

AN ACT relating to student privacy and declaring a emergency.

*Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

➔SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 3 of this Act:

(a) "Biological sex" means the physical condition of being male or female, which is determined by a person's chromosomes, and is identified at birth by a person's anatomy; and

(b) "Public school" or "school" means a school under the control of a local board of education of a local school district.

(2) Any section or portion of Sections 1 to 3 of this Act declared invalid shall not affect the validity of the remaining portions of Sections 1 to 3 this Act.

➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that:

(1) School personnel have a duty to protect the dignity, health, welfare, and privacy rights of students in their care;

(2) Children and young adults have natural and normal concerns about privacy while in various states of undress, and most wish for members of the opposite biological sex not to be present in those circumstances;

(3) Allowing students to use restrooms, locker rooms, or showers that are reserved for students of a different biological sex:

(a) Will create a significant potential for disruption of school activities and unsafe conditions; and

(b) Will create potential embarrassment, shame, and psychological injury to students;

(4) Parents have a reasonable expectation that schools will not allow minor children

to be viewed in various states of undress by members of the opposite biological sex, nor allow minor children to view members of the opposite sex in various states of undress; and

(5) Schools have a duty to respect and protect the privacy rights of students, including the right not to be compelled to undress or be unclothed in the presence of members of the opposite biological sex.

➔SECTION 3. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) Every school restroom, locker room, and shower room designated for student use accessible by multiple students at the same time shall be designated for and used by male students only or female students only.

(2) In every school setting in which a student may be in a state of undress in the presence of other students, school personnel shall provide separate, private areas designated for use by students based on their biological sex.

(3) (a) A student who asserts to school officials that his or her gender is different from his or her biological sex and whose parent or legal guardian provides written consent to school officials shall be provided with the best available accommodation, but that accommodation shall not include the use of student restrooms, locker rooms, or shower rooms designated for use by students of the opposite biological sex while students of the opposite biological sex are present or could be present.

(b) Acceptable accommodations may include but not be limited to access to single-stall restrooms, access to unisex bathrooms, or controlled use of faculty bathrooms, locker rooms, or shower rooms.

(4) (a) While accessing a restroom, locker room, or shower room designated for use by his or her biological sex, a student encountering a person of the opposite biological sex shall have a private cause of action against the

school if school personnel:

1. Gave the person encountered permission to use facilities of the opposite biological sex; or

2. Failed to take reasonable steps to prohibit the person encountered from using facilities designated for use by the opposite biological sex.

(b) Any claims arising pursuant to this subsection shall be brought in the Circuit Court in whose jurisdiction the student resides or where the school is located. All claims must be initiated within two (2) years of the violation.

(c) The offending school shall be civilly liable to a student who is aggrieved under this subsection and who prevails in a court of jurisdiction prescribed by paragraph (b) of this subsection. The student shall be entitled to recover from the offending school any costs, expenses, and fees, including attorney's fees, associated with the claim.

(d) Nothing in this subsection shall limit other remedies at law or equity available to the aggrieved student.

➔Section 4. This Act shall be known as the Kentucky Student Privacy Act.

➔Section 5. Whereas situations currently exist in which the privacy rights of students are violated, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.