

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~~; 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

1 ARTICLE IX

2 OTHER ARRANGEMENTS UNAFFECTED

3 Nothing contained in this compact shall be construed to abrogate or impair any agreement or other
4 arrangement which a party state may have with a nonparty state for the confinement, rehabilitation or treatment
5 of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional
6 arrangements.

7 ARTICLE X

8 CONSTRUCTION AND SEVERABILITY

9 The provisions of this compact shall be liberally construed and shall be severable. If any phrase,
10 clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating
11 state or of the United States or the applicability thereof to any government, agency, person or circumstance is
12 held invalid, the validity of the remainder of this compact and the applicability thereof to any government,
13 agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the
14 constitution of any state participating therein, the compact shall remain in full force and effect as to the
15 remaining states and in full force and effect as to the state affected as to all severable matters."

16
17 **Section 44.** Section 49-1-102, MCA, is amended to read:

18 **"49-1-102. Freedom from discrimination.** (1) The right to be free from discrimination because of
19 race, creed, religion, color, sex, as defined in 4-1-204 [section 1], sexual orientation, sexual identity, sexual
20 expression, physical or mental disability, age, or national origin is recognized as and declared to be a civil right.

21 This right must include but not be limited to:

- 22 (a) the right to obtain and hold employment without discrimination; and
23 (b) the right to the full enjoyment of any of the accommodation facilities or privileges of any place
24 of public resort, accommodation, assemblage, or amusement.

25 (2) This section does not prevent the nonarbitrary consideration in adoption proceedings of
26 relevant information concerning the factors listed in subsection (1). Consideration of religious factors by a
27 licensed child-placing agency that is affiliated with a particular religious faith is not arbitrary consideration of
28 religion within the meaning of this section."