

By: Middleton, et al.

S.B. No. 240

A BILL TO BE ENTITLED

AN ACT

relating to the designation and use of certain spaces and facilities according to biological sex; authorizing a civil penalty and a private civil right of action.

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

SECTION 1. This Act may be cited as the Texas Women's Privacy Act.

SECTION 2. Subtitle Z, Title 10, Government Code, is amended by adding Chapter 3001 to read as follows:

CHAPTER 3001. REGULATION OF INDIVIDUALS IN CERTAIN SPACES AND FACILITIES ACCORDING TO BIOLOGICAL SEX

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3001.001. DEFINITIONS. In this chapter:

(1) "Biological sex" means the physical condition of being male or female, as determined by an individual's:

(A) sex organs, chromosomes, and endogenous profiles; and

(B) original birth certificate, if the individual's biological sex is recorded on the birth certificate and the record:

(i) was entered at or near the time of birth; and

(ii) has not been modified other than a modification to correct a scrivener or clerical error in the

1 recorded biological sex.

2 (2) "Correctional facility" has the meaning assigned
3 by Section 1.07, Penal Code.

4 (3) "Family violence shelter" means a family violence
5 nonresidential center or a family violence shelter center, as those
6 terms are defined by Section 51.002, Human Resources Code, that has
7 contracted with the Health and Human Services Commission under
8 Section 51.003, Human Resources Code.

9 (4) "Institution of higher education" has the meaning
10 assigned by Section 61.003, Education Code.

11 (5) "Multiple-occupancy private space" means a
12 facility designed or designated for the simultaneous use by more
13 than one individual and in which an individual may be in a state of
14 undress in the presence of another individual, regardless of
15 whether the facility provides curtains or partial walls for
16 privacy. The term includes a restroom, locker room, changing room,
17 or shower room.

18 (6) "Political subdivision" means a governmental
19 entity of this state, including a county, municipality, special
20 purpose district or authority, school district, open-enrollment
21 charter school, or junior college district. The term does not
22 include a state agency.

23 (7) "Single-occupancy private space" means a facility
24 designed or designated for use by only one individual at a time and
25 in which an individual may be in a state of undress. The term
26 includes:

27 (A) a single toilet restroom with a locking door

1 that is designed or designated as unisex or for use based on
2 biological sex; and

3 (B) sleeping quarters designed or designated for
4 use by one individual.

5 (8) "State agency" means a department, commission,
6 board, office, council, authority, or other agency in the
7 executive, legislative, or judicial branch of state government that
8 is created by the constitution or a statute of this state, including
9 an institution of higher education.

10 Sec. 3001.002. CONSTRUCTION OF CHAPTER. This chapter may
11 not be construed to prevent a litigant from asserting the
12 invalidity or unconstitutionality of a provision or application of
13 this chapter as a defense to liability in an action, claim, or
14 counterclaim brought under this chapter.

15 SUBCHAPTER B. DESIGNATION AND USE OF CERTAIN SPACES AND FACILITIES
16 ACCORDING TO BIOLOGICAL SEX

17 Sec. 3001.051. DESIGNATION OF MULTIPLE-OCCUPANCY PRIVATE
18 SPACES. (a) A political subdivision or state agency shall ensure
19 each multiple-occupancy private space in a building the political
20 subdivision or state agency owns, operates, or controls is
21 designated for and used only by individuals of the same biological
22 sex.

23 (b) A political subdivision or state agency shall take every
24 reasonable step to ensure an individual whose biological sex is
25 opposite to the biological sex designated for a multiple-occupancy
26 private space under Subsection (a) does not enter the private
27 space.

1 Sec. 3001.052. ACCOMMODATIONS. (a) Section 3001.051 does
2 not prohibit a political subdivision or state agency from:

3 (1) adopting a policy necessary to accommodate an
4 individual with a disability, a young child, or an elderly
5 individual who requires assistance when using a multiple-occupancy
6 private space;

7 (2) establishing a single-occupancy private space,
8 family restroom, or changing room; or

9 (3) changing the designation of a multiple-occupancy
10 private space from the use designated under Section 3001.051 to
11 exclusive use by individuals of the biological sex opposite to the
12 previously designated biological sex.

13 (b) A political subdivision or state agency may not provide
14 an accommodation under Subsection (a) that allows an individual to
15 use a multiple-occupancy private space designated for the exclusive
16 use of individuals of the biological sex opposite to the
17 individual's biological sex.

18 Sec. 3001.053. EXCEPTIONS. A designation of a
19 multiple-occupancy private space under Section 3001.051 does not
20 apply to:

21 (1) an individual entering a multiple-occupancy
22 private space designated for the exclusive use of individuals of
23 the biological sex opposite to the individual's biological sex:

24 (A) for a custodial purpose;

25 (B) for a maintenance or inspection purpose;

26 (C) to render medical or other emergency
27 assistance; or

1 (D) to accompany an individual who needs
2 assistance in using the facility and provide assistance; or

3 (2) a child who is:

4 (A) nine years of age or younger entering a
5 multiple-occupancy private space designated for the exclusive use
6 of individuals of the biological sex opposite to the child's
7 biological sex; and

8 (B) accompanied by an individual caring for the
9 child.

10 Sec. 3001.054. HOUSING OF INMATES ACCORDING TO BIOLOGICAL
11 SEX. (a) The Texas Department of Criminal Justice shall ensure
12 inmates are housed in a correctional facility, including a
13 dormitory or cellblock of a correctional facility, according to the
14 inmate's biological sex.

15 (b) The Texas Board of Criminal Justice may adopt rules to
16 implement this section, including rules ensuring this section is
17 implemented in compliance with state and federal law.

18 Sec. 3001.055. PROHIBITED SERVICES AT CERTAIN FAMILY
19 VIOLENCE SHELTERS. A family violence shelter designed specifically
20 to provide services to female victims of family violence may only
21 provide services to:

22 (1) an individual whose biological sex is female; and

23 (2) an individual who is 17 years of age or younger and
24 is the child of an individual described by Subdivision (1).

25 SUBCHAPTER C. ENFORCEMENT

26 Sec. 3001.101. CIVIL PENALTY. (a) A political subdivision
27 or state agency that violates this chapter is liable for a civil

penalty of:

(1) \$5,000 for the first violation; and

(2) \$25,000 for the second or a subsequent violation.

(b) Each day of a continuing violation of this chapter constitutes a separate violation.

Sec. 3001.102. COMPLAINT; NOTICE. (a) A resident of this state may file a complaint with the attorney general against a political subdivision or state agency for a violation of this chapter only if:

(1) the resident provides the political subdivision or state agency a written notice describing the violation; and

(2) the political subdivision or state agency does not cure the violation before the end of the third business day after the date the written notice is received.

(b) A complaint filed under this section must include:

(1) a copy of the written notice; and

(2) the resident's sworn statement or affidavit describing the violation and indicating the resident provided the notice required by this section.

Sec. 3001.103. DUTIES OF ATTORNEY GENERAL: INVESTIGATION AND NOTICE. (a) Before bringing an action against a political subdivision or state agency for a violation of this chapter, the attorney general shall investigate a complaint filed under Section 3001.102 to determine whether legal action is warranted.

(b) The political subdivision or state agency subject to the complaint shall provide to the attorney general any information the attorney general requests in connection with the complaint,

1 including:

2 (1) supporting documents related to the complaint; and

3 (2) a statement on whether the political subdivision
4 or state agency has complied or intends to comply with this chapter.

5 (c) If the attorney general determines legal action is
6 warranted, the attorney general shall provide to the appropriate
7 officer of the political subdivision or state agency charged with
8 the violation a written notice:

9 (1) describing the violation and location of the
10 multiple-occupancy private space found to be in violation;

11 (2) stating the amount of the proposed penalty for the
12 violation; and

13 (3) requiring the political subdivision or state
14 agency to cure the violation on or before the 15th day after the
15 date the notice is received to avoid the penalty, unless a court
16 previously found the political subdivision or state agency liable
17 for a violation of this chapter.

18 Sec. 3001.104. COLLECTION OF CIVIL PENALTY; MANDAMUS. (a)
19 If, after receipt of notice under Section 3001.103(c), the
20 political subdivision or state agency has not cured the violation
21 on or before the 15th day after the date the notice is received or
22 was previously found liable by a court for a violation of this
23 chapter, the attorney general may bring an action to collect the
24 civil penalty authorized under Section 3001.101.

25 (b) In addition to bringing an action under Subsection (a),
26 the attorney general may also file a petition for a writ of mandamus
27 or apply for other appropriate equitable relief.

1 (c) An action under this section may be brought or filed in a
2 district court in:

3 (1) Travis County; or

4 (2) a county in which the principal office of the
5 political subdivision or state agency is located.

6 (d) The attorney general may recover reasonable expenses
7 incurred in obtaining relief under this section, including court
8 costs, reasonable attorney's fees, investigative costs, witness
9 fees, and deposition costs.

10 (e) A civil penalty collected by the attorney general under
11 this section shall be deposited to the credit of the compensation to
12 victims of crime fund established under Subchapter J, Chapter 56B,
13 Code of Criminal Procedure.

14 Sec. 3001.105. PRIVATE CIVIL CAUSE OF ACTION. A person
15 affected by a political subdivision's or state agency's alleged
16 violation of this chapter may bring a civil action to obtain
17 appropriate:

18 (1) declaratory relief;

19 (2) injunctive relief; and

20 (3) court costs, including reasonable attorney's and
21 witness fees.

22 Sec. 3001.106. SOVEREIGN, GOVERNMENTAL, AND OFFICIAL
23 IMMUNITY. (a) Notwithstanding any other law except as provided by
24 Subsection (b), this state has sovereign immunity, a political
25 subdivision has governmental immunity, and an officer, employee, or
26 agent of this state or a political subdivision has official
27 immunity in an action, claim, counterclaim, or any type of legal or

equitable action that:

(1) challenges the validity of any provision or application of this chapter, on constitutional grounds or otherwise; or

(2) seeks to prevent or enjoin this state, a political subdivision, or an officer, employee, or agent of this state or a political subdivision from:

(A) enforcing any provision or application of this chapter; or

(B) hearing, adjudicating, or docketing an action brought under Section 3001.104 or 3001.105 for a violation of this chapter.

(b) Subsection (a) does not apply if:

(1) immunity has been abrogated or preempted by federal law in a manner consistent with the United States Constitution; or

(2) sovereign immunity of this state and governmental immunity of a political subdivision to suit and from liability have been waived to the extent of liability created by this chapter.

Sec. 3001.107. APPLICABILITY OF IMMUNITY. Notwithstanding any other law, the immunity conferred by Section 3001.106 applies in every state and federal court and in every type of adjudicative proceeding.

Sec. 3001.108. WAIVER OF IMMUNITY. (a) Notwithstanding any other law, a provision of state law may not be construed to waive or abrogate an immunity conferred by Section 3001.106 unless the provision expressly waives or abrogates the immunity with

specific reference to this section.

(b) Notwithstanding any other law, an attorney representing this state, a political subdivision, or an officer, employee, or agent of this state or a political subdivision may not waive an immunity conferred by Section 3001.106 or take an action that would result in a waiver of that immunity. A purported waiver or action described by this subsection is considered void and an ultra vires act.

Sec. 3001.109. JURISDICTION. (a) Notwithstanding any other law, including Chapter 37, Civil Practice and Remedies Code, and Sections 22.002, 22.221, 24.007, 24.008, 24.009, 24.010, and 24.011 of this code, a court of this state does not have jurisdiction to consider and may not award declaratory or injunctive relief, or any type of writ, that would:

(1) pronounce any provision or application of this chapter invalid or unconstitutional; or

(2) restrain a person, including this state, a political subdivision, and an officer, employee, or agent of this state or a political subdivision, from:

(A) enforcing any provision or application of this chapter; or

(B) hearing, adjudicating, docketing, or filing a civil action brought under this chapter.

(b) Notwithstanding any other law, including Chapter 26, Civil Practice and Remedies Code, and Rule 42, Texas Rules of Civil Procedure, a court may not certify a claimant class or a defendant class in a civil action that seeks relief described by this section.

SECTION 3. Chapter 30, Civil Practice and Remedies Code, is amended by adding Section 30.023 to read as follows:

Sec. 30.023. FEE SHIFTING. (a) Notwithstanding any other law, a person, including an entity, attorney, or law firm, who seeks declaratory or injunctive relief to prevent this state, a political subdivision of this state, a governmental entity, a public official, or any other person in this state from bringing an action to enforce a statute, ordinance, rule, regulation, or other law that regulates access to certain spaces based on an individual's biological sex in any state or federal court, or who represents a litigant seeking such relief in any state or federal court, is jointly and severally liable to pay the costs and reasonable attorney's fees of the prevailing party, including the costs and reasonable attorney's fees the prevailing party incurs in the party's efforts to recover costs and fees.

(b) For purposes of this section, a party is considered a prevailing party if a state or federal court:

(1) dismisses any claim or cause of action brought against the party that seeks the declaratory or injunctive relief described by Subsection (a), regardless of the reason for the dismissal; or

(2) enters judgment in the party's favor on any such claim or cause of action.

(c) A prevailing party may recover costs and reasonable attorney's fees under this section only to the extent those costs and attorney's fees were incurred while defending claims or causes of action on which the party prevailed.

1 SECTION 4. Chapter 3001, Government Code, as added by this
2 Act, applies only to a cause of action that accrues on or after the
3 effective date of this Act.

4 SECTION 5. If any part of this Act is declared invalid, that
5 declaration does not affect the validity of the remaining parts of
6 this Act.

7 SECTION 6. This Act takes effect September 1, 2025.