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CS/HB 1521, Engrossed 1

2023 Legislature

1  
2 An act relating to facility requirements based on sex;  
3 creating s. 553.865, F.S.; providing a short title;  
4 providing legislative findings; defining terms;  
5 requiring certain entities that maintain water closets  
6 or changing facilities to meet specified requirements;  
7 authorizing persons to enter a restroom or changing  
8 facility designated for the opposite sex only under  
9 certain circumstances; requiring covered entities to  
10 establish disciplinary procedures relating to  
11 restrooms and changing facilities; providing that  
12 specified persons are subject to discipline for  
13 refusing to depart certain restrooms and changing  
14 facilities under certain circumstances; providing that  
15 specified persons who enter certain restrooms or  
16 changing facilities and refuse to depart when asked to  
17 do so commit the criminal offense of trespass;  
18 providing applicability; requiring covered entities to  
19 submit specified compliance documentation to specified  
20 entities; authorizing persons to submit complaints to  
21 the Attorney General after a specified date relating  
22 to covered entities that fail to meet specified  
23 requirements; authorizing the Attorney General to  
24 bring enforcement actions after a specified date;  
25 authorizing civil penalties; requiring that certain

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26 funds be deposited in the General Revenue Fund;  
 27 providing applicability; requiring the Department of  
 28 Corrections, the Department of Juvenile Justice, and  
 29 the State Board of Education to adopt rules; requiring  
 30 the Board of Governors to adopt regulations; requiring  
 31 certain governing bodies of counties or municipalities  
 32 to establish specified procedures; providing  
 33 severability; providing an effective date.  
 34

35 Be It Enacted by the Legislature of the State of Florida:  
 36

37 Section 1. Section 553.865, Florida Statutes, is created  
 38 to read:

39 553.865 Private spaces.—

40 (1) This section may be cited as the "Safety in Private  
 41 Spaces Act."

42 (2) The Legislature finds that females and males should be  
 43 provided restrooms and changing facilities for their exclusive  
 44 use, respective to their sex, in order to maintain public  
 45 safety, decency, decorum, and privacy.

46 (3) As used in this section, the term:

47 (a) "Changing facility" means a room in which two or more  
 48 persons may be in a state of undress in the presence of others,  
 49 including, but not limited to, a dressing room, fitting room,  
 50 locker room, changing room, or shower room.

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51 (b) "Correctional institution" means any state  
 52 correctional institution as defined in s. 944.02 or private  
 53 correctional facility as defined in s. 944.710.

54 (c) "Covered entity" means any:  
 55 1. Correctional institution;  
 56 2. Detention facility;  
 57 3. Educational institution;  
 58 4. Juvenile correctional facility or juvenile prison as  
 59 described in s. 985.465, any detention center or facility  
 60 designated by the Department of Juvenile Justice to provide  
 61 secure detention as defined in s. 985.03(18)(a), and any  
 62 facility used for a residential program as described in s.  
 63 985.03(44)(b), (c), or (d); or  
 64 5. Public building.

65 (d) "Detention facility" means a county detention facility  
 66 or municipal detention facility as those terms are defined in s.  
 67 951.23.

68 (e) "Educational institution" means a K-12 educational  
 69 institution or facility or a postsecondary educational  
 70 institution or facility.

71 (f) "Female" means a person belonging, at birth, to the  
 72 biological sex which has the specific reproductive role of  
 73 producing eggs.

74 (g) "K-12 educational institution or facility" means:  
 75 1. A school as defined in s. 1003.01(2) operated under the

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76 | control of a district school board as defined in s. 1003.01(1);  
 77 | 2. The Florida School for the Deaf and the Blind as  
 78 | described in ss. 1000.04(4) and 1002.36;  
 79 | 3. A developmental research (laboratory) school  
 80 | established pursuant to s. 1002.32(2);  
 81 | 4. A charter school authorized under s. 1002.33; or  
 82 | 5. A private school as defined in s. 1002.01(2).  
 83 | (h) "Male" means a person belonging, at birth, to the  
 84 | biological sex which has the specific reproductive role of  
 85 | producing sperm.  
 86 | (i) "Postsecondary educational institution or facility"  
 87 | means:  
 88 | 1. A state university as defined in s. 1000.21(6);  
 89 | 2. A Florida College System institution as defined in s.  
 90 | 1000.21(3);  
 91 | 3. A school district career center as described in s.  
 92 | 1001.44(3);  
 93 | 4. A college or university licensed by the Commission for  
 94 | Independent Education pursuant to s. 1005.31(1)(a); or  
 95 | 5. An institution not under the jurisdiction or purview of  
 96 | the commission as identified in s. 1005.06(1)(b)-(f).  
 97 | (j) "Public building" means a building comfort-conditioned  
 98 | for occupancy which is owned or leased by the state, a state  
 99 | agency, or a political subdivision. The term does not include a  
 100 | correctional institution, a detention facility, an educational

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101 institution, a juvenile correctional facility or juvenile prison  
 102 as described in s. 985.465, a detention center or facility  
 103 designated by the Department of Juvenile Justice to provide  
 104 secure detention as defined in s. 985.03(18)(a), or any facility  
 105 used for a residential program as described in s. 985.03(44)(b),  
 106 (c), or (d).

107 (k) "Restroom" means a room that includes one or more  
 108 water closets. This term does not include a unisex restroom.

109 (l) "Sex" means the classification of a person as either  
 110 female or male based on the organization of the body of such  
 111 person for a specific reproductive role, as indicated by the  
 112 person's sex chromosomes, naturally occurring sex hormones, and  
 113 internal and external genitalia present at birth.

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

121 (n) "Unisex restroom" means a room that includes one or  
 122 more water closets and that is intended for a single occupant or  
 123 a family, is enclosed by floor-to-ceiling walls, and is accessed  
 124 by a full door with a secure lock that prevents another  
 125 individual from entering while the room is in use.

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- 126       (o) "Water closet" means a toilet or urinal.
- 127       (4) A covered entity that maintains a water closet must,  
 128 at a minimum, have:
- 129       (a) A restroom designated for exclusive use by females and  
 130 a restroom designated for exclusive use by males; or
- 131       (b) A unisex restroom.
- 132       (5) A covered entity that maintains a changing facility  
 133 must, at a minimum, have:
- 134       (a) A changing facility designated for exclusive use by  
 135 females and a changing facility designated for exclusive use by  
 136 males; or
- 137       (b) A unisex changing facility.
- 138       (6) For purposes of this section, a person may only enter  
 139 a restroom or changing facility designated for the opposite sex  
 140 under the following circumstances:
- 141       (a) To accompany a person of the opposite sex for the  
 142 purpose of assisting or chaperoning a child under the age of 12,  
 143 an elderly person as defined in s. 825.101, or a person with a  
 144 disability as defined in s. 760.22 or a developmental disability  
 145 as defined in s. 393.063;
- 146       (b) For law enforcement or governmental regulatory  
 147 purposes;
- 148       (c) For the purpose of rendering emergency medical  
 149 assistance or to intervene in any other emergency situation  
 150 where the health or safety of another person is at risk;

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

154 (e) If the appropriate designated restroom or changing  
 155 facility is out of order or under repair and the restroom or  
 156 changing facility designated for the opposite sex contains no  
 157 person of the opposite sex.

158 (7)(a) Each correctional institution shall establish  
 159 disciplinary procedures for any prisoner who willfully enters,  
 160 for a purpose other than those listed in subsection (6), a  
 161 restroom or changing facility designated for the opposite sex on  
 162 the premises of the correctional institution and refuses to  
 163 depart when asked to do so by any employee of the Department of  
 164 Corrections or an employee of the correctional institution.

165 (b) Any Department of Corrections employee or correctional  
 166 institution employee who willfully enters, for a purpose other  
 167 than those listed in subsection (6), a restroom or changing  
 168 facility designated for the opposite sex on the premises of a  
 169 correctional institution and refuses to depart when asked to do  
 170 so by another Department of Corrections employee or correctional  
 171 institution employee is subject to disciplinary action by the  
 172 Department of Corrections.

173 (c) A person who willfully enters, for a purpose other  
 174 than those listed in subsection (6), a restroom or changing  
 175 facility designated for the opposite sex on the premises of a

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176 correctional institution and refuses to depart when asked to do  
 177 so by an employee of the Department of Corrections or an  
 178 employee of the correctional institution commits the offense of  
 179 trespass as provided in s. 810.08. This paragraph does not apply  
 180 to prisoners, Department of Corrections employees, or  
 181 correctional institution employees.

182 (8)(a) Each detention facility shall establish  
 183 disciplinary procedures for any prisoner who willfully enters,  
 184 for a purpose other than those listed in subsection (6), a  
 185 restroom or changing facility designated for the opposite sex on  
 186 the premises of the detention facility and refuses to depart  
 187 when asked to do so by any employee of the detention facility.

188 (b) Any detention facility employee who willfully enters,  
 189 for a purpose other than those listed in subsection (6), a  
 190 restroom or changing facility designated for the opposite sex on  
 191 the premises of a detention facility and refuses to depart when  
 192 asked to do so by another detention facility employee is subject  
 193 to disciplinary action by the managing body of the detention  
 194 facility.

195 (c) A person who willfully enters, for a purpose other  
 196 than those listed in subsection (6), a restroom or changing  
 197 facility designated for the opposite sex on the premises of a  
 198 detention facility and refuses to depart when asked to do so by  
 199 an employee of the detention facility commits the offense of  
 200 trespass as provided in s. 810.08. This paragraph does not apply



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201 to prisoners, detention facility employees, or staff of the  
 202 entity operating the detention facility.

203 (9) (a) Each educational institution shall, within its code  
 204 of student conduct, establish disciplinary procedures for any  
 205 student who willfully enters, for a purpose other than those  
 206 listed in subsection (6), a restroom or changing facility  
 207 designated for the opposite sex on the premises of the  
 208 educational institution and refuses to depart when asked to do  
 209 so by:

210 1. For a K-12 educational institution or facility, any  
 211 instructional personnel as described in s. 1012.01(2),  
 212 administrative personnel as described in s. 1012.01(3), or a  
 213 safe-school officer as described in s. 1006.12(1)-(4) or, if the  
 214 institution is a private school, any equivalent of such  
 215 personnel or officer; or

216 2. For a postsecondary educational institution or  
 217 facility, any administrative personnel, faculty member, security  
 218 personnel, or law enforcement personnel.

219 (b) Instructional personnel or administrative personnel as  
 220 those terms are described in s. 1012.01(2) and (3),  
 221 respectively, for an educational institution, or the equivalent  
 222 of such personnel for a private school, who willfully enter, for  
 223 a purpose other than those listed in subsection (6), a restroom  
 224 or changing facility designated for the opposite sex on the  
 225 premises of the educational institution and refuse to depart

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226 when asked to do so by a person specified in subparagraph (a)1.  
227 or subparagraph (a)2. commit a violation of the Principles of  
228 Professional Conduct for the Education Profession and are  
229 subject to discipline pursuant to s. 1012.795.

230 (c) Instructional personnel or administrative personnel at  
231 a Florida College System institution or state university who  
232 willfully enter, for a purpose other than those listed in  
233 subsection (6), a restroom or changing facility designated for  
234 the opposite sex on the premises of the educational institution  
235 and refuse to depart when asked to do so by a person listed in  
236 subparagraph (a)2. are subject to disciplinary actions  
237 established in State Board of Education rule or Board of  
238 Governors regulation.

239 (d) Each postsecondary educational institution or facility  
240 defined under subparagraphs (3)(i)4. and 5. and private school  
241 defined under subparagraph (3)(g)5. shall establish a  
242 disciplinary policy for administrative personnel and  
243 instructional personnel who willfully enter, for a purpose other  
244 than those listed in subsection (6), a restroom or changing  
245 facility designated for the opposite sex on the premises of the  
246 educational institution and refuse to depart when asked to do so  
247 by a person specified in subparagraph (a)1. or subparagraph (a)2.

248 (e) Any person who willfully enters, for a purpose other  
249 than those listed in subsection (6), a restroom or changing  
250 facility designated for the opposite sex on the premises of an

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251 educational institution and refuses to depart when asked to do  
 252 so by a person specified in subparagraph (a)1. or subparagraph  
 253 (a)2. commits the offense of trespass as provided in s. 810.08.  
 254 This paragraph does not apply to a student of the educational  
 255 institution or to administrative personnel or instructional  
 256 personnel of the educational institution.

257 (10)(a) Each juvenile correctional facility or juvenile  
 258 prison as described in s. 985.465, each detention center or  
 259 facility designated by the Department of Juvenile Justice to  
 260 provide secure detention as defined in s. 985.03(18)(a), and  
 261 each facility used for a residential program as described in s.  
 262 985.03(44)(b), (c), or (d) shall establish disciplinary  
 263 procedures for any juvenile as defined in s. 985.03(7) who  
 264 willfully enters, for a purpose other than those listed in  
 265 subsection (6), a restroom or changing facility designated for  
 266 the opposite sex in such juvenile correctional facility,  
 267 juvenile prison, secure detention center or facility, or  
 268 residential program facility and refuses to depart when asked to  
 269 do so by delinquency program staff, detention staff, or  
 270 residential program staff.

271 (b) Any delinquency program staff member, detention staff  
 272 member, or residential program staff member who willfully  
 273 enters, for a purpose other than those listed in subsection (6),  
 274 a restroom or changing facility designated for the opposite sex  
 275 in a juvenile correctional facility, juvenile prison, secure

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276 detention center or facility, or residential program facility  
 277 and refuses to depart when asked to do so by another delinquency  
 278 program staff member, detention staff member, or residential  
 279 program staff member is subject to disciplinary action by the  
 280 Department of Juvenile Justice.

281 (c) A person who willfully enters, for a purpose other  
 282 than those listed in subsection (6), a restroom or changing  
 283 facility designated for the opposite sex on the premises of a  
 284 juvenile correctional facility, juvenile prison, secure  
 285 detention center or facility, or residential program facility  
 286 and refuses to depart when asked to do so by delinquency program  
 287 staff, detention staff, or residential program staff commits the  
 288 offense of trespass as provided in s. 810.08. This paragraph  
 289 does not apply to juveniles as defined in s. 985.03(7),  
 290 delinquency program staff, detention staff, or residential  
 291 program staff.

292 (11)(a) The applicable governmental entity shall, for each  
 293 public building under its jurisdiction, establish disciplinary  
 294 procedures for any employee of the governmental entity who  
 295 willfully enters, for a purpose other than those listed in  
 296 subsection (6), a restroom or changing facility designated for  
 297 the opposite sex at such public building and refuses to depart  
 298 when asked to do so by any other employee of the governmental  
 299 entity.

300 (b) A person who willfully enters, for a purpose other

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301 than those listed in subsection (6), a restroom or changing  
 302 facility designated for the opposite sex at a public building  
 303 and refuses to depart when asked to do so by an employee of the  
 304 governmental entity for the public building that is within the  
 305 governmental entity's jurisdiction commits the offense of  
 306 trespass as provided in s. 810.08. This paragraph does not apply  
 307 to employees of governmental entities for such public building.

308 (12) A covered entity that is:

309 (a) A correctional institution shall submit documentation  
 310 to the Department of Corrections regarding compliance with  
 311 subsections (4) and (5), as applicable, within 1 year after  
 312 being established or, if such institution was established before  
 313 July 1, 2023, no later than April 1, 2024.

314 (b) A detention facility shall submit documentation to the  
 315 applicable governing body of the county or municipality  
 316 regarding compliance with subsections (4) and (5), as  
 317 applicable, within 1 year after being established or, if such  
 318 facility was established before July 1, 2023, no later than  
 319 April 1, 2024.

320 (c) A K-12 educational institution or facility, Florida  
 321 College System institution as defined in s. 1000.21(3), or a  
 322 school district career center as described in s. 1001.44(3)  
 323 shall submit documentation to the State Board of Education  
 324 regarding compliance with subsections (4) and (5), as  
 325 applicable, within 1 year after being established or, if such

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326 institution, facility, or center was established before July 1,  
327 2023, no later than April 1, 2024.

328 (d) A state university as defined in s. 1000.21(6) shall  
329 submit documentation to the Board of Governors regarding  
330 compliance with subsections (4) and (5), as applicable, within 1  
331 year after being established or, if such institution was  
332 established before July 1, 2023, no later than April 1, 2024.

333 (e) A postsecondary educational institution or facility as  
334 defined in subparagraph (3)(i)4. or subparagraph (3)(i)5. shall  
335 submit documentation to the Department of Education regarding  
336 compliance with subsections (4) and (5), as applicable, within 1  
337 year of being established or, if such institution or facility  
338 was established before July 1, 2023, no later than April 1,  
339 2024.

340 (f) A juvenile correctional facility or juvenile prison as  
341 described in s. 985.465, a detention center or facility  
342 designated by the Department of Juvenile Justice to provide  
343 secure detention as defined in s. 985.03(18)(a), or a facility  
344 used for a residential program as described in s. 985.03(44)(b),  
345 (c), or (d) shall submit documentation to the Department of  
346 Juvenile Justice regarding compliance with subsections (4) and  
347 (5), as applicable, within 1 year after being established or, if  
348 such institution or facility was established before July 1,  
349 2023, no later than April 1, 2024.

350 (13) Beginning July 1, 2024, a person may submit a

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351 complaint to the Attorney General alleging that a covered entity  
352 failed to meet the minimum requirements for restrooms and  
353 changing facilities under subsection (4) or subsection (5).

354 (14) (a) A covered entity that fails to comply with  
355 subsection (4) or subsection (5) is subject to penalties under  
356 paragraph (b) and to licensure or regulatory disciplinary  
357 action, as applicable.

358 (b) Beginning July 1, 2024, the Attorney General may bring  
359 a civil action to enforce this section against any covered  
360 entity. The Attorney General may seek injunctive relief, and,  
361 for any covered entity found to have willfully violated this  
362 section, the Attorney General may seek to impose a fine of up to  
363 \$10,000.

364 (c) Fines collected pursuant to paragraph (b) must be  
365 deposited in the General Revenue Fund.

366 (15) This section does not apply to an individual who is  
367 or has been under treatment by a physician who, in his or her  
368 good faith clinical judgment, performs procedures upon or  
369 provides therapies to a minor born with a medically verifiable  
370 genetic disorder of sexual development, including any of the  
371 following:

372 (a) External biological sex characteristics that are  
373 unresolvably ambiguous.

374 (b) A disorder of sexual development in which the  
375 physician has determined through genetic or biochemical testing

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376 that the patient does not have a normal sex chromosome  
 377 structure, sex steroid hormone production, or sex steroid  
 378 hormone action for a male or female, as applicable.

379 (16) By January 1, 2024, the Department of Corrections,  
 380 the Department of Juvenile Justice, and the State Board of  
 381 Education shall each adopt rules establishing procedures, the  
 382 Board of Governors shall adopt regulations establishing  
 383 procedures, and the applicable governing body of a county or  
 384 municipality in which a detention facility is located shall  
 385 establish policies, to carry out this section and to ensure  
 386 compliance with and enforcement of this section, including, but  
 387 not limited to, the type, format, and method of delivery of the  
 388 documentation required under subsection (12).

389 Section 2. If any provision of this act or its application  
 390 to any person or circumstance is held invalid, the invalidity  
 391 does not affect other provisions or applications of the act  
 392 which can be given effect without the invalid provision or  
 393 application, and to this end the provisions of this act are  
 394 severable.

395 Section 3. This act shall take effect July 1, 2023.