

Consequences of HB111/SB92

- The legislature is already **grappling with the unintended consequences of the embryo ruling**; the passage of this bill would have similar fallout and numerous unintended consequences.
- Transgender people whose bodies once produced ova, but who have taken testosterone and now have full beards, would be **legally required to use the women's restroom in public**.
- The bill is vague enough to **justify scrutiny and harassment of women who don't "look enough like women" to a bystander** – we've seen this happen across the country in places where this kind of bill has been passed. [School-age girls are already having their privacy invaded and their safety jeopardized](#) by bystanders, such as a Utah girl who was placed under police protection after being accused of being transgender. And **other women who aren't transgender have even been targeted just for having short hair**. Bills like this place the sex of those women in question and lead to the invasion of their privacy in order to verify their sex.
- It **opens up private businesses and state facilities to unnecessary legal liability** by adding new accommodation requirements for intersex individuals. Under current law, there is no need for such requirements. It is easier and less legally risky to leave these definitions unaltered.
- The **supposedly immutable definition given in last year's bill has changed** for this year's bill – contradicting the assertion that "woman" and "man" are immutable, easily-definable categories.
- The bill **denies the biological realities of intersex people** (also known as "differences of sex development") and forcibly sorts them into inappropriate legal categories.
- The language of this bill is **in conflict with [section 115.42 of the Prison Rape Elimination Act](#)**, which states that judgments must be made on a case-by-case basis when deciding whether to assign a transgender individual to a facility for male or female inmates.
- Proponents of the bill claim it will bring clarity to the Code of Alabama, yet the bill's definition of sex as immutable puts it in **direct conflict with the change of sex referenced in 22-9A-19(d)**. This is not accounted for in the text of the bill and will make this section of the code less clear.
- Single-sex spaces already exist because under current legal code, one must change their physical sex in order to change their legal sex. The only thing this bill would allow for, even with amendments, is **the segregation of transgender people into bathrooms which do not fit their appearance or sex**.
- This is the [first step in the playbook](#) to strip [all transgender people](#) of their legal recognition, medical care, bodily autonomy, and voting rights.

- This bill will force men who are transgender into women's spaces.
 - It would force [men who are transgender](#), who have taken testosterone and have full beards, into women's spaces. They would be legally required to use the women's restroom in public. This has made them the [targets of accusations of predatory intent](#).
- The bill's sponsor, Representative DuBose, said at the committee hearing that this bill "does not create new law or change current law."
 - The Code of Alabama already accounts for the change of legal sex in subsection 22-9A-19(d). This allows for the changing of legal sex only after sex reassignment surgery has been performed on an individual.
 - "(d) Upon receipt of a certified copy of an order of a court of competent jurisdiction indicating that the **sex** of an individual born in this state **has been changed by surgical procedure** and that the name of the individual has been changed, the certificate of birth of the individual shall be amended as prescribed by rules to reflect the changes."
 - This is not accounted for in the text of the bill and will make this section of the code less clear.
- Representative DuBose also said that "While this bill will allow for [single]-sex spaces, it does not require or create them."
 - If bathrooms are defined anywhere in state law as single-sex spaces, then defining sex as fixed and unchangeable means that people who have transitioned their legal sex cannot use those spaces wherever those spaces are protected by law.
 - The bill provides the definitions and legal argument for enforcing a bathroom ban on transgender people at a local level, [wherever building code specifies bathrooms for both sexes](#).
 - 10-12: This bill would provide that state and local public entities may establish separate single-sex spaces or environments in certain circumstances.
 - 135-138: (b) Neither the state nor any political subdivision of the state shall be prohibited from establishing separate single-sex spaces or environments for males and females when biology, privacy, safety, or fairness are implicated.
 - The only thing this bill would allow for, even with amendments, is the segregation of transgender people into bathrooms which do not fit their appearance or sex.
- Representative DuBose also said that the bill "does not limit or define gender identity, or prevent anyone from identifying however they wish."
 - The gender identity amendment is a "think whatever you like" clause. It doesn't correct any of the other problems with the bill.
 - The bill still defines social categories as biological ones, counter to the historical and continued coexistence of transgender people in society.
- The bill ignores the biological realities of intersex people.
 - The sponsor understands intersex people as those with "indeterminate" sex at birth, but intersex conditions are much wider than that.
 - Androgen Insensitivity Syndrome can cause women to be born with vulva (female genitalia) and internal testes where ovaries would normally lie. This means that

these women are conclusively determined to be female at birth, are raised and socialized as girls and women, but have bodies which produce sperm cells.

- Under this bill's definition, at the time this syndrome is discovered within them, these women are either hand-waved as "disabled" or they are legally now defined as men, despite having lived as women, having always known themselves to be women, and being born with healthy, typical vulva.
- This legislation fails to account for them and for the complexities of every other intersex variation, which are numerous.
- To repeat the words of biologist Samuel Bartley in his testimony opposing HB111, "This bill invents definitions that biologists don't really use. It uses words such as 'genetic', 'sperm', and 'ova', but not in the same way we use them. It reduces the enormous spectrum of biology into fixed categories that the authors believe to be true, but that are not actually true. Categories *must always* be open to change and refinement," which this bill does not allow for.
- The Independent Women's Forum (which wrote the bill and provided a speaker from out-of-state) is an organization whose stated goal is [to provide an "alternative to feminist tenets"](#) – in opposition to women's rights.
- In the testimony of Paula Scanlan, the former Penn State swimmer, she noted having trauma as a result of a sexual assault she survived in 2016.
 - She attributes the inflammation of that trauma to the presence of Lia Thomas, notably not any action Lia took.
 - Lia is not being judged on the content of her character, but rather her transgender status.
 - The issue Paula took was with the shape of Lia's genitals, yet this bill does not allow for re-definition of a person's legal sex after reassignment surgery.
 - This will force those women into men's spaces, which is an extremely dangerous situation for them to be in.
- Brooke Forde — who is [ranked third in the country](#) behind Thomas in the 500-yard freestyle — [said that she does not have any issue with Thomas competing](#). "I have great respect for Lia," she said in a statement read by her father, sportswriter Pat Forde, on [Yahoo Sports'](#) College Football Enquirer podcast. "Social change is always a slow and difficult process and we rarely get it correct right away. Being among the first to lead such a social change requires an enormous amount of courage, and I admire Lia for her leadership that will undoubtedly benefit many trans athletes in the future." She continued, "I believe that treating people with respect and dignity is more important than any trophy or record will ever be, which is why I will not have a problem racing against Lia at NAAs this year."
- Senator Weaver introduced an identical bill in the Senate which she claimed was for women's rights – nationally this bill is known as the "Women's Bill of Rights." Representative DuBose claims about the House version that it "is not creating any new rights." The sponsors seem unaware of what their bill would actually do for the people of Alabama.

If the sponsor's intent is to permit transgender people to continue to use the same bathrooms, and if it's not the sponsor's intent to define trans people out of existence, then the bill text needs to be changed. This could be achieved by one of the following means:

- Remove any language defining sex as fixed or unchangeable.
- Defining sex as fixed at birth, but stating that this is merely the definition of sex, and this definition should not be read in a way that prohibits people from changing their sex.
- Defining sex as fixed at birth for the purposes of gathering state statistics, but establishing something like statutory or legal sex that acknowledges for the purposes of admittance to sex-segregated spaces or for legal purposes, people may change that sex.
- Acknowledge the existence of social gender (how someone looks and moves about the world) as separate from sex, create a legal category for it, and provide that men and women's spaces be single-gender regardless of the sex of the individual, thus necessarily including transgender people (this is the way society has always functioned – prior to sex reassignment surgery, transgender people still peacefully integrated into society like this without anyone's knowledge, and some still do, not that it's anyone's business what's in anyone else's pants).