

1 AN ACT relating to sex-based classifications.

2 WHEREAS, men and women are legally equal but possess unique and immutable
3 biological differences that manifest prior to birth and increase as they age and experience
4 puberty; and

5 WHEREAS, the Commonwealth of Kentucky has an important interest in
6 preventing unjust discrimination and in maintaining safety, privacy, and fairness; and

7 WHEREAS, biological differences between the sexes are enduring and may, in
8 some circumstances, warrant the creation of separate social, educational, athletic, or other
9 spaces in order to ensure safety or to allow members of each sex to succeed and thrive;
10 and

11 WHEREAS, inconsistencies in judicial rulings and policy initiatives regarding sex
12 discrimination and commonly used words relating to the sexes have endangered women's
13 rights and resources and have put the existence of private, single-sex spaces in jeopardy;

14 NOW, THEREFORE,

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

16 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
17 READ AS FOLLOWS:

18 ***(1) Sections 1 to 4 of this Act may be cited as the Kentucky Women's Bill of Rights.***

19 ***(2) The purpose of the Kentucky Women's Bill of Rights is to bring clarity, certainty,***
20 ***and uniformity to the laws of Kentucky regarding sex discrimination, equality of***
21 ***the sexes, and benefits or services specifically provided to males and to females.***

22 ***(3) The Kentucky Women's Bill of Rights applies wherever Kentucky law or policy***
23 ***classifies people on the basis of sex or otherwise defines people as being male or***
24 ***female, men or women, or boys or girls, as these terms are defined in Section 2 of***
25 ***this Act.***

26 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
27 READ AS FOLLOWS:

1 As used in Sections 1 to 4 of this Act:

2 (1) "Boy" means a human male who is a legal minor under Kentucky law;

3 (2) "Equal" does not mean same or identical with respect to equality of the sexes;

4 (3) "Female," when used in reference to a natural person, means an individual who:

5 (a) Has, had, or will have through the course of normal development; or

6 (b) Would have but for a developmental anomaly, genetic anomaly, or accident;

7 the reproductive system that at some point produces ova;

8 (4) "Girl" means a human female who is a legal minor under Kentucky law;

9 (5) "Male," when used in reference to a natural person, means an individual who:

10 (a) Has, had, or will have through the course of normal development; or

11 (b) Would have but for a developmental anomaly, genetic anomaly, or accident;

12 the reproductive system that at some point produces sperm;

13 (6) "Man" means an adult human of the male sex;

14 (7) (a) "Sex," when used in reference to a natural person:

15 1. Refers to the biological sex of either male or female as observed or
16 clinically verified at birth;

17 2. Is objective and fixed; and

18 3. Does not include gender identity or any other terms intended to convey
19 a person's subjective sense of self. Gender identity and other subjective
20 terms are not synonyms or substitutes for sex.

21 (b) There are only two (2) sexes, and every individual is either male or female.

22 Individuals with differences in sex development, or DSD, sometimes
23 referred to as intersex conditions, are not a third sex. Individuals with a
24 congenital and medically verifiable DSD diagnosis shall be accommodated
25 consistent with state and federal law; and

26 (8) "Woman" means an adult human of the female sex.

27 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) Any state or local law, administrative regulation, ordinance, or policy that
3 prohibits sex discrimination shall be construed to prohibit unfair treatment of
4 males or females in relation to similarly situated members of the opposite sex. It
5 shall not be construed to prohibit separation of the sexes in the interest of
6 maintaining safety, privacy, and fairness as specified in this section.

7 (2) (a) Because the Commonwealth of Kentucky has an important interest in
8 preventing unjust discrimination and in maintaining safety, privacy, and
9 fairness, the Commonwealth and its political subdivisions and
10 instrumentalities may provide single-sex environments for males and
11 females where the sexes are not similarly situated, particularly with respect
12 to biology.

13 (b) As illustrative, non-exhaustive examples, public entities in the
14 Commonwealth may distinguish between the sexes with respect to prisons
15 and other detention centers, athletics, living facilities, locker rooms,
16 bathrooms, domestic violence shelters, and rape crisis centers without
17 violating antidiscrimination mandates.

18 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO
19 READ AS FOLLOWS:

20 (1) Any public school, public school district, state agency, department, local
21 government, special district, or subdivision of these entities that collects vital
22 statistics related to sex for the purpose of:

23 (a) Complying with state or federal antidiscrimination laws; or

24 (b) Gathering accurate public health, crime, economic, or other data;

25 shall identify each natural person who is part of the collected dataset as either
26 male or female as defined in Section 2 of this Act.

27 (2) Compliance with this section shall not require the collection of data relating to

1 *sex unless otherwise required by law, and shall not prevent the collection of*
2 *additional data points other than biological sex.*

3 ➔Section 5. If any provision of this Act or the application thereof to any person
4 or circumstance is held invalid, the invalidity shall not affect other provisions or
5 applications of the Act that can be given effect without the invalid provision or
6 application, and to this end the provisions of this Act are severable.