcement nature of this suit, as it is the covered entities—not Plaintiffs—that are required to ensure compliance by making the necessary accommodations.

Plaintiffs have not shown any actual, present controversy as to any of the restrooms Plaintiffs identified. For example, Plaintiff Casey Perkins ("Perkins") states that there are two multi-occupancy, sex-designated restrooms on the fourth floor of the Department of Labor and Industry ("DLI") where Perkins works, which even prior to the Act, Perkins "only [used] when the floor is empty or only in emergencies." Dkt.8 at 10; *see also* Mont. Code Ann. § 49-2-404 (fifty-year-old law providing that "[s]eparate lavatory, bathing, or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy."). Perkins notes there is also a single-occupancy restroom elsewhere in the building. Dkt.8 at 10. It is purely speculative whether anyone will raise an issue with DLI regarding the Act and what, if anything, DLI will do regarding the bathrooms on the fourth floor.

Plaintiff Kasandra Reddington ("Reddington") claims to use a women's restroom at Helena College's Donaldson Campus, while noting there are also single-

occupancy restrooms. *Id.* at 14. Reddington also claims to use multi-occupancy restrooms at Helena College's Airport Campus and the University of Montana Missoula's Campus. *Id.* Reddington does not make any allegations that there has been any issue regarding Reddington's usage of multi-occupancy restrooms, and it is purely speculative that anyone will raise an issue and what if anything the relevant college would do. Reddington also claims to visit Spring Meadow Lake State Park, which has multi-occupancy bathrooms, but does not state that there has been an issue, or what if anything the park staff would do regarding an issue (including providing additional single-occupancy bathrooms).[2]

Finally, Plaintiff John Doe is intersex due to a genetic condition, but has a birth-observed sex of male, a male gender identity, and uses male bathrooms. *Id.* at 16-17. The Act expressly includes as male "[a]n individual who would otherwise fall within this definition, but for a biological or genetic condition." HB 121, § 1(7).[3] There is thus no basis to even speculate that the Act will have any practical impact on him.

In sum, Plaintiffs do not allege an issue involving anyone (let alone transgender or intersex individuals) relating to the Act, only the passage of a law that

[2] Plaintiffs Jane Doe and Spencer McDonald allege similar facts regarding restroom usage to Reddington and Perkins. *See* Dkt.8.

[3] The district court declined to address the Act's application to intersex people. Dkt.25 at 4.

applies to third parties, that might cause third parties to take some actions, that might impact Plaintiffs in the future. This case simply is not ripe because there is no appropriate record on which the district court can base a decision.

B. Plaintiffs lack standing.

"[S]tanding is a threshold, jurisdictional requirement in every case." *Heffernan v. Missoula City Council*, 2011 MT 91, ¶ 29, 360 Mont. 207, 255 P.3d 80. "At the preliminary injunction stage," "the plaintiff must make a 'clear showing' that she is 'likely' to establish each element of standing." *Murthy v. Missouri*, 603 U.S. 43, 58 (2024). "[T]he irreducible constitutional minimum of standing has three elements: injury in fact (a concrete harm that is actual or imminent, not conjectural or hypothetical), causation (a fairly traceable connection between the injury and the conduct complained of), and redressability (a likelihood that the requested relief will redress the alleged injury)." *Heffernan*, ¶ 32 (internal quotation marks omitted); *see also Mont. Immigrant Just. All. v. Bullock*, 2016 MT 104, ¶ 18, 383 Mont. 318, 371 P.3d 430 (Montana's standing requirement "embodies the same limitations as are imposed on federal courts" by the U.S. Constitution).

First, Plaintiffs have not shown a concrete injury that is actual or imminent. As noted in Part I, *supra*, the Act applies to covered entities. How those covered entities will comply with the Act is not yet clear.

Second, Plaintiffs did not show enforcement authority by Defendants such that they are likely to have standing against all the Defendants they seek to enjoin. *See Am. Freedom Def. Initiative v. Lynch*, 217 F. Supp. 3d 100, 105 (D.D.C. 2016) ("Defendant's lack of enforcement authority is fatal to Plaintiffs' standing to bring this action…"); *see also Dig. Recognition Network, Inc. v. Hutchinson*, 803 F.3d 952, 957-58 (8th Cir. 2015) ("The governor and attorney general do not have authority to enforce the Reader System Act, so they do not cause injury to Digital Recognition. The Act provides for enforcement only through private actions for damages.").

The district court ignored this and concluded that "regardless of the Defendants' enforcement authority, if Plaintiffs successfully maintain the action, their injury (invasion of a legally protected interest) would be alleviated." Dkt.25 at 16. Affirming this reasoning would eviscerate a key component of standing for it is a "long-standing rule that a plaintiff may not sue a[n] ... official who is without any power to enforce the complained-of statute." *Am. Freedom Def. Initiative*, 217 F. Supp. 3d at 105. Indeed, this would allow a plaintiff seeking a declaratory judgment to sue *any defendant* regardless of their connection to the underlying conflict because if the plaintiff were successfully able to obtain his desired declaration, his "injury … would be alleviated" even though the defendant were an irrelevant party. This simply

cannot be.[4] Thus, it was entirely necessary for the district court to determine if Defendants are actually able to enforce the Act. Because they are not, Plaintiffs lack standing.

II. The district court abused its discretion by enjoining important, non-discriminatory state policies.

A. The district court improperly concluded there is no set of circumstances under which the Act would be valid.

To succeed on their facial challenge, Plaintiffs were required to "show that 'no set of circumstances exists under which [the Act] would be valid, *i.e.,* that the law is unconstitutional in all of its applications.'" *Mont. Cannabis Indus. Ass'n*, 2016 MT 44, ¶ 14, 382 Mont. 256, 368 P.3d 1131. "That the challenged provision 'might operate unconstitutionally under some conceivable set of circumstances is

[4] Plaintiffs seek declaratory relief under the Montana Uniform Declaratory Judgments Act (Dkt.1 at 4), but the UDJA does not independently confer standing. *Mitchell v. Glacier Cnty.*, 2017 MT 258, ¶ 42, 389 Mont. 122, 406 P.3d 427 ("Without an independent ground for standing, [plaintiffs] cannot assert a claim under the [UDJA]."). This means Plaintiffs cannot establish redressability simply by arguing their alleged injuries will be alleviated by a declaration that the challenged law is unconstitutional. *See Juliana v. United States*, 947 F.3d 1159, 1170 (9th Cir. 2020) ("A declaration, although undoubtedly likely to benefit the plaintiffs psychologically, is unlikely by itself to remediate their alleged injuries absent further court action.") (citation omitted); *Steel Co. v. Citizens for a Better Env't*, 523 U.S. 83, 107 (1998) ("By the mere bringing of his suit, *every* plaintiff demonstrates his belief that a favorable judgment will make him happier[, b]ut…that psychic satisfaction is not an acceptable Article III remedy because it does not redress a cognizable Article III injury."). To conclude otherwise would be to accept the circular argument that redressability is established because declaratory relief is available, and declaratory relief is available because redressability is established.

insufficient to render it wholly invalid.'" *Id.* ¶ 73. The district court properly recognized this was Plaintiffs' burden, but then entirely ignored the State's argument that Plaintiffs' claim could not survive such a demanding standard and concluded, without discussing how, that "Plaintiffs have shown they are likely to succeed on the merits that there are no set of circumstances under which the Act would be valid." Dkt.25 at 17, 46.

In actuality, Plaintiffs are unable to meet this burden. The Act does not apply exclusively to (or even address) transgender Montanans. Instead, it prohibits *all* persons from using certain sex-designated facilities. Plaintiffs' own brief below stated that transgender Montanans likely make up less than one percent of Montana's population. Dkt.8 at 30. This means that ninety-nine percent of the people to whom the Act applies are not transgender, and it is clear that as applied to these "cisgender" people, the Act does not violate their constitutional rights to privacy or equal protection, *see infra* Part II(B)-(C). The district court failed to address the law's application to "cisgender" people at all in its analysis but treated the law as if it applied *only* to transgender Montanans. Even assuming the district court's conclusion regarding the violation of the rights of transgender people is correct, the Act is clearly still valid in ninety-nine percent of cases.

In *Roe v. Critchfield*, the Ninth Circuit held the plaintiff could not succeed on a facial challenge to Idaho's bill that required public school students use restrooms

and changing facilities designated for their biological sex. 137 F.4th 912, 924 (9th Cir. 2025). The court even reasoned that it could "not presume [the bill]'s application to each type of facility will be substantially related to the State's objective of protecting student privacy." *Id.* "Rather," the outcome was "dictated by" the fact that the plaintiff had raised a facial challenge and could not demonstrate there was "no set of circumstances … under which the Act would be valid." *Id.* at 924-25. As the same is true here, Plaintiffs' facial claims must fail.

B. Plaintiffs failed to show a likelihood of success on the merits of their equal protection claim.

The Montana Constitution guarantees equal protection and embodies "a fundamental principle of fairness: that the law must treat similarly-situated individuals in a similar manner." *McDermott v. Mont. Dep't of Corr.*, 2001 MT 134, ¶ 30, 305 Mont. 462, 29 P.3d 992. The first step to analyzing an equal protection challenge requires identifying "the classes involved and determin[ing] whether they are similarly situated." *Snetsinger v. Mont. Univ. Sys.*, 2004 MT 390, ¶ 16, 325 Mont. 148, 104 P.3d 445. "Once the relevant classifications have been identified," courts "next determine the appropriate level of scrutiny." *Id.* ¶ 17. Strict scrutiny applies when a suspect class or fundamental right is affected. *McDermott,* ¶ 31. However, if the Legislature enacts a law that imposes different requirements on similarly situated individuals, but those requirements are not imposed on a suspect class and do not implicate a fundamental right or another constitutional right that triggers middle-tier

scrutiny, they are subject only to rational basis review. *Mont. Cannabis Indus. Ass'n*, ¶ 16.

1. The Act classifies, but does not discriminate, based on sex.

Here, the Act clearly states it applies on the basis of an individual's sex as either male or female at birth. *See United States v. Skrmetti*, 145 S.Ct. 1816, 1829 (2025) (looking to the "face" of the act to determine its classifications). Thus, the similarly situated classes for equal protection purposes are males and females determined by the individual's possession of either XX or XY sex chromosomes, while accounting for genetic conditions. *See* HB 121 § 2(4), (7). The district court nonetheless concluded that the actual similarly situated classes were "cis female/male individuals" and "individuals who identify as transgender/intersex female/male" because the Act's definition of "sex" was determined "without regard to an individual's psychological, behavioral, social, chosen, or subjective experience of gender," constituting "a device designed to impose different burdens on different classes of persons." Dkt.25 at 22.

Yet, the Act does not discriminate based on transgender status—it makes no mention whatsoever of transgender or intersex status.[5] Instead, it makes a permissible legislative classification of people based on sex, in line with longstanding precedent and without reference to any individual's subjective gender identity. *See Adams*, 57 F.4th at 808 (Policy that required students use the bathroom corresponding to their sex at birth "facially classifie[d] based on biological sex—not transgender status or gender identity" because "[t]ransgender status and gender identity [we]re wholly absent from the bathroom policy's classification."). Notably, Montana has had a law on the books *for five decades* in its Human Rights Act stating "[s]eparate lavatory, bathing, or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy." Mont. Code Ann. § 49-2-404.

[5] Even if this Court disagrees, it should decline to hold transgender status is a suspect class and apply rational basis review. *See Johnston v. Univ. of Pitt. of the Commonwealth Sys. of Higher Educ.*, 97 F. Supp. 3d 657, 670 (W.D. Pa. 2015) (noting that "neither the United States Supreme Court nor the Third Circuit Court of Appeals has recognized transgender as a suspect classification under the Equal Protection Clause," and applying rational basis review); *Gore v. Lee*, 107 F.4th 548, 558 (6th Cir. 2024) (noting "[t]he Supreme Court 'has never defined a suspect or quasi-suspect class on anything other than a trait that is definitively ascertainable at the moment of birth'" and applying rational basis review); *see also id.* (alternatively recognizing that transgender people cannot "establish a cognizable claim of political powerlessness" because "[t]ransgender individuals have had considerable success politically," and documenting successes).

Importantly, these definitions apply to all Montanans. So, the Act's operative definitions for the purpose of its classifications, male or female, each include transgender people. *See Adams*, 57 F.4th at 808 (noting "both sides of the classification—biological males and biological females—include transgender students); *see also Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, 269 (1993).

In *Skrmetti*, the U.S. Supreme Court recently rejected an argument nearly identical to Plaintiffs' here and held Tennessee's prohibition against providing certain medical treatments (such as puberty blockers) from treating gender dysphoria while permitting the same treatment in all other cases did not discriminate on the basis of transgender status or gender identity. 145 S.Ct. at 1829. In determining the relevant class for equal protection purposes, the Supreme Court rejected the plaintiffs' argument that the law "prohibits certain treatments for minors of one sex while allowing those same treatments for minors of the opposite sex" because "an adolescent whose biological sex is female cannot receive puberty blockers or testosterone to live and present as a male, but an adolescent whose biological sex is male can," and vice versa. *Id.* at 1830. Instead, the Court concluded "[t]he law does not prohibit conduct for one sex that it permits for the other [because] no minor may be administered puberty blockers or hormones to treat gender dysphoria, gender

identity disorder, or gender incongruence; minors of any sex may be administered puberty blockers or hormones for other purposes." *Id.* at 1831.

The same is true here. The Act allows anyone, regardless of gender identity or transgender status, to use certain facilities designated for use by their biological sex and prohibits the same from using those facilities designated for use by the opposite biological sex. *See Adams*, 57 F.4th at 808.

The abolition of any sex designation from restrooms and other facilities in covered entities would lead to its own undesirable results—e.g., the inability to keep men out of the female sleeping quarters in a domestic violence shelter—so as a matter of public policy, the Legislature decided a choice must be made. *See id.* at 805; *United States v. Virginia*, 518 U.S. 515, 550 n.19 (1996) (noting that admitting women to Virginia Military Institute "would undoubtedly require alterations necessary to afford members of each sex privacy from the other sex in living arrangements").

And in making that choice, the Legislature has based the law on an immutable characteristic—an individual's biological sex—as opposed to a person's subjective gender identity, which can be difficult to establish and change over time. *See Adams*, 57 F.4th at 807 (noting "the Supreme Court's longstanding recognition that 'sex, like race and national origin, is an immutable characteristic determined solely by the accident of birth'"); *Gore*, 107 F.4th at 558 ("Unlike existing suspect classes,

transgender individuals 'do not exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group.'").

The district court alternatively concluded that because "Montana's Constitution provides an express prohibition of sex-based discrimination in the Equal Protection Clause," sex is a suspect class, then without any discussion as to how, determined the Act discriminates based on sex and is subject to strict scrutiny. Dkt.25 at 28. This line of reasoning—which flouts this Court's repeated refusal to hold categorically that sex classifications are subject to heightened scrutiny—is incorrect for at least two reasons.[6]

First, while the Act classifies on the basis of "sex" (male or female), it treats these two classes the same so it does not discriminate on the basis of sex. *See Caskey Baking Co. v. Virginia*, 313 U.S. 117, 121 (1941) (Bare "[c]lassification is not discrimination."); *Adams*, 57 F.4th at 805 ("In light of the privacy interests that arise from the physical differences between the sexes, it has been commonplace and

[6] It is for these same reasons, that the district court's third alternative conclusion that "[b]y discriminating on the basis of transgender and intersex status, the Act necessarily discriminates on the basis of sex," Dkt.25 at 30, fails. *See Adams*, 57 F.4th at 809 ("This appeal centers on … whether discrimination based on biological sex necessarily entails discrimination based on transgender status. It does not—a policy can lawfully classify on the basis of biological sex without unlawfully discriminating on the basis of transgender status."); *see also Roe*, 137 F.4th at 925 (holding Idaho's bill which required public school students use restrooms and changing facilities designated for their biological sex was "not facially unconstitutional under the Equal Protection Clause" regardless of "whether viewed as classifying students based on their sex or based on their transgender status.").

universally accepted—across societies and throughout history—to separate on the basis of sex those public restrooms, locker rooms, and shower facilities that are designed to be used by multiple people at a time."(citation omitted)); *id.* at 804 ("'[S]eparate places to disrobe, sleep, [and] perform personal bodily functions are permitted, *in some situations required*, by regard for individual privacy.'" (quoting Ruth Bader Ginsburg, *The Fear of the Equal Rights Amendment*, Wash. Post, Apr. 7, 1975, at A21)).

A male may not use certain facilities designated for use by females, just as females may not use certain facilities designated for use by males. "No person, male or female, [cisgender or transgender,] may" use a facility designated for use by others of the opposite born sex. *See Gore*, 107 F.4th at 556; *See also Corbitt v. Sec'y of the Ala. L. Enf't Agency*, 115 F.4th 1335, 1346 (11th Cir. 2024) ("[T]he Equal Protection Clause does not proscribe all laws and regulations that relate to or implicate sex in their subject matter …. Rather, [it] is concerned with differential treatment, especially when the differential treatment is due to sex-based classifications."). To require any law that classifies, but does not discriminate, based on sex must survive strict scrutiny, impermissibly shrinks the Legislature's ability to legislate. *See Michael M. v. Super. Ct. of Sonoma Cnty.*, 450 U.S. 464, 469 (1981) ("[B]ecause the Equal Protection Clause does not demand that a statute necessarily apply equally to all persons or require things which are different in fact to be treated

in law as though they were the same, this Court has consistently upheld statutes where the gender classification is not invidious, but rather realistically reflects the fact that the sexes are not similarly situated in certain circumstances" (internal punctuation and citations omitted)).

Second, putting aside that there is no sex discrimination here, the district court's theory conflates two questions: the presence of a fundamental "civil or political right" and the presence of a suspect classification. "Article II, Section 4, protects against two *distinct* types of unequal treatment." *Gazelka v. St. Peter's Hosp.*, 2018 MT 152, ¶ 7, 392 Mont. 1, 420 P.3d 528 (emphasis added). "First, it generally provides that '[n]o person shall be denied the equal protection of the laws.'" *Id.* It "then more specifically" prohibits discrimination "against any person in the exercise of his civil or political rights on account of race, color, sex, culture, social origin or condition, or political or religious ideas." *Id.*

"Examples of fundamental rights"—in other words, civil or political rights—"are the right of privacy, freedom of speech, freedom of religion, right to vote and the right to interstate travel," while "[e]xamples of suspect classifications include wealth, race, nationality," and sex. *Cottrill v. Cottrill Sodding Serv.*, 229 Mont. 40, 43, 744 P.2d 895, 897 (1987). The third sentence of Article II, Section 4 prohibits sex-based classifications only as to fundamental rights. It could not create a new fundamental right "to be free from discrimination on the basis of sex," at least for

anything beyond "civil or political rights." In effect, the district court read the third sentence without its "more specific[]" limitation. *Gazelka*, ¶ 7. Accordingly, the district court wrongly concluded the proper classification for equal protection purposes was "cis female/male individuals" and "individuals who identify as transgender/intersex female/male." In actuality, the correct classification for equal protection purposes is sex. And because "[t]he [Act] treats the sexes equally," *Gore*, 107 F.4th at 555, it does not discriminate based on sex. Consequently, the Act does not implicate a fundamental right, another constitutional right, or discriminate against a suspect class. *See Johnston*, 97 F. Supp. 3d at 670 ("[S]eparating students by sex based on biological considerations—which involves the physical differences between men and women—for restroom and locker room use simply does not violate the Equal Protection Clause.").

2. The district court's improper conclusion regarding the relevant class tainted its scrutiny analysis.

This Court "has not yet explicitly identified the level of scrutiny applicable to classifications that are sex-based," *Cross*, ¶ 61 (McKinnon, J., concurring), but it should hold that when a law classifies, but does not discriminate, based on sex, rational-basis review applies. Indeed, this Court has recognized the unavoidability of creating classifications as part of governing: "To a certain extent, nearly all legislation classifies or sets forth classifications of applicability, benefits and recipients. If some of these classifications are imperfect they do not necessarily

violate the equal protection clauses." *See Arneson v. State By & Through Dep't of Admin., Teachers' Ret. Div.,* 262 Mont. 269, 274, 864 P.2d 1245, 1248 (1993). Because this Court has also acknowledged the application of middle-tier scrutiny to sex or gender classifications in federal law, middle-tier scrutiny could also be appropriate.[7] *See id.* at 273, 864 P.2d at 1247.

To clear middle-tier scrutiny, the "means chosen by the legislature (classification) must serve important governmental objectives and must be substantially related to the achievement of those objectives." *Id.* at 272-73, 864 P.2d at 1247. Any classification that survives middle-tier scrutiny will also survive rational basis analysis, which only requires that the "classification is rationally related to furthering a legitimate state purpose." *Id.* at 273, 864 P.2d at 1247. The rational-basis standard of review "is the most deferential standard of review." *Mont. Cannabis Indus. Ass'n*, ¶ 26. But regardless of what level of scrutiny applies to the Act's nondiscriminatory, sex-based classifications, "every possible presumption must be indulged in favor of [its] constitutionality." *Id.*

The district court incorrectly held strict scrutiny applied but alternatively applied both middle-tier and rational-basis scrutiny and still concluded the Act was unconstitutional. This analysis was deeply flawed because it was a direct result of

[7] As explained in this section, even if this Court were to apply strict scrutiny, the Act would still survive.

the district court's misunderstanding of the relevant class which it determined to be transgender Montanans. Thus, the Court required the State provide evidence justifying the Act's application against exclusively transgender people, even though the Act expressly applies to all Montanans and was purposed on that basis. The Court reasoned:

> Without distinguishing evidence, the Court must conclude that the evidence [the State] provided (FBI crime statistics for Montana) supports a compelling government interest in preserving women's covered entities to afford women privacy and safety from acts of abuse, harassment, sexual assault, and violence committed by cis men. The Act must be narrowly tailored to serve and be the least onerous path to achieve that interest.

Dkt.25 at 34.

Below, the State cited the FBI's crime statistics for Montana that show in the last five years nearly 72% of aggravated assaults, 83% of rapes, 74% of murders, and 73% of criminal sexual contact offenses were committed by males. In contrast, 91% of rape victims and 76% of criminal sexual contact victims were female. This pattern holds true for less violent offenses such as "criminal sexual contact"—73% of offenders are male; 76% of victims are female.[8]

In addition, scientific studies demonstrate that males have, on average, significantly greater muscle thickness than females, likely "related to gender

[8] Federal Bureau of Investigation, *Crime Data Explorer*, https://cde.ucr.cjis.gov/LATEST/webapp/#/pages/explorer/crime/crime-trend (last accessed July 10, 2025).

differences in muscle morphology."[9] These greater average strength differences found in the morphology of males compared to females makes females more vulnerable when in an enclosed space with males as compared to an enclosed space with only females. *See Ballard v. United States*, 329 U.S. 187, 193 (1946) ("[A] community made up exclusively of one is different from a community composed of both.").

There was no basis for the district court limiting the State's evidence to exclusively "cis men." This is faulty for the same reason that the Court would not interpret sex-based statistics in other contexts—such as statistics on employment discrimination—as only limited to "cis men" or "cis women."

Moreover, even if this limitation were valid (it isn't), it should not have resulted in the district court's conclusion that the Act was facially invalid under *any* level of scrutiny, as the Legislature clearly fashioned the Act to apply to all people including "cis men" for the purpose of protecting women. As previously explained, based on Plaintiffs' own estimation, ninety-nine percent of the people the Act applies to are "cisgender" Montanans. Consequently, applying rational-basis or middle-tier scrutiny (or even strict scrutiny), the Act is clearly substantially related to its

[9] *E.g.*, Sandro Bartolomei, *A Comparison between Male and Female Athletes in Relative Strength and Power Performances*, J. of Functional Morphology and Kinesiology, Feb 9, 2021; 6(1):17, https://pmc.ncbi.nlm.nih.gov/articles/PMC7930971/.

important government objective of protecting women and is "substantially related to the achievement of those objectives" as it unquestionably does so in virtually every instance. *Arneson*, 262 Mont. at 272-73, 864 P.2d at 1248.

The district court, however, did not reach this conclusion because it looked exclusively to how the Act may impact transgender people—less than one percent of those covered by the Act. Indeed, the district court concluded that, to be narrowly tailored or substantially related to the State's interests, the Act must expressly make exception for transgender people and only prohibit "cis males from entering female restrooms, changing rooms, and sleeping quarters." Dkt.25 at 35. But the Legislature declined to fashion the Act in this way because limiting its application to exclusively "cis" men is unworkable because covered entities would have no way to ensure that "cis" men are not taking advantage of the law, as gender identity is not an immutable characteristic. *See Bridge v. Okla. State Dep't of Educ.*, 711 F. Supp. 3d 1289, 1297 (W.D. Okla. 2024) ("If the Court adopted Plaintiffs' position, any biological male could claim to be transgender and then be allowed to use the same restroom or changing area as girls. This is a major safety concern …. it would put school officials in the position of either having to conduct a subjective analysis of the sincerity of an individual's gender identity or merely take their word for it."); *see also id.* at 1297 n.9 ("To be clear, the argument is not that transgender individuals are more likely to

be bad actors, but that others could exploit the seemingly standardless concept of 'gender identity' in order to gain access to vulnerable persons." (cleaned up)).

Indeed, the Legislature heard testimony that men were taking advantage of similar lax laws. Robin Sertell testified regarding her experience meeting a young lady escaping sex trafficking who "shook as she recounted how [her trafficker] would follow her into the public restrooms taking advantage of relaxed laws in some states that allow men into women's restrooms in order to keep track of her." "[T]raffickers use public restrooms to trap and control their victims during public transportation." (at 8:38:40).[10]

Derek Oestreicher from the Montana Family Foundation testified that:

> This Bill is designed to protect women and girls from the risk of abuse, harassment, sexual assault, and violence in private and intimate spaces. These risks are not hypothetical. Across the nation, there are growing concerns about cases where men, whether acting with malicious intent or otherwise, have entered women's facilities and caused women and girls to feel unsafe and violated.

(at 8:12:10). He gave an example of a young girl in Bozeman and her peers who "have been deeply uncomfortable and distressed by the school's policy allowing a biological male to use the women's restroom and locker rooms, and these young

[10] Available at https://sg001-harmony.sliq.net/00309/Harmony/en/PowerBrowser/PowerBrowserV2/20250110/-1/51155#info_.

girls feel that their privacy has been violated, and they feel helpless as their concerns are dismissed by school administrators." (at 8:13:09).

Riley Gaines, a former collegiate athlete, testified regarding her experience of having to change in front of a naked man, and that she was never "asked for [her] consent, … [and] did not give [her] consent to this exposure." (at 8:29:18).

Loy Chvilicek, who helped start a domestic and sexual violence program, testified that "One in three women have been sexually abused. Consider one in three women and their feelings when they go into a public restroom." (at 8:25:33).

And Amie Ichikawa, who was formerly incarcerated, testified that "Ninety-two percent of incarcerated women are survivors of sexual abuse," and that in her experience it would be cruel and unusual to house these survivors with inmates of the male sex. (at 8:31:54).

To combat this abuse, the State enacted a law which prohibits anyone from using the opposite sexes' facilities. This creates a clear, bright-line rule based on a person's immutable characteristics.

Finally, the district court's reasoning also misunderstood the actual burden the State bears when defending its laws. The district court concluded the State was required to "provide evidence of trans females committing" these crimes in order to satisfy any level of scrutiny. Dkt.25 at 34, 37, 38. But that is not the case. Again, the

law applies to *all* Montanans, so it was inappropriate for the district court to narrow its view to exclusively "trans women."

Also, even "[s]trict scrutiny does not necessarily require the State to make an *evidentiary showing* of a compelling state interest or that the subject statute is narrowly tailored to further that interest," because "the questions of whether an asserted government interest is constitutionally compelling and whether a challenged statute is narrowly tailored to further that interest are *questions of law*." *Mont. Democratic Party v. Jacobsen*, 2024 MT 66, ¶ 161, 416 Mont. 44, 545 P.3d 1074 (Sandefur, J., concurring in part, dissenting in part) (emphasis added); *see also id.* ("Nor does satisfaction of strict scrutiny necessarily require evidentiary proof that the disputed means chosen by the legislature to further an asserted government interest was in fact 'actually necessary' to achieve that interest, or that no other feasible and less restrictive means was available to further the asserted government interest" (internal citation omitted)). *Rohlfs v. Klemenhagen, LLC*, 2009 MT 440, ¶ 32, 354 Mont. 133, 227 P.3d 42 ("It is not for this Court to review the quantity and quality of information that moved the Legislature to act. The Court's task is to examine the result and if the law is rationally related to a legitimate government purpose, it withstands a constitutional challenge."). Consequently, the State was not required to meet an evidentiary burden of establishing "trans women" are committing the same crimes as "cis men" in order for the Act to pass constitutional

muster.[11] *See Roe*, 137 F.4th at 925 ("A harm need not have occurred before a legislature can act; nor is it our role to decide whether the legislative action is substantively good policy.").

The classification and means of its implementation are therefore not only substantially related to the Act's objectives but also rationally related to furthering that objective. *See* Mont. Code Ann. § 49-2-404 (fifty-year-old law providing that "[s]eparate lavatory, bathing, or dressing facilities based on the distinction of sex may be maintained for the purpose of modesty or privacy.")*; Byrd v. Maricopa Cnty.*

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[11] Regardless, the State did cite to several instances of transgender individuals having been found guilty of sexual assault in bathrooms in other states. *Virginia family sues school system for $30 million over student's sexual assault in bathroom*, AP News (Oct. 6, 2023) (describing the convicted attacker as a "male student … wearing a skirt in a women's bathroom"), https://apnews.com/article/loudoun-virginia-lawsuit-transgender-bathroom-sexual-assault-a26168568cc20c2aa6cec9bef50e7c3f; *Transgender Wyoming woman convicted of sexually assaulting 10-year-old girl in bathroom*, Fox News (updated October 20, 2017), https://www.foxnews.com/us/transgender-wyoming-woman-convicted-of-sexually-assaulting-10-year-old-girl-in-bathroom; *Parent files lawsuit after daughter 'severely beaten' in bathroom by trans student*, ABC 15 News (June 1, 2023), https://wpde.com/news/nation-world/parent-files-lawsuit-after-daughter-severely-beaten-in-bathroom-by-trans-student-oklahoma-city-edmond-memorial-high-school-superintendent-angela-grunewald. The case of sexual assault in Virginia by a male student in a girls' bathroom is instructive of the Act's purpose because there appears to be some debate whether the attacker was genuinely transgender. Drew Wilder, *Loudon school sex assault investigation unsealed by judge*, NBC Washington (Sept. 14, 2023) https://www.nbcwashington.com/news/local/loudoun-school-sex-assault-investigation-unsealed-by-judge/3423751/. That the attacks happened and that they were made possible by policies that allowed the male student to enter the girls' bathroom is the precise harm the Act seeks to prevent, regardless of the attacker's subjective gender identity.

Sheriff's Dep't, 629 F.3d 1135, 1141 (9th Cir. 2011) (en banc) (noting the "longstanding recognition that the desire to shield one's unclothed figure from [the] view of strangers, and particularly strangers of the opposite sex, is impelled by elementary self-respect and personal dignity"); *Adams*, 57 F.4th at 805 ("[C]ourts have long found a privacy interest in shielding one's body from the opposite sex in a variety of legal contexts."). The Act is constitutional under rational basis, middle-tier, or even strict scrutiny. *See Adams*, 57 F.4th at 805 (school's bathroom policy satisfied intermediate scrutiny); *Bridge*, 711 F. Supp. 3d at 1297 (same); *Johnston*, 97 F. Supp. 3d at 669-70 (holding college's bathroom policy survived rational-basis review and intermediate scrutiny).

C. Plaintiffs failed to show a likelihood of success on the merits of their right to privacy claim.

A privacy interest is only protected under the Montana Constitution where (1) "the person involved had a subjective or actual expectation of privacy," and (2) "society is willing to recognize that expectation as reasonable." *State v. Nelson*, 283 Mont. 231, 239, 941 P.2d 441, 446 (1997). The district court improperly concluded that Plaintiffs have an "expectation of privacy in their transgender or intersex identity, anatomy, genetics, and medical history and in deciding to use restrooms, changing rooms, and sleeping quarters that correspond with their gender identity," that society is willing to recognize. Dkt.25 at 41-46.

Specifically, the district court found transgender people who walk into a sex-designated facility will have to disclose their "transgender or intersex identity, anatomy, and genetics" and confidential records because the district court failed to "fathom how covered entities will police the requirements of HB 121 to avoid liability from lawsuit." Dkt.25 at 42. First, even assuming such a lawsuit is filed, there is no statutory authority permitting anyone other than the covered entity from being named a defendant to the suit. And this reasoning demonstrates the difficulties of resolving the Plaintiffs' claims on a pre-enforcement challenge before covered entities are given the opportunity to comply with the new law.

Instead, Plaintiffs should not be provided greater protections than are provided to others living in the same society. Regardless of whether Plaintiffs believe they have an expectation of privacy as to which facility they use, this is not an expectation society accepts as reasonable for the simple fact that, for the vast majority of individuals, this information is not private. Virtually everyone in society "discloses" their "identity, anatomy, and genetics" by choosing which sex-designated facility to use. While what one does inside a covered facility such as a restroom may be considered private, the action of choosing which public restroom to enter is generally made in public view.

And Montana law—for five decades—has expressly recognized the basic, and common-sense principle that "[s]eparate lavatory, bathing, or dressing facilities

based on the distinction of sex may be maintained for the purpose of modesty or privacy." Mont. Code Ann. § 49-2-404. Given this obvious history, it was improper for the Court to issue a judicial fiat that society now recognizes a right to privacy when entering a sex-designated bathroom or other, similar sex-designated space.

Second, the district court stretched precedent regarding consensual, sexual activity occurring in private to conclude use of public facilities corresponding with a transgender person's gender identity is similarly protected as private. For instance, the district court stated: "With few exceptions not at issue here, all adults regardless of gender, fully and properly expect that their consensual sexual activities will not be subject to the prying eyes of others or to governmental snooping or regulation." Dkt.25 at 43-44. True enough. But it then held that this reasoning applied to transgender Montanans' choice in which facility to use. *Id.* But it simply does not follow that because society recognizes a privacy right for an adult to have consensual sexual relations, a transgender person has a privacy right to use the facility of their choice.

Indeed, merely walking into a multi-occupancy facility is not a personal activity one expects to conduct "without observation." And while one expects to be safe from the "prying eyes of others" once inside a bathroom stall, for instance, accessing the covered facility designated for either males or females is not what is

meant by "consensual sexual activities." Thus, Plaintiffs' privacy rights are not implicated.[12]

III. The district court did not find irreparable injury regarding each of the Act's provisions and failed to give proper weight to the State's injury from having its law enjoined.

The district court failed to "address the concrete harms alleged by Plaintiffs," but exclusively relied on its likelihood-of-success finding, reasoning that "the loss of a constitutional right constitutes irreparable harm." Dkt.25 at 46. This effort to collapse the preliminary injunction analysis to the likelihood of success for every constitutional claim should be rejected.

Irreparable harm should not be presumed. First, "[a] preliminary injunction is an extraordinary remedy" and "a matter of equitable discretion" that "does not follow from success on the merits as a matter of course." *Winter*, 555 U.S. at 24, 32. "[N]ot every constitutional infringement may support a finding of irreparable harm," especially outside of the First Amendment context. *MAID*, ¶ 16. Second, courts sitting in equity are "not mechanically obligated to grant an injunction for every violation of law." *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 313 (1982). Third, collapsing the inquiry would force courts to "prejudge the merits" (at least of constitutional claims) "[e]arly in a case" when "the merits are seldom clear"—even though "[t]he other factors" are supposed to be "independent grounds to deny relief."

[12] If this Court disagrees, the Act still survives scrutiny. *See supra* Part II(B)(2).

Del. State Sportsmen's Ass'n, Inc. v. Del. Dep't of Safety & Homeland Sec., 108 F.4th 194, 202-03 (3d Cir. 2024); *accord Siegel v. LePore*, 234 F.3d 1163, 1177-78 (11th Cir. 2000) (rejecting the proposition that "the irreparable injury needed for a preliminary injunction can properly be presumed from a substantially likely equal protection violation" (cleaned up)).

Hypothetical harm from a constitutional violation is not nearly enough for likely irreparable injury. And the other hypothetical harms invoked by Plaintiffs below do not qualify either. "To succeed in demonstrating a threat of irreparable harm, a party must show that the harm is certain … and of such imminence that there is a clear and present need for equitable relief." *Roudachevski v. All-American Care Ctrs., Inc.*, 648 F.3d 701, 706 (8th Cir. 2011) (cleaned up). But Plaintiffs' generalized fears are not even enough for *standing*, *see supra* Part I, much less irreparable harm. *MAID*, ¶ 19.

Additionally, the district court should have evaluated whether each of the provisions it enjoined were likely to cause irreparable injury to Plaintiffs. Mont. Code Ann. § 27-19-201(1)(b). Instead, the district court concluded that Plaintiffs did not have to allege harm specific to each covered entity because "[w]hether Plaintiffs have alleged irreparable harm as to each covered entity does not negate the irreparable harm already shown." Dkt.25 at 47.

The Act applies to covered entities including "[a] correctional center, a juvenile detention facility, a local domestic violence program, a public building, or a public school." But none of Plaintiffs claim to be harmed by the Acts application to correctional centers, juvenile detention facilities, local domestic violence programs or public schools (except colleges). *See* Dkt.8. The Court should have determined if these portions of the Act caused Plaintiffs irreparable harm. Because they do not, the injunction is overbroad. [13] *St. James Healthcare v. Cole*, 2008 MT 44, ¶ 28, 341 Mont. 368, 178 P.3d 696 (An injunction must not "sweep any more broadly than necessary" but must be "precisely and narrowly tailored." (cleaned up)).

Finally, the district court's treatment of the balance of the equities and public interest factors similarly failed to give proper weight to the State's injury from enjoining its laws. The district court identified *no* harm to Plaintiffs apart from the merits, and "[a]ny time a State is enjoined by a court from effectuating statutes enacted by representatives of its people, it suffers a form of irreparable injury." *Maryland v. King*, 567 U.S. 1301, 1303 (2012) (Roberts, C.J., in chambers) (internal quotation marks omitted). As this Court has said, "courts of equity should pay

[13] Even if this Court otherwise agrees with the district court's analysis, it should still vacate the district court's injunction and remand with instructions that the injunction's scope be limited to those provisions Plaintiffs actually challenged—restrooms and changing rooms in "public building[s]."

particular regard for the public consequences in employing the extraordinary remedy of injunction," and must consider the policymaking branches' "efforts to advance the public welfare." *MAID*, ¶ 21 (internal quotation marks omitted). The public interest is expressed by the laws those branches enacted here, and that law supports all the important public interests identified above. *Supra* Part II(B)(2). The district court ignored all this, and its consideration of the balance of equities and public interest was an abuse of discretion.

CONCLUSION

For these reasons, the district court's order granting a preliminary injunction should be reversed, or at minimum vacated and remanded.

DATED this 13th day of August 2025.

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Pursuant to Rule 11 of the Montana Rules of Appellate Procedure, I certify that this brief is printed with a proportionately spaced Times New Roman text typeface of 14 points; is double-spaced except for footnotes and for quoted and indented material; and the word count calculated by Microsoft Word for Windows is 9,971 words, excluding certificate of service and certificate of compliance.

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