

## CHAPTER 2023-106

### Committee Substitute for House Bill No. 1521

An act relating to facility requirements based on sex; creating s. 553.865, F.S.; providing a short title; providing legislative findings; defining terms; requiring certain entities that maintain water closets or changing facilities to meet specified requirements; authorizing persons to enter a restroom or changing facility designated for the opposite sex only under certain circumstances; requiring covered entities to establish disciplinary procedures relating to restrooms and changing facilities; providing that specified persons are subject to discipline for refusing to depart certain restrooms and changing facilities under certain circumstances; providing that specified persons who enter certain restrooms or changing facilities and refuse to depart when asked to do so commit the criminal offense of trespass; providing applicability; requiring covered entities to submit specified compliance documentation to specified entities; authorizing persons to submit complaints to the Attorney General after a specified date relating to covered entities that fail to meet specified requirements; authorizing the Attorney General to bring enforcement actions after a specified date; authorizing civil penalties; requiring that certain funds be deposited in the General Revenue Fund; providing applicability; requiring the Department of Corrections, the Department of Juvenile Justice, and the State Board of Education to adopt rules; requiring the Board of Governors to adopt regulations; requiring certain governing bodies of counties or municipalities to establish specified procedures; providing severability; providing an effective date.

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

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

553.865 Private spaces.—

(1) This section may be cited as the “Safety in Private Spaces Act.”

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

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

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

(b) “Correctional institution” means any state correctional institution as defined in s. 944.02 or private correctional facility as defined in s. 944.710.

(c) “Covered entity” means any:

1. Correctional institution;

2. Detention facility;

3. Educational institution;

4. Juvenile correctional facility or juvenile prison as described in s. 985.465, any detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), and any facility used for a residential program as described in s. 985.03(44)(b), (c), or (d); or

5. Public building.

(d) “Detention facility” means a county detention facility or municipal detention facility as those terms are defined in s. 951.23.

(e) “Educational institution” means a K-12 educational institution or facility or a postsecondary educational institution or facility.

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

(g) “K-12 educational institution or facility” means:

1. A school as defined in s. 1003.01(2) operated under the control of a district school board as defined in s. 1003.01(1);

2. The Florida School for the Deaf and the Blind as described in ss. 1000.04(4) and 1002.36;

3. A developmental research (laboratory) school established pursuant to s. 1002.32(2);

4. A charter school authorized under s. 1002.33; or

5. A private school as defined in s. 1002.01(2).

(h) “Male” means a person belonging, at birth, to the biological sex which has the specific reproductive role of producing sperm.

(i) “Postsecondary educational institution or facility” means:

1. A state university as defined in s. 1000.21(6);

2. A Florida College System institution as defined in s. 1000.21(3);

3. A school district career center as described in s. 1001.44(3);

4. A college or university licensed by the Commission for Independent Education pursuant to s. 1005.31(1)(a); or

5. An institution not under the jurisdiction or purview of the commission as identified in s. 1005.06(1)(b)-(f).

(j) “Public building” means a building comfort-conditioned for occupancy which is owned or leased by the state, a state agency, or a political subdivision. The term does not include a correctional institution, a detention facility, an educational institution, a juvenile correctional facility or juvenile prison as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or any facility used for a residential program as described in s. 985.03(44)(b), (c), or (d).

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

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

(m) “Unisex 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, fitting 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.

(n) “Unisex restroom” means a room that includes one or more water closets 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.

(o) “Water closet” means a toilet or urinal.

(4) A covered entity that maintains a water closet must, 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 unisex restroom.

(5) A covered entity 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 unisex changing facility.

(6) For purposes of this section, a person may only enter a restroom or changing facility designated for the opposite sex under the following circumstances:

(a) To accompany a person of the opposite sex for the purpose of assisting or chaperoning a child under the age of 12, an elderly person as defined in s. 825.101, or a person with a disability as defined in s. 760.22 or a developmental disability as defined in s. 393.063;

(b) For law enforcement or governmental regulatory purposes;

(c) 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;

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

(e) 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.

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

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

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

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

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

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

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

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

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

(b) Instructional personnel or administrative personnel as those terms are described in s. 1012.01(2) and (3), respectively, for an educational institution, or the equivalent of such personnel for a private school, who willfully enter, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex on the premises of the educational institution and refuse to depart when asked to do so by a person specified in subparagraph (a)1. or subparagraph (a)2. commit a violation of the Principles of Professional Conduct for the Education Profession and are subject to discipline pursuant to s. 1012.795.

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

(d) Each postsecondary educational institution or facility defined under subparagraphs (3)(i)4. and 5. and private school defined under

subparagraph (3)(g)5. shall establish a disciplinary policy for administrative personnel and instructional personnel who willfully enter, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex on the premises of the educational institution and refuse to depart when asked to do so by a person specified in subparagraph(a)1. or subparagraph (a)2.

(e) Any person who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex on the premises of an educational institution and refuses to depart when asked to do so by a person specified in subparagraph (a)1. or subparagraph (a)2. commits the offense of trespass as provided in s. 810.08. This paragraph does not apply to a student of the educational institution or to administrative personnel or instructional personnel of the educational institution.

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

(b) Any delinquency program staff member, detention staff member, or residential program staff member who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex in a juvenile correctional facility, juvenile prison, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by another delinquency program staff member, detention staff member, or residential program staff member is subject to disciplinary action by the Department of Juvenile Justice.

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

(11)(a) The applicable governmental entity shall, for each public building under its jurisdiction, establish disciplinary procedures for any employee of the governmental entity who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the

opposite sex at such public building and refuses to depart when asked to do so by any other employee of the governmental entity.

(b) A person who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex at a public building and refuses to depart when asked to do so by an employee of the governmental entity for the public building that is within the governmental entity's jurisdiction commits the offense of trespass as provided in s. 810.08. This paragraph does not apply to employees of governmental entities for such public building.

(12) A covered entity that is:

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

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

(c) A K-12 educational institution or facility, Florida College System institution as defined in s. 1000.21(3), or a school district career center as described in s. 1001.44(3) shall submit documentation to the State Board of Education regarding compliance with subsections (4) and (5), as applicable, within 1 year after being established or, if such institution, facility, or center was established before July 1, 2023, no later than April 1, 2024.

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

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

(f) A juvenile correctional facility or juvenile prison as described in s. 985.465, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention as defined in s. 985.03(18)(a), or a facility used for a residential program as described in s. 985.03(44)(b), (c), or (d) shall submit documentation to the Department of Juvenile Justice regarding compliance with subsections (4) and (5), as applicable, within 1

year after being established or, if such institution or facility was established before July 1, 2023, no later than April 1, 2024.

(13) Beginning July 1, 2024, a person may submit a complaint to the Attorney General alleging that a covered entity failed to meet the minimum requirements for restrooms and changing facilities under subsection (4) or subsection (5).

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

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

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

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

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

(b) A disorder of sexual development in which the physician has determined through genetic or biochemical testing that the patient does not have a normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female, as applicable.

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

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

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



Approved by the Governor May 17, 2023.

Filed in Office Secretary of State May 17, 2023.