

SECOND REGULAR SESSION

# HOUSE BILL NO. 2536

## 103RD GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVE LAUBINGER.

6308H.011

JOSEPH ENGLER, Chief Clerk

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### AN ACT

To repeal sections 1.020 and 163.048, RSMo, and to enact in lieu thereof five new sections relating to women's protection.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 1.020 and 163.048, RSMo, are repealed and five new sections enacted in lieu thereof, to be known as sections 1.020, 8.671, 8.672, 8.673, and 163.048, to read as follows:

1.020. As used in the statutory laws of this state, unless otherwise specially provided or unless plainly repugnant to the intent of the legislature or to the context thereof:

(1) "Certified mail" or "certified mail with return receipt requested", includes certified mail carried by the United States Postal Service, or any parcel or letter carried by an overnight, express, or ground delivery service that allows a sender or recipient to electronically track its location and provides record of the signature of the recipient;

(2) "County or circuit attorney" means prosecuting attorney;

(3) "Executor" includes administrator where the subject matter applies to an administrator;

(4) **"Female", an individual who naturally has, had, will, or would have, but for a developmental or genetic anomaly or historical accident, the reproductive system that at some point produces, transports, and utilizes eggs for fertilization;**

(5) "General election" means the election required to be held on the Tuesday succeeding the first Monday of November, biennially;

~~[(5)]~~ (6) "Guardian", if used in a section in a context relating to property rights or obligations, means conservator of the estate as defined in chapter 475. "Guardianship", if

EXPLANATION — Matter enclosed in bold-faced brackets ~~[thus]~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

17 used in a section in a context relating to rights and obligations other than property rights or  
18 obligations, means guardian of the person as defined in chapter 475;

19 ~~[(6)]~~ (7) "Handicap" means a mental or physical impairment that substantially limits  
20 one or more major life activities, whether the impairment is congenital or acquired by  
21 accident, injury, or disease, and where the impairment is verified by medical findings;

22 ~~[(7)]~~ (8) "Heretofore" means any time previous to the day when the statute containing  
23 it takes effect; and "hereafter" means the time after the statute containing it takes effect;

24 ~~[(8)]~~ (9) "In vacation" includes any adjournment of court for more than one day  
25 whenever any act is authorized to be done by or any power given to a court, or judge thereof  
26 in vacation, or whenever any act is authorized to be done by or any power given to a clerk of  
27 any court in vacation;

28 ~~[(9)]~~ (10) "Incompetent", if used in a section in a context relating to actual  
29 occupational ability without reference to a court adjudication of incompetency, means the  
30 actual ability of a person to perform in that occupation. "Incompetent", if used in a section in  
31 a context relating to the property rights and obligations of a person, means a disabled person  
32 as defined in chapter 475. "Incompetent", if used in a section in a context relating to the  
33 rights and obligations of a person other than property rights and obligations, means an  
34 incapacitated person as defined in chapter 475;

35 ~~[(10)]~~ (11) "Justice of the county court" means commissioner of the county  
36 commission;

37 ~~[(11)]~~ (12) **"Male", an individual who naturally has, had, will, or would have, but  
38 for a developmental or genetic anomaly or historical accident, the reproductive system  
39 that at some point produces, transports, and utilizes sperm for fertilization;**

40 (13) "Month" and "year". "Month" means a calendar month, and "year" means a  
41 calendar year unless otherwise expressed, and is equivalent to the words year of our Lord;

42 ~~[(12)]~~ (14) The word "person" may extend and be applied to bodies politic and  
43 corporate, and to partnerships and other unincorporated associations;

44 ~~[(13)]~~ (15) "Personal property" includes money, goods, chattels, things in action and  
45 evidences of debt;

46 ~~[(14)]~~ (16) "Place of residence" means the place where the family of any person  
47 permanently resides in this state, and the place where any person having no family generally  
48 lodges;

49 ~~[(15)]~~ (17) "Preceding" and "following", when used by way of reference to any  
50 section of the statutes, mean the section next preceding or next following that in which the  
51 reference is made, unless some other section is expressly designated in the reference;

52 ~~[(16)]~~ (18) "Property" includes real and personal property;

53       ~~[(17)]~~ **(19)** "Real property" or "premises" or "real estate" or "lands" is coextensive  
54 with lands, tenements and hereditaments;

55       **(20) "Sex", an individual's biological sex, either male or female;**

56       ~~[(18)]~~ **(21)** "State", when applied to any of the United States, includes the District of  
57 Columbia and the territories, and the words "United States" includes such district and  
58 territories;

59       ~~[(19)]~~ **(22)** "Under legal disability" includes persons within the age of minority or of  
60 unsound mind or imprisoned;

61       ~~[(20)]~~ **(23)** "Ward", if used in a section in a context relating to the property rights and  
62 obligations of a person, means a protectee as defined in chapter 475. "Ward", if used in a  
63 section in a context relating to the rights and obligations of a person other than property rights  
64 and obligations, means a ward as defined in chapter 475;

65       ~~[(21)]~~ **(24)** "Will" includes the words testament and codicil;

66       ~~[(22)]~~ **(25)** "Written" and "in writing" and "writing word for word" includes printing,  
67 lithographing, or other mode of representing words and letters, but in all cases where the  
68 signature of any person is required, the proper handwriting of the person, or his mark, is  
69 intended.

**8.671. For the purposes of sections 8.671 to 8.673, the following terms mean:**

2       **(1) "Changing room", a room or area in which a person may be in a state of**  
3 **undress in the presence of others, including a locker room or shower room;**

4       **(2) "Covered entity" includes:**

5       **(a) "Correctional center", any premises or institution where incarceration,**  
6 **evaluation, care, treatment, or rehabilitation is provided to persons who are under the**  
7 **authority of the department of corrections, as defined in section 217.010;**

8       **(b) "Juvenile detention facility", a place, institution, building or part thereof, set**  
9 **of buildings or area, whether enclosing a building or set of buildings, which has been**  
10 **designated by the juvenile court as a place of detention for juveniles and which is**  
11 **operated, administered, and staffed separately and independently of a jail or other**  
12 **detention facility for adults and used exclusively for the lawful custody and treatment of**  
13 **juveniles as defined in section 211.151;**

14       **(c) "Public building", a building owned or operated by the state or by a**  
15 **governmental subdivision of the state, including, but not limited to, a city, county, or**  
16 **school district;**

17       **(d) "School", all public elementary and high schools operated at public expense**  
18 **as defined in section 160.011. "School" shall not include private schools, religious**  
19 **schools, or homeschooling families;**

20 (e) "Shelter for victims of domestic violence", a facility established for the  
21 purpose of providing temporary residential service or facilities to family or household  
22 members who are victims of domestic violence governed by a designated authority as  
23 defined in section 455.200, including shelter care facilities under the supervision of the  
24 juvenile court;

25 (f) "State institution of higher education", a state institution governed by  
26 sections 174.020 and 174.500, including Central Missouri State University, Southeast  
27 Missouri State University, Missouri State University, Northwest Missouri State  
28 University, Missouri Western State University, Missouri Southern State University,  
29 and Harris-Stowe State University;

30 (3) "Female", the same as defined in section 1.020;

31 (4) "Male" the same as defined in section 1.020;

32 (5) "Multi-occupancy", a space that is designed for use by multiple persons  
33 simultaneously;

34 (6) "Restroom", a room that includes one or more toilets or urinals;

35 (7) "Sex", the same as defined in section 1.020;

36 (8) "Sleeping quarters", a room with a bed and in which more than one  
37 individual is housed overnight.

8.672. 1. A covered entity shall designate each multi-occupancy restroom,  
2 changing room, and sleeping quarters for the exclusive use of males or females.

3 2. Every restroom or changing room within a covered entity that is designated  
4 for females or males shall only be used by members of that sex. No individual shall  
5 enter a restroom or changing room that is designated for females or males unless he or  
6 she is a member of that sex.

7 3. The covered entity shall take reasonable steps to provide individuals with  
8 privacy from members of the opposite sex in restrooms, changing rooms, and sleeping  
9 quarters.

10 4. This section shall not apply to an individual who enters a restroom or  
11 changing room designated for the opposite sex in any of the following circumstances:

12 (1) To perform custodial, maintenance, or inspection duties;

13 (2) To render medical assistance;

14 (3) To render assistance by law enforcement;

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

17 (5) To provide coaching or athletic training during athletic events by coaching  
18 staff in changing rooms, provided that the individual ensures that no person of the  
19 opposite sex is in a state of undress prior to entering the room.

20           **5. During any activity or event authorized by a school or state institution of**  
21 **higher education where students share sleeping quarters, no student shall share sleeping**  
22 **quarters with a member of the opposite sex, unless such persons are members of the**  
23 **same family, such as a parent, guardian, sibling, or grandparent.**

24           **6. In any other facility or setting in a school or state institution of higher**  
25 **education where a person may be in a state of undress in the presence of others, school**  
26 **personnel shall provide separate, private areas designated for use by persons based on**  
27 **their sex, and no person shall enter these private areas unless he or she is a member of**  
28 **the designated sex.**

29           **7. A state institution of higher education that offers housing for students shall**  
30 **provide students the option to be housed only in a single-sex educational housing space**  
31 **with persons of the same sex.**

32           **8. Nothing in this section shall be construed to prohibit a covered entity from:**

33           **(1) Adopting policies necessary to accommodate persons protected under the**  
34 **Americans with Disabilities Act, young children in need of assistance, or elderly persons**  
35 **requiring aid;**

36           **(2) Establishing single-occupancy restrooms, changing rooms, or sleeping**  
37 **quarters, or family restrooms, changing rooms, or sleeping quarters; or**

38           **(3) Redesignating a multi-occupancy restroom, changing room, or sleeping**  
39 **quarters designated for exclusive use by one sex to a designation for exclusive use by the**  
40 **opposite sex.**

**8.673. 1. An individual who, while accessing a restroom or changing room**  
2 **designated for use by their sex, encounters a person of the opposite sex in that restroom**  
3 **or changing room has a private cause of action for declaratory and injunctive relief**  
4 **against the covered entity if the covered entity:**

5           **(1) Provided the person permission to use a restroom or changing room of the**  
6 **opposite sex; or**

7           **(2) Failed to take reasonable steps to prohibit the person of the opposite sex from**  
8 **using the restroom or changing room of the opposite sex.**

9           **2. An individual who is required by the covered entity to share sleeping quarters**  
10 **with a person of the opposite sex has a private cause of action for declaratory and**  
11 **injunctive relief against the covered entity.**

12           **3. All civil actions brought pursuant to this section shall be initiated within two**  
13 **years after the violation occurred. An individual aggrieved under this section who**  
14 **prevails in court may recover reasonable attorney fees and costs from the offending**  
15 **covered entity.**

163.048. 1. As used in this section, the following terms mean:

2 (1) "Athletics", any interscholastic athletic games, contests, programs, activities,  
3 exhibitions, or other similar competitions organized and provided for students;

4 (2) "Sex", ~~[the two main categories of male and female into which individuals are~~  
5 ~~divided based on an individual's reproductive biology at birth and the individual's genome]~~  
6 **the same as defined in section 1.020.**

7 2. (1) The general assembly hereby finds the following:

8 (a) A noticeable disparity continues between the athletics participation rates of  
9 students who are male and students who are female; and

10 (b) Courts have recognized that classification by sex is the only feasible classification  
11 to promote the governmental interest of providing opportunities for athletics for females.

12 (2) The general assembly hereby declares that it is the public policy of this state to  
13 further the governmental interest of ensuring that sufficient opportunities for athletics remain  
14 available for females to remedy past discrimination on the basis of sex.

15 3. (1) Except as provided under subdivision (2) of this subsection, no private school,  
16 public school district, public charter school, or public or private institution of postsecondary  
17 education shall allow any student to compete in an athletics competition that is designated for  
18 the biological sex opposite to the student's biological sex as correctly stated on the student's  
19 official birth certificate as described in subsection 4 of this section or, if the student's official  
20 birth certificate is unobtainable, another government record.

21 (2) A private school, public school, public charter school, or public or private  
22 institution of postsecondary education may allow a female student to compete in an athletics  
23 competition that is designated for male students if no corresponding athletics competition  
24 designated for female students is offered or available.

25 4. For purposes of this section, a statement of a student's biological sex on the  
26 student's official birth certificate or another government record shall be deemed to have  
27 correctly stated the student's biological sex only if the statement was:

28 (1) Entered at or near the time of the student's birth; or

29 (2) Modified to correct any scrivener's error in the student's biological sex.

30 5. A private school, public school district, public charter school, or public or private  
31 institution of postsecondary education that violates subdivision (1) of subsection 3 of this  
32 section shall not receive any state aid under this chapter or chapter 173 or any other revenues  
33 from the state.

34 6. The parent or guardian of any student, or any student who is over eighteen years of  
35 age, who is deprived of an athletic opportunity as a result of a violation of this section shall  
36 have a cause of action for injunctive or other equitable relief, as well as payment of  
37 reasonable attorney's fees, costs, and expenses of the parent, guardian, or student. The relief

38 and remedies set forth shall not be deemed exclusive and shall be in addition to any other  
39 relief or remedies permitted by law.

40 7. The department of elementary and secondary education and the department of  
41 higher education and workforce development shall each promulgate all necessary rules and  
42 regulations for the implementation and administration of this section. Such rules and  
43 regulations shall ensure compliance with state and federal law regarding the confidentiality of  
44 student medical information. Any rule or portion of a rule, as that term is defined in section  
45 536.010, that is created under the authority delegated in this section shall become effective  
46 only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
47 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
48 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
49 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant  
50 of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall be  
51 invalid and void.

52 8. ~~[The provisions of this section shall expire on August 28, 2027.]~~

53 9.] If any provision of this section or the application thereof to anyone or to any  
54 circumstance is held invalid, the remainder of this section and the application of such  
55 provisions to others or other circumstances shall not be affected thereby.

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