

1 AN ACT relating to private spaces.

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

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

5 *(1) As used in this section:*

6 *(a) "Biological sex" means the physical condition of being male or female,*
7 *which is determined by a person's chromosomes and is identified at birth by*
8 *a person's anatomy;*

9 *(b) "Elderly person" means a person sixty (60) years of age or older who is*
10 *suffering from the infirmities of aging as manifested by advanced age or*
11 *organic brain damage, or other physical, mental, or emotional dysfunction,*
12 *to the extent that the ability of the person to adequately provide for the*
13 *person's own care or protection is impaired;*

14 *(c) "Female" means a person belonging, at birth, to the biological sex which*
15 *has the specific reproductive role of producing eggs;*

16 *(d) "Male" means a person belonging, at birth, to the biological sex which has*
17 *the specific reproductive role of producing sperm;*

18 *(e) "Multi-occupancy private space" means a facility designed or designated*
19 *for simultaneous use by more than one (1) individual and in which an*
20 *individual may be in a state of undress in the presence of another*
21 *individual, regardless of whether the facility provides curtains or partial*
22 *walls for privacy, and includes a:*

23 *1. Restroom;*

24 *2. Locker room;*

25 *3. Changing room; or*

26 *4. Shower room;*

27 *(f) "Person with a disability" means a person who has a:*

1 1. Physical or mental impairment, or record of having a physical or
2 mental impairment, which substantially limits one (1) or more major
3 life activities; or

4 2. Disorder or syndrome that is attributable to intellectual disability,
5 cerebral palsy, autism, spina bifida, Down syndrome, Phelan-
6 McDermid syndrome, or Prader-Willi syndrome that manifests before
7 the age of eighteen (18) and that constitutes a substantial handicap
8 that can reasonably be expected to continue indefinitely;

9 (g) "Public building" means a building, or a portion thereof, which is owned,
10 leased, or used by a state or local government;

11 (h) "Single-occupancy private space" means a facility designed or designated
12 for use by only one (1) individual at a time, in which the individual may be
13 in a state of undress, and includes:

14 1. A single toilet with a locking door that is designed or designated as
15 unisex or for use based on sex; or

16 2. Sleeping quarters designed or designated for use by one (1) individual;
17 and

18 (i) "State or local government" means:

19 1. The executive branch of state government;

20 2. The judicial branch of state government;

21 3. The legislative branch of state government; or

22 4. Any:

23 a. City government;

24 b. County government;

25 c. Urban-county government;

26 d. Charter county government;

27 e. Consolidated local government; or

- 1 f. Unified local government.
- 2 (2) A public building which maintains a multi-occupancy private space shall, at a
3 minimum, have a:
- 4 (a) Multi-occupancy private space designated for exclusive use by females and
5 a multi-occupancy private space designated for exclusive use by males; or
6 (b) Single-occupancy private space.
- 7 (3) A person shall not enter a multi-occupancy private space designated for the
8 opposite biological sex unless he or she is entering under the following
9 circumstances:
- 10 (a) To accompany a person of the opposite biological sex for the purpose of
11 assisting or chaperoning:
- 12 1. A child under the age of twelve (12);
13 2. An elderly person; or
14 3. A person with a disability;
- 15 (b) For law enforcement or governmental regulatory purposes;
- 16 (c) For the purpose of rendering emergency medical assistance or to intervene
17 in any other emergency situation where the health or safety of another
18 person is at risk;
- 19 (d) For custodial, maintenance, or inspection purposes, provided that the multi-
20 occupancy private space is not in use; or
- 21 (e) If the appropriate designated multi-occupancy private space is out of order
22 or under repair and the multi-occupancy private space designated for the
23 opposite sex does not contain a person of the opposite sex.
- 24 (4) Any person who knowingly violates subsection (3) of this section shall be guilty of
25 a Class A misdemeanor.
- 26 (5) An employer shall not, without just cause, discharge or in any manner
27 discriminate or retaliate against any person who:

1 (a) In good faith makes a report of a possible violation of subsection (3) of this
2 section to:

3 1. Staff of a public building; or

4 2. Law enforcement; or

5 (b) Testifies, or is about to testify, in any proceeding with regard to any report
6 or investigation of a violation of subsection (3) of this section.

7 (6) (a) A person may bring a cause of action in the Circuit Court where the
8 discriminatory or retaliatory conduct occurred if he or she:

9 1. Was a participant in any reporting, investigation, or proceeding as a
10 result of an allegation pursuant to subsection (3) of this section; and

11 2. Believes that he or she has been discriminated or retaliated against
12 pursuant to subsection (5) of this section.

13 (b) All claims under this subsection shall be initiated within two (2) years of the
14 violation.

15 (7) Any prevailing claimant shall be entitled to appropriate relief, including but not
16 limited to any costs, expenses, and fees, including attorney's fees, associated with
17 the claim. This section shall not limit other remedies at law or equity available to
18 a prevailing claimant.

19 (8) Any portion of this section declared invalid shall not affect the validity of the
20 remaining portions of this section.