

2024 Regular Session

HOUSE BILL NO. 608

BY REPRESENTATIVES WILDER, AMEDEE, BACALA, BAMBURG, BAYHAM, BEAULLIEU, BERAULT, BILLINGS, BOURRIAQUE, BOYER, BUTLER, CARLSON, CARRIER, CARVER, CHENEVERT, COATES, COX, CREWS, DESHOTEL, DEWITT, DICKERSON, DOMANGUE, ECHOLS, EDMONSTON, EGAN, EMERSON, FARNUM, FIRMENT, FONTENOT, GADBERRY, GALLE, GEYMANN, GLORIOSO, HEBERT, HORTON, ILLG, MIKE JOHNSON, TRAVIS JOHNSON, KERNER, JACOB LANDRY, MACK, MCCORMICK, MCFARLAND, ORGERON, OWEN, RISER, ROMERO, SCHAMERHORN, SCHLEGEL, ST. BLANC, TARVER, THOMAS, THOMPSON, TURNER, VENTRELLA, VILLIO, WILEY, AND WYBLE AND SENATORS BASS, CLOUD, EDMONDS, FESI, HODGES, KLEINPETER, MIGUEZ, MIZELL, SEABAUGH, AND STINE

CIVIL/LAW: Creates the Women's Safety and Protection Act

1
2
3
4
5
6
7
8
9
10
11
12

AN ACT

To enact Part I-A of Chapter 1 of Code Title I of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 9:55 through 65, relative to women; to provide for the safety and protection of women; to provide relative to distinctions between sexes; to provide for legislative intent; to provide for purposes; to provide for definitions; to provide for a standard of review; to provide for causes of action; to provide for application; to provide for remedies; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Part I-A of Chapter 1 of Code Title I of Code Book I of Title 9 of the Louisiana Revised Statutes of 1950, comprised of R.S. 9:55 through 65 is hereby enacted to read as follows:

1 PART I-A. WOMEN'S SAFETY AND PROTECTION ACT

2 §55. Short title

3 This Part shall be known as and may be cited as the "Women's Safety and
4 Protection Act".

5 §56. Purpose

6 The purpose of this Part is all of the following:

7 (1) To clarify and reconcile the meaning of sex, male, female, and related
8 terms in state law.

9 (2) To provide protections for women and girls against sexual assault,
10 harassment, and violence in correctional facilities, juvenile detention facilities,
11 domestic violence shelters, dormitories, and restrooms, or where women have been
12 traditionally afforded safety and protection from acts of abuse committed by
13 biological men.

14 §57. Legislative findings

15 The legislature finds and declares that:

16 (1) "Physical differences between men and women, however, are enduring:
17 '[T]he two sexes are not fungible; a community made up exclusively of one [sex] is
18 different from a community composed of both.'" *United States v. Virginia, et al.*,
19 518 U.S. 515, 533 (1996), citing *Ballard v. United States*, 329 U.S. 187, 193 (1946).

20 (2) The United States Supreme Court has recognized that there are
21 "[i]nherent differences' between men and women", and that these differences
22 "remain cause for celebration, but not for denigration of the members of either sex
23 or for artificial constraints on an individual's opportunity" in *United States v.*
24 *Virginia, et al.*, 518 U.S. 515, 533 (1996).

25 (3) The equal protection clause of the Fourteenth Amendment of the
26 Constitution of the United State of America allows for legislatures to enact facially
27 neutral laws of general applicability, such as biologically based definitions of sex.

28 (4) Biologically based definitions of sex have been consistently applied since
29 our nation's founding.

1 (5) Decades of opinions from the Supreme Court of the United States have
2 upheld the argument that biological distinctions between male and female are a
3 matter of scientific fact, and biological sex is an objectively defined category that has
4 obvious, immutable, and distinguishable characteristics.

5 §58. Definitions

6 For purposes of this part:

7 (1) "Boy" means a human male who is a minor.

8 (2) "Changing room" means a room or area in which a person may be in a
9 state of undress in the presence of others, including a locker room or shower room.

10 (3) "Correctional facilities" means a correctional facility owned and operated
11 by the state or the Correctional Facilities Corporation housing prisoners committed
12 to the custody of the Department of Public Safety and Corrections.

13 (4) "Domestic violence shelter" means a community-based shelter for
14 victims of domestic violence that is managed by the Department of Children and
15 Family Services.

16 (5) "Father" means a parent who is of the male sex.

17 (6) "Female" means an individual whose biological reproductive system is
18 developed to produce ova; who has, had, will have or would have, but for a
19 developmental or genetic anomaly or historical accident, the reproductive system
20 that at some point produces, transports, and utilizes eggs for fertilization.

21 (7) "Girl" means a human female who is a minor.

22 (8) "Juvenile detention facilities" means a correctional facility that houses
23 minor prisoners including the Louisiana Training Institute for Juveniles and its
24 extension locations.

25 (9) "Male" means an individual whose biological reproductive system is
26 developed to fertilize the ova of a female who has, had, will have or would have, but
27 for a developmental or genetic anomaly or historical accident, the reproductive
28 system that at some point produces, transports, and utilizes sperm for fertilization.

29 (10) "Man" means a human male that has reached the age of majority.

1 (11) "Mother" means a parent who is a member of the female sex.

2 (12) "Public school" means a school which is created pursuant to R.S.
3 17:1371 and R.S. 17:3971, et seq.

4 (13) "Restroom" means a room that includes one or more toilets or urinals.

5 (14) "Sex" means an individual's biological sex, either male or female, as
6 observed or clinically verified at birth. Gender identity and other subjective terms
7 shall not apply to this Part and shall not be used as synonyms or substitutes for sex.

8 (15) "Sleeping quarters" means a room with more than one bed and in which
9 more than one individual is housed overnight.

10 (16) "Woman" means a human female who has reached the age of majority.

11 §59. Application of definitions; distinctions between the sexes

12 Notwithstanding any other provision of law to the contrary, any provision of
13 law enacted by the legislature or any rule adopted by a state agency or other entity
14 subject to the Administrative Procedure Act when applicable to an individual's sex
15 shall apply those definitions provided in R.S. 9:58.

16 §60. Safety and privacy of women and girls in facilities designated for biological
17 females

18 Notwithstanding any other provision of law to the contrary, no governmental
19 agency, as defined in R.S. 42:1102(2), shall prohibit distinctions between the sexes
20 with respect to athletics, correctional facilities, juvenile detention facilities, domestic
21 violence shelters, or other accommodation where biology, safety, or privacy are
22 implicated and that result in separate accommodations that are substantially related
23 to the important government interest of protecting the health, safety, and privacy of
24 individuals in such circumstances. Nothing in this Part shall prohibit a domestic
25 violence shelter, public school, correctional facility, or juvenile detention facility
26 from:

27 (1) Establishing single-occupancy restrooms, changing rooms, or sleeping
28 quarters that are not designated by sex.

1 (2) Redesignating a multi-occupancy restroom or sleeping quarters for the
2 exclusive use of another group authorized under this Part as needed.

3 §61. Safety and privacy in domestic violence shelters

4 A. A domestic violence shelter shall designate each multi-occupancy
5 restroom, changing room, and sleeping quarters for the exclusive use of any one of
6 the following:

7 (1) Females.

8 (2) Males.

9 (3) Members of the same family.

10 B. A restroom, changing room, or sleeping quarters within a domestic
11 violence shelter that is designated for females or males shall be used only by
12 members of that sex. No individual shall enter a restroom, changing room, or
13 sleeping quarters that is designated for females or males unless he or she is a member
14 of that sex.

15 C. The domestic violence shelter shall take reasonable steps to provide
16 individuals with privacy in restrooms, changing rooms, and sleeping quarters from
17 members of the opposite sex.

18 D. This Section shall not apply to an individual who enters a restroom,
19 changing room, or sleeping quarters designated for the opposite sex in any of the
20 following circumstances:

21 (1) To perform custodial services or maintenance of a restroom, changing
22 room, or sleeping quarters that is normally used by the opposite sex.

23 (2) To render medical assistance.

24 (3) To render assistance by law enforcement.

25 (4) To provide services or render aid during a natural disaster, a declared
26 emergency, or when necessary to prevent a serious threat to good order or safety.

27 E. Nothing in this Section shall be construed to prohibit a domestic violence
28 shelter from adopting policies necessary to accommodate persons protected under

1 the Americans with Disabilities Act or young children in need of physical assistance
2 when using restrooms, changing facilities, or sleeping quarters.

3 §62. Safety and privacy in restrooms of public schools

4 A. A public school shall designate each multi-occupancy restroom or
5 changing room for the exclusive use of either females, males, or members of the
6 same family.

7 B.(1) A restroom or changing room within a public school that is designated
8 for males or females shall be used only by members of that same sex. No individual
9 shall enter a restroom or changing room that is designated for one sex unless he or
10 she is a member of that sex.

11 (2) The public school shall take reasonable steps to provide individuals with
12 privacy in restrooms and changing rooms from members of the opposite sex.

13 C. During any public school authorized activity or event where students
14 share sleeping quarters, no student shall share sleeping quarters with a member of
15 the opposite sex, unless such persons are members of the same family, such as a
16 parent, legal guardian, sibling, or grandparent and the student has received approval
17 from the parent or legal guardian to do so.

18 D. In any other public school facility or setting where a person may be in a
19 state of undress in the presence of others, school personnel shall provide separate,
20 private areas designated for use by persons based on their sex, and no person shall
21 enter these private areas unless he or she is a member of the designated sex.

22 E. This Section shall not apply to an individual who enters a restroom,
23 changing room, or sleeping quarters designated for the opposite sex in any of the
24 following circumstances:

25 (1) To perform custodial services or maintenance of a restroom, changing
26 room, or sleeping quarters that is normally used by the opposite sex.

27 (2) To render medical assistance.

28 (3) To render assistance by law enforcement.

1 (4) To provide services or render aid during a natural disaster, a declared
2 emergency, or when necessary to prevent a serious threat to good order or safety.

3 F. Nothing in this Section shall be construed to prohibit a public school from
4 adopting policies necessary to accommodate persons protected under the Americans
5 with Disabilities Act or young children in need of physical assistance when using
6 restrooms, changing facilities, or sleeping quarters.

7 §63. Safety and privacy in correctional facilities and juvenile detention facilities

8 A. A correctional facility or juvenile detention facility shall designate each
9 multi-occupancy restroom, changing room, and sleeping quarters for the exclusive
10 use of either females, males, or members of the same family.

11 B.(1) A restroom, changing room, or sleeping quarters within a correctional
12 facility or juvenile detention facility that is designated for females or males shall be
13 used only by members of that sex. No individual shall enter a restroom, changing
14 room, or sleeping quarter that is designated for females or males unless he or she is
15 a member of that sex.

16 (2) A correctional facility or juvenile detention facility shall take reasonable
17 steps to provide individuals with privacy in restrooms, changing rooms, and sleeping
18 quarters from members of the opposite sex.

19 C. This Section shall not apply to an individual who enters a restroom,
20 changing room, or sleeping quarters designated for the opposite sex in any of the
21 following circumstances:

22 (1) To perform custodial services or maintenance of a restroom, changing
23 room, or sleeping quarters that is normally used by the opposite sex.

24 (2) To render medical assistance.

25 (3) To render assistance by law enforcement.

26 (4) To provide services or render aid during a natural disaster, a declared
27 emergency, or when necessary to prevent a serious threat to good order or safety.

28 D. Nothing in this Section shall be construed to prohibit a correctional
29 facility or juvenile detention facility from adopting policies necessary to

1 accommodate persons protected under the Americans with Disabilities Act or young
2 children in need of physical assistance when using restrooms, changing facilities, or
3 sleeping quarters.

4 §64. Standard of review

5 Any law that distinguishes between the sexes in furtherance of the provisions
6 of this Part is subject to intermediate scrutiny which forbids discrimination against
7 similarly situated individuals, but allows the law to distinguish between the sexes
8 when there is an important governmental interest.

9 §65. Remedies; rebuttable presumption; cause of action

10 A. An individual who suffers, or is likely to suffer, from any direct or
11 indirect harm as a result of a violation of this Part may assert that violation as a cause
12 of action for remedies provided for in Subsection E of this Section.

13 B. Any person who contracts with an agency, as defined in R.S. 42:1102(2),
14 of government to provide services for biological females at a domestic violence
15 shelter, juvenile detention center, corrections facility, or public school that is
16 operated at the direction of, and receives funding from, the state, a local
17 governmental subdivision, or a political subdivision shall have a cause of action
18 against the agency of the public servant who directed the contractor to violate the
19 provisions of this Part.

20 C. A person who is subjected to retaliation or other adverse action by
21 asserting rights that are affirmed by this Part shall have a cause of action for
22 remedies provided for in Subsection E of this Section.

23 D. It is a rebuttable presumption that requiring an individual to be housed
24 with members of the opposite sex at a domestic violence shelter, juvenile detention
25 center, corrections facility, or public school that is subject to the provisions of this
26 Part is inherently discriminatory and is a cognizable harm to biological women under
27 this Part.

28 E. Any person who brings a cause of action pursuant to this Part may obtain
29 appropriate relief, including but not limited to:

1 (1)(a) Injunctive relief, protective order, writ of mandamus or a prohibition,
2 or declaratory relief to prevent any violation of this Part.

3 (b) The court may waive the requirement that the petitioner post bond for
4 good cause shown.

5 (2) Actual damages, reasonable attorney fees, and costs.

6 F. All civil actions under this Part shall be initiated within two years from
7 the date that the harm occurred.

8 Section 2. If any provision or item of this Act, or the application thereof, is held
9 invalid, such invalidity shall not affect other provisions, items, or applications of the Act
10 which can be given effect without the invalid provision, item, or application and to this end
11 the provisions of this Act are hereby declared severable.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 608 Reengrossed

2024 Regular Session

Wilder

Abstract: Provides for the distinction between males and females and provides for protections for women and girls against sexual assault and harassment committed by biological men.

Proposed law provides legislative intent and provides for protections for women and girls against sexual assault and harassment committed by biological men.

Proposed law defines "boy", "changing room", "correctional facilities", "domestic violence shelter", "father", "female", "girl", "juvenile detention facilities", "male", "man", "mother", "public school", "restroom", "sex", "sleeping quarters", and "woman".

Proposed law (R.S. 9:60) provides that no governmental agency shall prohibit distinction between the sexes with respect to athletics, correctional facilities, juvenile detention facilities, domestic violence shelters, or other accommodation where biology safety or privacy are implicated. Further requires that such separate accommodations are substantially related to the important government interest of protecting health, safety, and privacy of individuals in such circumstances.

Proposed law does not prohibit a domestic violence shelter, public school, correctional facility, or juvenile detention facility from establishing single-occupancy restrooms, changing rooms, or sleeping quarters or from redesignating a restroom, changing room, or juvenile detention facility as needed.

Proposed law (R.S. 9:61) provides that a domestic violence shelter shall designate separate areas to be used by the members of each sex only, but shall not apply to the following circumstances:

- (1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that is normally used by the opposite sex.
- (2) To render medical assistance.
- (3) To render assistance by law enforcement.
- (4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

Proposed law does not prevent a domestic violence shelter from accommodating with the provisions of the ADA.

Proposed law (R.S. 9:62) provides that restrooms in public schools shall designate separate restrooms to be used by the members of each sex only, but shall not apply to the following circumstances:

- (1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that is normally used by the opposite sex.
- (2) To render medical assistance.
- (3) To render assistance by law enforcement.
- (4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

Proposed law (R.S. 9:62(C)) provides that students shall not share sleeping quarters with a member of the opposite sex on school authorized events unless such persons are members of the same family and the student has received approval from the parent or legal guardian to do so.

Proposed law does not prevent public schools from accommodating with the provisions of the ADA.

Proposed law (R.S. 9:63) provides that correctional facilities and juvenile detention facilities shall designate separate areas to be used by the members of each sex only, but shall not apply to the following circumstances:

- (1) To perform custodial services or maintenance of a restroom, changing room, or sleeping quarters that is normally used by the opposite sex.
- (2) To render medical assistance.
- (3) To render assistance by law enforcement.
- (4) To provide services or render aid during a natural disaster, a declared emergency, or when necessary to prevent a serious threat to good order or safety.

Proposed law (R.S. 9:63(D)) does not prevent correctional facilities and juvenile detention facilities from accommodating with the provisions of the ADA.

Proposed law (R.S. 9:64) provides that any law that distinguishes between sexes is subject to intermediate scrutiny which forbids discrimination against similarly situated individuals, but allows the law to distinguish between the sexes when there is an important governmental interest.

Proposed law (R.S. 9:65(D)) provides that it is a rebuttable presumption that requiring biological females to be housed with biological males at a domestic violence shelter, juvenile detention center, corrections facility, or public school is inherently discriminatory to biological females and is a cognizable harm to biological women.

Proposed law (R.S. 9:65) provides for appropriate relief in the following circumstances:

- (1)(a) Injunctive relief, protective order, writ of mandamus or a prohibition, or declaratory relief to prevent any violation of this Part.
 - (b) The court may waive the requirement that the petitioner post bond for good cause shown.
- (2) Actual damages, reasonable attorney fees, and costs.

Proposed law (R.S. 9:65(F)) provides that all actions shall be initiated within two years from the date that the harm occurred.

Proposed law provides that if any provision of the act is held invalid, application of this Act is declared severable.

(Adds R.S. 9:55-65)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Civil Law and Procedure to the original bill:

1. Make technical changes.
2. Change reference from "female" to "individual" and change reference from "biological males" to "members of the opposite sex".

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Provide that proposed law does not prohibit a domestic violence shelter, public school, correctional facility, or juvenile detention facility from establishing single-occupancy restrooms, changing rooms, or sleeping quarters or from redesignating a restroom, changing room, or juvenile detention facility as needed.