

By: Peña

H.B. No. 2801

A BILL TO BE ENTITLED

AN ACT

relating to the use of a bathroom, locker room, or shower facility in a public school.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Education Code, is amended by adding Subchapter F to read as follows:

SUBCHAPTER F. BATHROOM, LOCKER ROOM, AND SHOWER FACILITY USE

Sec. 38.251. SEPARATION BASED ON BIOLOGICAL SEX REQUIRED.

A school district shall adopt a policy providing that only persons of the same biological sex may be present at the same time in any bathroom, locker room, or shower facility in a building owned by the district.

Sec. 38.252. ALTERNATE ACCOMMODATIONS FOR CERTAIN STUDENTS. (a) A school district shall provide reasonable alternate bathroom, locker room, or shower facility accommodations to a student if:

(1) the student asserts a gender identity that is different from the student's biological sex; and

(2) the student's parent or guardian consents in writing to the provision of alternate accommodations.

(b) A school district must comply with the policy adopted under Section 38.251 in providing alternate accommodations under Subsection (a).

(c) This section does not require a school district to

1 construct, maintain, or modify a bathroom, locker room, or shower
2 facility to provide any alternate accommodations required under
3 Subsection (a).

4 Sec. 38.253. LIABILITY FOR VIOLATION. (a) A school
5 district is liable to a student who encounters a person not of the
6 student's biological sex in a bathroom, locker room, or shower
7 facility that is designated for use by persons of the student's
8 biological sex if any employee of the district:

9 (1) knew that the person was not of the same biological
10 sex for which the bathroom, locker room, or shower facility was
11 designated; and

12 (2) permitted the person to enter or failed to take
13 reasonable steps to prevent the person from entering the bathroom,
14 locker room, or shower facility.

15 (b) It is a defense to liability under this section that the
16 person entered the bathroom, locker room, or shower facility for a
17 custodial purpose, for the purpose of repairing the facility, to
18 give medical assistance, or to supervise or assist a student.

19 (c) A student who prevails in a suit under this section
20 shall be awarded:

21 (1) exemplary damages in the amount of \$2,000;

22 (2) actual damages, including damages for mental
23 anguish even if an injury other than mental anguish is not shown;

24 (3) court costs; and

25 (4) reasonable attorney's fees.

26 (d) The cause of action created by this section is
27 cumulative of any other remedy provided by common law or statute.

1 (e) This section does not override the immunity from
2 personal liability granted in Section 22.0511 or other law.

3 Sec. 38.254. SINGLE-OCCUPANT FACILITIES NOT PROHIBITED.
4 This subchapter does not prohibit a school district from
5 constructing or maintaining a bathroom, locker room, or shower
6 facility designed for use by only one person at a time or from
7 modifying existing facilities for that use.

8 SECTION 2. This Act takes effect September 1, 2015.