

1 State of Arkansas
2 93rd General Assembly
3 Regular Session, 2021

A Bill

HOUSE BILL 1882

4
5 By: Representatives Crawford, B. Smith, Bentley
6 By: Senator G. Stubblefield

For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS PRIVACY ACCOMMODATIONS
10 ACT; TO AMEND THE LAW CONCERNING PUBLIC PROPERTY; AND
11 FOR OTHER PURPOSES.

Subtitle

15 TO CREATE THE ARKANSAS PRIVACY
16 ACCOMMODATIONS ACT; AND TO AMEND THE LAW
17 CONCERNING PUBLIC PROPERTY.

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20 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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22 SECTION 1. Arkansas Code Title 22, Chapter 3, is amended to add an
23 additional subchapter to read as follows:

24 Subchapter 21 – Arkansas Privacy Accommodations Act

25
26 22-3-2101. Title.

27 This subchapter shall be known and may be cited as the "Arkansas
28 Privacy Accommodations Act".

29
30 22-3-2102. Definitions.

31 As used in this subchapter:

32 (1)(A) "Changing facility" means a facility in which a person may be
33 in a state of undress in the presence of others.

34 (B) "Changing facility" includes without limitation a:

35 (i) Locker room;

36 (ii) Changing room; and



1 (iii) Shower room;

2 (2) "Government building" means a building or structure, or the
 3 specific area of a building or structure, that is owned, leased, or otherwise
 4 under the control of a government entity;

5 (3) "Government entity" means a:

6 (A) State agency;

7 (B) Political subdivision of the state;

8 (C) Public primary or secondary school; and

9 (D) Public institution of higher education;

10 (4) "Restroom" means a facility that includes one (1) or more
 11 toilets or urinals; and

12 (5)(A) "Sex" means a person's immutable biological sex as
 13 objectively determined by anatomy and genetics existing at the time of birth.

14 (B) Evidence of a person's biological sex includes without
 15 limitation any government-issued identification document that accurately
 16 reflects a person's sex.

17
 18 22-3-2103. Government entity to provide reasonable accommodation.

19 (a) A government entity shall provide a reasonable accommodation to a
 20 person who:

21 (1) For any reason, is unwilling or unable to use a multi-
 22 occupancy restroom or changing facility that is:

23 (A) Designated for the person's sex; and

24 (B) Located within a government building; and

25 (2) Submits a written request to the government entity that the
 26 government entity provide a reasonable accommodation.

27 (b)(1) A reasonable accommodation may include, without limitation:

28 (A) Access to a single-occupancy restroom or changing
 29 facility; or

30 (B) Controlled use of an employee restroom or changing
 31 facility.

32 (2) A reasonable accommodation does not include access to a
 33 restroom or changing facility that is designated for use by members of the
 34 opposite sex while persons of the opposite sex are present or could be
 35 present.

36 (c) This section does not prohibit a government entity from adopting

1 policies necessary to accommodate persons protected under the Americans with
2 Disabilities Act of 1990, Pub. L. No. 101-336, or young children in need of
3 physical assistance when using a restroom or changing facility located in a
4 government building.

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6 22-3-2104. Private cause of action – Penalties.

7 (a) A person whose written request for a reasonable accommodation is
8 denied by a government entity has a private cause of action against the
9 government entity unless the government entity can demonstrate that the
10 reasonable accommodation would cause an undue hardship.

11 (b) A person has a private cause of action against a government entity
12 if the person:

13 (1) Encounters a member of the opposite sex in a multi-occupancy
14 restroom or changing facility that:

15 (A) Is designated for the person's sex;

16 (B) Is located in a government building; and

17 (C) The government entity gave the member of the opposite
18 sex permission to use the multi-occupancy restroom or changing facility; or

19 (2)(A) Is required by the government entity to share sleeping
20 quarters with a member of the opposite sex, and the government entity gave
21 the member of the opposite sex permission to use the sleeping quarters.

22 (B) Subdivision (b)(2)(A) of this section does not apply
23 if the persons sharing sleeping quarters are members of the same family.

24 (c)(1) A claim arising under this section shall be brought in the
25 state or federal trial court in whose jurisdiction either the person or the
26 government entity resides at the time of filing; or

27 (2) A claim arising against the State of Arkansas under this
28 section shall be filed with the Arkansas State Claims Commission under § 19-
29 10-208.

30 (d) All civil actions brought under this section shall be initiated
31 within two (2) years after the violation occurred.

32 (e) A person aggrieved under this section who prevails in court or in
33 the Arkansas Claims Commission may recover monetary damages for all
34 psychological, emotional, and physical harm suffered.

35 (f) A person who prevails on a claim brought under this section is
36 entitled to recover reasonable attorney's fees and costs.

1 (g) This section does not limit other remedies at law or equity
2 available to the aggrieved person against the government entity that controls
3 the government building.

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