

## **Women's Bill of Rights; Biological Sex Definition; Standard of Judicial Review; SB 180**

**SB 180** establishes the Women's Bill of Rights and provides a definition of biological sex for purposes of statutory construction. The bill sets intermediate constitutional scrutiny as the standard of judicial review to be applied with regard to laws and rules and regulations that distinguish between the sexes and identifies those areas where distinctions between the sexes are related to important governmental objectives. The bill also requires certain entities that collect vital statistics for the purposes outlined in the bill to identify each individual who is part of the collected data set as either male or female at birth. The bill includes that individuals born with a medically verifiable diagnosis of disorder/differences in sex development are to be provided available federal and state legal protections.

### ***Defined Terms***

The bill provides that, despite any provision of state law to the contrary, the following apply with respect to the application of an individual's biological sex pursuant to any state laws or rules and regulations:

- An individual's "sex" means an individual's sex at birth, either male or female;
- A "female" means an individual whose biological reproductive system is developed to produce ova;
- A "male" means an individual whose biological reproductive system is developed to fertilize the ova of a female;
- "Woman" and "girl" refer to human females, and "man" and "boy" refer to human males;
- "Mother" means a parent of the female sex, and "father" means a parent of the male sex; and
- With respect to biological sex, separate accommodations are not inherently unequal.

### ***Standard of Judicial Review***

The bill notes that laws and rules and regulations that distinguish between the sexes are subject to intermediate constitutional scrutiny. The bill states intermediate constitutional scrutiny prohibits unfair discrimination against similarly situated male and female individuals but allows the law to distinguish between the sexes where such distinctions are substantially related to important governmental objectives.

The bill requires and states that, despite any provision of state law to the contrary, distinctions between the sexes be considered substantially related to the important governmental objectives of protecting the health, safety, and privacy of individuals, with respect to the following areas:

- Athletics;
- Prisons or other detention facilities;
- Domestic violence centers;
- Rape crisis centers;
- Locker rooms;
- Restrooms; and
- Other areas where biology, safety, or privacy are implicated that result in separate accommodations.

### ***Vital Statistics Collection***

The bill requires any school district, or public school, and any state agency, department, or office or political subdivision to identify each individual as either male or female at birth who is part of collected vital statistics data sets for the purpose of complying with anti-discrimination laws or gathering accurate public health, crime, economic, or other data.