

HOUSE BILL NO. 300

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A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING LAWS REGARDING DISCRIMINATORY PRACTICES IN EDUCATION; PROVIDING THAT IT IS AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EDUCATIONAL INSTITUTION TO ALLOW A MALE PERSON TO PARTICIPATE IN ATHLETIC PROGRAMS DESIGNATED FOR FEMALE PERSONS; PROVIDING THAT IT IS AN UNLAWFUL DISCRIMINATORY PRACTICE FOR AN EDUCATIONAL INSTITUTION TO FAIL TO PROVIDE A PERSON WITH ACCESS TO A RESTROOM, LOCKER ROOM, SHOWER AREA, OR SLEEPING QUARTER THAT IS INACCESSIBLE BY A PERSON OF THE OPPOSITE SEX WHILE IN USE; PROVIDING EXCEPTIONS; AND AMENDING SECTION 49-2-307, MCA."

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

Section 1. Section 49-2-307, MCA, is amended to read:

"49-2-307. Discrimination in education. (1) It is an unlawful discriminatory practice for an educational institution:

(a) to exclude, expel, limit, or otherwise discriminate against an individual seeking admission as a student or an individual enrolled as a student in the terms, conditions, or privileges of the institution because of race, creed, religion, sex, marital status, color, age, physical disability, or national origin or because of mental disability, unless based on reasonable grounds;

(b) to make or use a written or oral inquiry or form of application for admission that elicits or attempts to elicit information or to make or keep a record concerning the race, color, sex, marital status, age, creed, religion, physical or mental disability, or national origin of an applicant for admission, except as permitted by regulations of the commission;

(c) to print, publish, or cause to be printed or published a catalog or other notice or advertisement indicating a limitation, specification, or discrimination based on the race, color, creed, religion, age, physical or mental disability, sex, marital status, or national origin of an applicant for admission; or

(d) to announce or follow a policy of denial or limitation of educational opportunities of a group or its members, through a quota or otherwise, because of race, color, sex, marital status, age, creed, religion, physical or mental disability, or national origin.

(2) For the purposes of this section, it is not an unlawful discriminatory practice for a student to:

(a) call another student by the student's legal name; or

(b) refer to another student by the student's sex.

(3) It is an unlawful discriminatory practice for an educational institution that operates, sponsors, or facilitates athletic programs or activities to permit a person whose sex is male to participate in an athletic program or activity that is designated for females.

(4) It is an unlawful discriminatory practice for an educational institution to fail to provide an individual access to a restroom, locker room, shower area, or sleeping quarter that is not accessible by a person of the opposite sex while in use by the individual.

(a) This subsection (4) does not apply to a person who enters a restroom, locker room, shower area, or sleeping quarter designated for the opposite sex:

(i) for custodial or maintenance purposes;

(ii) to render medical assistance; or

(iii) during a natural disaster, emergency, or when necessary to prevent a serious threat to order or safety.

(b) Nothing in this subsection (4) may be construed to prohibit an educational institution from:

(i) adopting policies necessary to accommodate persons protected under the Americans with Disabilities Act of 1990, 42 U.S.C. 12101, et seq., young children in need of assistance, or elderly persons requiring aid;

(ii) establishing single-occupancy or family restrooms, locker rooms, shower areas, or sleeping quarters; or

(iii) redesignating a multi-occupancy restroom, locker room, shower area, or sleeping quarter from

1 a designation for exclusive use by one sex to a designation for exclusive use by the opposite sex."

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3 NEW SECTION. Section 2. Severability. If a part of [this act] is invalid, all valid parts that are
4 severable from the invalid part remain in effect. If a part of [this act] is invalid in one or more of its applications,
5 the part remains in effect in all valid applications that are severable from the invalid applications.

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