

118TH CONGRESS
1ST SESSION

S. 752

To secure the dignity and safety of incarcerated women.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2023

Mr. COTTON (for himself, Mr. MARSHALL, Mr. BRAUN, Mr. RUBIO, Mr. GRAHAM, Mr. LEE, Mr. CRUZ, and Mr. DAINES) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To secure the dignity and safety of incarcerated women.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing Violence
5 Against Female Inmates Act of 2023”.

6 **SEC. 2. HOUSING PRISONERS BASED ON SEX.**

7 (a) FEDERAL PRISONS.—

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

1 **“§ 4052. Bar on housing together prisoners of dif-**
 2 **ferent sexes**

3 “(a) DEFINITION.—In this section, the term ‘biologi-
 4 cal sex’ means the biological classification of male and fe-
 5 male in the context of reproductive potential or capacity,
 6 as indicated by sex chromosomes, naturally occurring sex
 7 hormones, gonads, and nonambiguous internal and exter-
 8 nal genitalia present at birth.

9 “(b) BAR.—

10 “(1) IN GENERAL.—The Bureau of Prisons—

11 “(A) shall use the biological sex of persons
 12 charged with or convicted of offenses against
 13 the United States in making determinations re-
 14 garding housing such persons; and

15 “(B) except as provided in paragraph (2),
 16 shall not co-locate in detention facilities persons
 17 charged with or convicted of offenses against
 18 the United States if those persons are not of
 19 the same biological sex.

20 “(2) EXCEPTION.—The Bureau of Prisons may
 21 co-locate, on a temporary basis (which shall not in-
 22 clude overnight housing), persons charged with or
 23 convicted of offenses against the United States who
 24 are not of the same biological sex.”.

25 (2) TECHNICAL AND CONFORMING AMEND-
 26 MENT.—The table of sections for chapter 303 of

1 title 18, United States Code, is amended by adding
 2 at the end the following:

“4052. Bar on housing together prisoners of different sexes.”.

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

7 “(i) BAR ON HOUSING TOGETHER PRISONERS OF
 8 DIFFERENT SEXES.—

9 “(1) DEFINITION.—In this subsection, the term
 10 ‘biological sex’ has the meaning given such term in
 11 section 4052 of title 18, United States Code.

12 “(2) LIMITATION ON ELIGIBILITY FOR
 13 FUNDS.—

14 “(A) IN GENERAL.—Beginning in the first
 15 fiscal year beginning after the date of enact-
 16 ment of this subsection, a State may not receive
 17 funds under this subpart for a fiscal year if the
 18 State does not submit to the Attorney General
 19 a certification that the State—

20 “(i) except as provided in subpara-
 21 graph (B), prohibits co-locating in deten-
 22 tion facilities persons charged with or con-
 23 victed of offenses under the law of the
 24 State if those persons are not of the same
 25 biological sex; and

1 “(ii) requires the use of the biological
2 sex of persons charged with or convicted of
3 offenses under the law of the State in
4 making determinations regarding housing
5 such persons.

6 “(B) EXCEPTION.—A State may co-locate,
7 on a temporary basis (which shall not include
8 overnight housing), persons charged with or
9 convicted of offenses under the law of the State
10 who are not of the same biological sex.”.

○