

# SENATE BILL NO. 1389

103RD GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCHROER.

5761S.011

KRISTINA MARTIN, Secretary

## AN ACT

To amend chapter 537, RSMo, by adding thereto one new section relating to liability for violations of privacy.

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

Section A. Chapter 537, RSMo, is amended by adding thereto  
2 one new section, to be known as section 537.775, to read as  
3 follows:

537.775. 1. For purposes of this section, the  
2 following terms mean:

3 (1) "Biological sex", the biological and physical  
4 indications of male or female in the context of reproductive  
5 potential or capacity as determined by chromosomes,  
6 naturally occurring sex hormones, and anatomy, and as  
7 indicated on an individual's birth certificate without  
8 regard to an individual's psychological, chosen, or  
9 subjective experience of gender;

10 (2) "Business entity", any corporation, association,  
11 firm, partnership, limited liability company, sole  
12 proprietorship, or any other type of business entity in this  
13 state that operates a premises, regardless of whether the  
14 premises is open to the public;

15 (3) "Changing facility", a space designated for  
16 multiple individuals to dress or undress within the same  
17 space, including, but not limited to, a dressing room,

18 fitting room, locker room, changing room, or shower room.

19 The term "changing facility" does not include a unisex  
20 changing facility;

21 (4) "Disabled", an individual with a mental, physical,  
22 or developmental impairment that substantially limits one or  
23 more major life activities or the ability to provide  
24 adequately for one's care or protection where such  
25 impairment is verified by medical findings;

26 (5) "First responder", any law enforcement officer,  
27 firefighter, paramedic, emergency medical technician,  
28 advanced emergency medical technician, or other persons  
29 trained and authorized by law or rule to render emergency  
30 medical assistance or treatment;

31 (6) "Gender", the psychological, behavioral, social,  
32 and cultural aspects of being male or female;

33 (7) "Premises", real property that includes restrooms  
34 or changing facilities and that is in the sole possession of  
35 and under the direct control of the business entity;

36 (8) "Restroom", a space that includes a toilet or  
37 urinal. The term "restroom" does not include a unisex  
38 restroom;

39 (9) "Unisex changing facility", a room intended for a  
40 single occupant or family in which one or more persons may  
41 be in a state of undress, including, but not limited to, a  
42 dressing room, fitting room, locker room, changing room, or  
43 shower room that is enclosed by floor-to-ceiling walls and  
44 accessed by a full door with a secure lock that prevents  
45 another individual from entering while the changing facility  
46 is in use;

47 (10) "Unisex restroom", a room that includes a toilet  
48 or urinal and that is intended for a single occupant or  
49 family, is enclosed by floor-to-ceiling walls, and is

50 accessed by a full door with a secure lock that prevents  
51 another individual from entering while the room is in use.

52 2. Any individual may bring a cause of action against  
53 a business entity that has a policy allowing for individuals  
54 of one biological sex into changing facilities or restrooms  
55 designated for use by the opposite biological sex and in  
56 which the individual's privacy or expectation of privacy was  
57 violated in a changing facility or restroom of the business  
58 entity that matched the individual's biological sex by an  
59 individual of the opposite biological sex.

60 3. The prevailing plaintiff of a cause of action  
61 brought pursuant to this section shall be entitled to  
62 recover:

- 63 (1) Nominal damages;
- 64 (2) Compensatory damages;
- 65 (3) Punitive damages in an amount not less than ten  
66 thousand dollars; and
- 67 (4) Costs and reasonable attorney's fees.

68 4. It shall be an affirmative defense to an action  
69 brought pursuant to this section if the individual that was  
70 permitted entry into a changing facility or restroom that  
71 did not match the individual's biological sex was:

72 (1) A disabled individual or a child under the age of  
73 thirteen who was accompanied, escorted, supervised, or  
74 assisted by an adult, who was of the same biological sex as  
75 the biological sex for which the changing room or restroom  
76 was designated;

77 (2) An employee or agent of the business entity that  
78 entered, after a clear and understandable oral notice of  
79 entry, the changing facility or restroom to:

- 80 (a) Clean the changing facility or restroom; or

81           (b) Secure or ensure the safety or well-being of  
82 individuals within the changing facility or restroom; or  
83           (3) A first responder in the lawful performance of his  
84 or her duties.

✓