

SENATE BILL NO. 437

INTRODUCED BY C. GLIMM

A BILL FOR AN ACT ENTITLED: "AN ACT FOR THE CODIFICATION AND GENERAL REVISION OF THE LAWS RELATING TO THE DEFINITION FOR THE WORDS SEX, FEMALE, ~~AND MALE~~, MAN, WOMAN, FATHER, AND MOTHER WHEN REFERRING TO A HUMAN; PROVIDING THAT THE DEFINITION OF SEX REFERS TO BIOLOGICAL SEX AND NOT GENDER IDENTITY OR SEXUAL INTERCOURSE; PROVIDING THAT THE DEFINITION OF SEX IS LIMITED TO TWO TYPES OF SEXES WHICH ARE REFERRED TO AS MALE AND FEMALE; PROVIDING THAT THE DEFINITIONS OF MALE, ~~AND FEMALE~~, MAN, WOMAN, FATHER, AND MOTHER REFER TO BIOLOGICAL SEX AND NOT SUBJECTIVE GENDER IDENTITY; CLARIFYING THE MEANING OF THE TERM "GENDER"; PROVIDING AN EXCEPTION FOR DETENTION CENTERS AND STATE PRISONS; AMENDING SECTIONS 2-18-208, 2-18-606, 7-15-4207, 7-34-2123, 10-2-403, 13-27-408, 13-35-301, 13-38-201, 13-38-203, 13-38-205, 19-2-802, 20-6-808, 20-7-1306, 20-7-1703, 20-9-327, 20-11-116, 20-25-501, 20-25-707, 22-2-306, 23-2-505, 33-1-201, 35-20-209, 39-2-912, 39-29-101, 39-71-401, 40-1-107, 40-1-311, 40-1-401, 40-5-804, 40-5-907, 40-5-1031, 40-6-701, 40-6-703, 41-3-210, 41-5-103, 42-2-204, 44-2-411, 44-2-412, 45-5-625, 46-18-101, 46-19-301, 46-19-401, 49-1-102, 49-2-101, 49-3-101, 50-4-720, 50-5-105, 50-5-602, 50-11-101, 50-15-101, 50-19-103, 50-19-501, 50-60-214, 53-20-142, 53-21-121, 53-21-142, 53-24-310, 53-30-312, 60-5-514, 60-5-522, 61-5-107, 72-1-103, 72-17-106, AND 90-14-104, MCA; REPEALING SECTION 1-1-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

WHEREAS, IN HUMAN BEINGS, THERE ARE TWO -- AND ONLY TWO -- SEXES: MALE AND FEMALE, WHICH REFER TO THE TWO BODY STRUCTURES (PHENOTYPES) THAT, IN NORMAL DEVELOPMENT, CORRESPOND TO ONE OR THE OTHER GAMETE -- SPERM FOR MALES AND OVA FOR FEMALES; AND

WHEREAS, EVERY INDIVIDUAL IS EITHER MALE OR FEMALE; AND

WHEREAS, AN INDIVIDUAL'S SEX CAN BE OBSERVED OR CLINICALLY VERIFIED AT OR BEFORE BIRTH; AND

WHEREAS, RARE DISORDERS OF SEXUAL DEVELOPMENT ARE NOT EXCEPTIONS TO THE BINARY NATURE OF SEX; AND

WHEREAS, IN NO CASE IS AN INDIVIDUAL'S SEX DETERMINED BY STIPULATION OR SELF-IDENTIFICATION; AND

(d) K-12 education;

(e) higher education; and

(f) military affairs.

(3) Members may include representatives from local government, not-for-profit agencies, federal agencies, business, labor unions, volunteer groups, and private citizens.

(4) To the extent possible, membership of the commission must be balanced according to race, ethnicity, age, gender, as provided in [section 1], and disabilities.

(5) The commission shall assist in the development and coordination of state community service programs, integration of services, dissemination of information, recruitment of volunteers, recruitment and training of volunteer crewleaders, development of materials, and evaluation of and accountability for the services provided.

(6) Commission members are entitled to payment and reimbursement as provided in 2-15-122(5)."

NEW SECTION. Section 66. Placement of inmates by gender identity. Notwithstanding the definitions in [section 1], a detention center administrator shall make housing placements of inmates based on the administrator's discretion using the administrator's duty of care and to ensure the safety of inmates.

NEW SECTION. Section 67. Placement of inmates by gender identity. Notwithstanding the definitions in [section 1], the warden of a state prison shall make housing placements of inmates based on the warden's discretion using the warden's duty of care and to ensure the safety of inmates.

NEW SECTION. Section 68. Repealer. The following section of the Montana Code Annotated is repealed:

1-1-201. Terms of wide applicability.

NEW SECTION. Section 69. Codification instruction. (1) [Section 1] is intended to be codified as an integral part of Title 1, chapter 1, part 2, and the provisions of Title 1, chapter 1, part 2, apply to [section 1].

(2) [Section 66] is intended to be codified as an integral part of Title 7, chapter 32, part 22, and the

1 provisions of Title 7, chapter 32, part 22, apply to [section 66].

2 (3) [Section 67] is intended to be codified as an integral part of Title 53, chapter 30, part 1, and the

3 provisions of Title 53, chapter 30, part 1, apply to [section 67].

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5 NEW SECTION. Section 70. Severability. If a part of [this act] is invalid, all valid parts that are
6 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
7 the part remains in effect in all valid applications that are severable from the invalid applications.

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9 NEW SECTION. Section 71. Effective date. [This act] is effective on passage and approval.

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