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To: Judiciary, Division A

SENATE BILL NO. 2753
(As Sent to Governor)

1 AN ACT TO CREATE NEW SECTION 29-18-1, MISSISSIPPI CODE OF
2 1972, TO CREATE THE "SAFER ACT" TO REGULATE GOVERNMENTAL
3 BUILDINGS; TO CREATE NEW SECTION 29-18-3, MISSISSIPPI CODE OF
4 1972, TO PROVIDE LEGISLATIVE FINDINGS FOR THE ACT; TO CREATE NEW
5 SECTION 29-18-5, MISSISSIPPI CODE OF 1972, TO PROVIDE DEFINITIONS
6 FOR THE ACT; TO CREATE NEW SECTION 29-18-7, MISSISSIPPI CODE OF
7 1972, TO REQUIRE CERTAIN PUBLIC EDUCATION BUILDINGS TO HAVE
8 EXCLUSIVE MALE AND/OR FEMALE RESTROOMS OR SINGLE-SEX OR FAMILY USE
9 RESTROOMS AT A MINIMUM; TO CREATE NEW SECTION 29-18-9, MISSISSIPPI
10 CODE OF 1972, TO REQUIRE CHANGING FACILITIES TO BE EXCLUSIVE MALE
11 AND/OR FEMALE OR SINGLE-SEX OR FAMILY-USE AT A MINIMUM; TO CREATE
12 NEW SECTION 29-18-11, MISSISSIPPI CODE OF 1972, TO REGULATE PUBLIC
13 STUDENT HOUSING FOR SINGLE-SEX EDUCATIONAL HOUSING; TO CREATE NEW
14 SECTION 29-18-13, MISSISSIPPI CODE OF 1972, TO REQUIRE SINGLE-SEX
15 SOCIAL SORORITIES AND FRATERNITIES TO COMPLY WITH THE DEFINITIONS
16 OF THIS ACT TO DESIGNATE HOUSING; TO CREATE NEW SECTION 29-18-15,
17 MISSISSIPPI CODE OF 1972, TO REGULATE HOW PERSONS ENTER A
18 SINGLE-SEX RESTROOM, CHANGING FACILITY OR EDUCATIONAL HOUSING
19 SPACE; TO CREATE NEW SECTION 29-18-17, MISSISSIPPI CODE OF 1972,
20 TO AUTHORIZE ASSERTION OF A VIOLATION OF THIS ACT; TO CREATE NEW
21 SECTION 29-18-19, MISSISSIPPI CODE OF 1972, TO AUTHORIZE THE
22 ATTORNEY GENERAL TO BRING ACTION REGARDING THE PROVISIONS OF THIS
23 ACT; TO CREATE NEW SECTION 1-3-83, MISSISSIPPI CODE OF 1972, TO
24 DEFINE THE TERMS "FEMALE," "MALE" AND "SEX"; AND FOR RELATED
25 PURPOSES.

26 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

27 **SECTION 1.** The following shall be codified as Section
28 29-18-1, Mississippi Code of 1972:



29 29-18-1. This act shall be known and may be cited as
30 "Securing Areas for Females Effectively and Responsibly Act" or
31 the "SAFER Act."

32 **SECTION 2.** The following shall be codified as Section
33 29-18-3, Mississippi Code of 1972:

34 29-18-3. **Legislative findings; intermediate scrutiny.** The
35 Legislature finds that:

36 (a) Females and males should be provided areas,
37 including restrooms, changing facilities and single-sex
38 educational housing spaces, for their exclusive use, respective to
39 their sex, in order to maintain privacy and safety.

40 (b) There are important governmental reasons to
41 distinguish between the sexes with respect to spaces where
42 biology, safety, and/or privacy are implicated. As such, policies
43 and laws that distinguish between the sexes are subject to
44 intermediate constitutional scrutiny, which forbids unfair
45 discrimination against similarly situated males and females but
46 allows the law to distinguish between the sexes where such
47 distinctions are substantially related to important governmental
48 objectives.

49 (c) These findings reflect the intent of the
50 Legislature to fulfill important governmental interests of
51 protecting students' dignity, health, safety, welfare, and privacy
52 rights by enacting this neutral policy which simply treats equally
53 those of the same and opposite biological sex "determined solely



by a birth," without regard to the fluidity of how someone acts or feels.

SECTION 3. The following shall be codified as Section 29-18-5, Mississippi Code of 1972:

29-18-5. **Chapter definitions.** For purposes of this act, the following terms shall have the meanings ascribed herein:

(a) "Changing facility" means a space designated for multiple individuals to dress or undress within the same space, including, but not limited to, a dressing room, locker room, changing room, or shower room. This term does not include a single-sex or family-use changing facility.

(b) "Single-sex educational housing space" means a multi-person dwelling unit, such as a room, suite, or apartment, located within a public education building functioning as housing for student residents at an educational institution and designated for use or occupancy only for members of one (1) sex, but excludes common areas designated for use by members of both sexes.

(c) "Public education building" means any building, facility or space owned, operated, rented or leased by, or rented or leased to any public school, public university, public community or junior college and the institutions of higher learning.

(d) "Restroom" means a space designated for multiple individuals that includes toilets and/or urinals. This term does not include a single-sex or family-use restroom.



(e) "Single-sex or family use changing facility" means a room intended for a single occupant or a family in which one or more persons may be in a state of undress, including, but not limited to, a dressing room, locker room, changing room, or shower room that is enclosed by floor-to-ceiling walls and accessed by a full door with a secure lock that prevents another individual from entering while the changing facility is in use.

(f) "Single-sex or family-use restroom" means a room that includes a toilet or urinal and that is intended for a single occupant or a family, is enclosed by floor-to-ceiling walls, and is accessed by a full door with a secure lock that prevents another individual from entering while the room is in use.

SECTION 4. The following shall be codified as Section 29-18-7, Mississippi Code of 1972:

29-18-7. **Protection of restroom privacy.** Any public education building that maintains a restroom shall, at a minimum, have:

(a) A restroom designated for exclusive use by females and a restroom designated for exclusive use by males; or

(b) A single-sex or family-use restroom.

SECTION 5. The following shall be codified as Section 29-18-9, Mississippi Code of 1972:

29-18-9. **Protection of changing room privacy.** Any public education building that maintains a changing facility must, at a minimum, have:



(a) A changing facility designated for exclusive use by females and a changing facility designated for exclusive use by males; or

(b) A single-sex or family-use changing facility.

SECTION 6. The following shall be codified as Section 29-18-11, Mississippi Code of 1972:

29-18-11. **Protection of single-sex educational housing space privacy.** Any student required to reside in housing at an educational institution shall have the right to be housed in a single-sex educational housing space with persons of the same sex.

SECTION 7. The following shall be codified as Section 29-18-13, Mississippi Code of 1972:

29-18-13. **Social fraternity and sorority single-sex housing facilities on public lands shall comply with state law.** Social fraternities and sororities at educational institutions that have and operate single-sex housing facilities located on public land shall comply with the definitions contained within this act for purposes of maintaining such facilities as single sex only.

SECTION 8. The following shall be codified as Section 29-18-15, Mississippi Code of 1972:

29-18-15. **Permissible purposes to enter sex-designated restrooms, changing facilities or single-sex educational housing spaces.** For purposes of this act, a person may not enter a restroom, changing facility, or single-sex educational housing



space, designated for the opposite sex, except under the following circumstances:

(a) To assist or chaperon a child under the age of twelve (12), a vulnerable person as defined in Section 43-47-5, or a person with a disability as defined in Section 43-6-203(b), with such child, vulnerable person, or person with a disability also allowed to enter, with a parent, guardian, or caregiver, the restroom or changing room designated for the sex of their parent, guardian, or caregiver;

(b) For law enforcement, fire protection or response, or other public safety purposes;

(c) For governmental purposes, including employees or contractors of governmental entities acting within the scope of their employment or contract;

(d) For the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk;

(e) For custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use;

(f) If the appropriate designated restroom or changing facility is out of order or under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex; or



(g) In single-sex educational housing spaces as authorized by educational institutions for moving, visiting, administrative, health, or other authorized purposes.

SECTION 9. The following shall be codified as Section 29-18-17, Mississippi Code of 1972:

29-18-17. **Private enforcement.** (1) A person may assert a violation of this act as a claim or defense in a judicial or administrative proceeding.

(2) Any person under eighteen (18) years of age may bring an action at any time to assert a violation of this act through a parent or next friend and may bring an action in their own name upon reaching the age of eighteen (18) years of age.

(3) Any attorney's fees may be awarded by the court as it deems appropriate.

(4) No private cause of action against a public school, state agency, public university, public community college or junior college, or the institutions of higher learning is authorized by this act.

SECTION 10. The following shall be codified as Section 29-18-19, Mississippi Code of 1972:

29-18-19. **Attorney General enforcement.** (1) The Attorney General shall bring an action to enforce compliance with this act.

(2) This act shall not be construed to deny, impair, or otherwise affect any right or authority of the Attorney General, the State of Mississippi, or any agency, officer, or employee of



the state, acting under any law other than this act, to institute or intervene in any proceeding.

SECTION 11. The following shall be codified as Section 1-3-83, Mississippi Code of 1972:

1-3-83. **Female, male, sex of natural persons.** (1) "Female" means an individual who naturally has, had, will have, or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces eggs.

(2) "Male" means an individual who naturally has, had, will have, or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces sperm.

(3) "Sex," when used to classify a natural person, means the biological indication of male and female as observed or clinically verified at birth, without regard to a person's psychological, chosen, or subjective experience, feelings, actions, or sense of self.

(4) The following additional provisions apply to the use of "sex" and related terms:

(a) There are only two (2) sexes, and every individual is either male or female.

(b) "Sex" is objective and fixed.

(c) Persons with "DSD conditions" (sometimes referred to as "differences in sex development", "disorders of sex



development", or "intersex conditions") are not members of a third sex.

(d) The foregoing definition of "sex," for purposes of state law, neither requires nor precludes the accommodation of persons with a congenital and physically verifiable diagnosis of "DSD condition" (sometimes referred to as "differences in sex development", "disorders of sex development", or "intersex conditions"); however, such accommodation may be required by federal law.

SECTION 12. Severability. Any provision of this act is held to be invalid or unenforceable by its terms, or as applied to any person or circumstance, shall be construed so as to give it the maximum effect permitted by law, unless such holding shall be one of utter invalidity or unenforceability, in which event such provision shall be deemed severable herefrom and shall not affect the remainder hereof or the application of such provision to other persons not similarly situated or to other, dissimilar circumstances.

SECTION 13. This act shall take effect and be in force from and after its passage.

