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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

PAM POE, et al.,

Plaintiffs,

v.

RAÚL LABRADOR, et al.,

Defendants.

Case No. 1:23-cv-00269-CWD

**DECLARATION OF
ARIELLA BAREL IN SUPPORT OF
PLAINTIFFS' MOTION FOR A
PRELIMINARY INJUNCTION**

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I, Ariella Barel, declare under penalty of perjury of the laws of the United States of America that the following is true and correct, and state:

1. I am an attorney with the law firm Groombridge, Wu, Baughman and Stone LLP, counsel of record for Plaintiffs Pam Poe, Penny Poe, Peter Poe, Jane Doe, Joan Doe, and John Doe. I have been admitted *pro hac vice* in this Court for this action. I make the following statements of my own personal knowledge, and, if called as a witness, I would and could testify competently thereto.

2. Attached hereto as Exhibit A is a true and correct copy of Idaho House Bill 509 of the 65th Legislature, introduced during the Second Regular Session of 2020, as published on the Idaho Legislature's official website.

3. Attached hereto as Exhibit B is a true and correct copy of the engrossed version of Idaho House Bill 500 of the 65th Legislature, introduced during the Second Regular Session of 2020, as published on the Idaho Legislature's official website.

4. Attached hereto as Exhibit C is a true and correct copy of the engrossed version of Idaho Senate Bill 1100 of the 67th Legislature, introduced during the First Regular Session of 2023, as published on the Idaho Legislature's official website.

5. Attached hereto as Exhibit D is a true and correct copy of a Tweet from Tammy Nichols' official Twitter account, dated April 30, 2023.

6. Attached hereto as Exhibit E is a true and correct copy of a Tweet from Tammy Nichols' official Twitter account, dated April 28, 2023.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: July 21, 2023

A handwritten signature in black ink, appearing to read 'Ariella Barel', is written over a light gray rectangular background.

Ariella Barel, Esq.

EXHIBIT A

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature Second Regular Session - 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 509

BY STATE AFFAIRS COMMITTEE

AN ACT

RELATING TO VITAL STATISTICS; AMENDING SECTION 39-240, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS AND TO MAKE A TECHNICAL CORRECTION; AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-245A, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING CERTAIN FACTS INCLUDED IN AND AMENDMENTS TO BIRTH CERTIFICATES; AND AMENDING CHAPTER 2, TITLE 39, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 39-279, IDAHO CODE, TO PROVIDE SEVERABILITY.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 39-240, Idaho Code, be, and the same is hereby amended to read as follows:

39-240. SHORT TITLE -- LEGISLATIVE FINDINGS. (1) This act shall be known and may be cited as the "Idaho Vital Statistics Act."

(2) The legislature finds:

(a) As early as 1632, government officials began tracking vital statistics, specifically births, deaths, and marriages;

(b) Today, state and local vital records offices record over eleven million (11,000,000) vital events annually in the United States;

(c) Material facts included in vital records include the date of birth, the individual's sex, the location of birth, the parents' identities, and the date of death;

(d) The purpose of documenting factual information on vital records is to help the government fulfill one of its most basic duties: protecting the health and safety of its citizens;

(e) Numerous courts have recognized that the purpose of vital records is to maintain an accurate database of factual information regarding births, deaths, and other vital events in a given jurisdiction. See Sea v. U.S. Citizenship & Immigration Servs., 2015 WL 5092509, at *4 (D. Minn. Aug. 28, 2015) ("The public does have an interest in having accurate records on vital statistics..."); Ampadu v. U.S. Citizenship & Immigration Servs., Dist. Dir., 944 F. Supp. 2d 648, 655 (C.D. Ill. 2013) (acknowledging "the public's interest in having accurate records on vital statistics"); Boiko v. Holder, 2013 WL 709047, at *2 (D. Colo. Feb. 26, 2013) ("[T]he government, and the public at large, would appear to benefit from having the most accurate vital statistics records possible."); J.R. v. Utah, 261 F. Supp. 2d 1268, 1294 (D. Utah 2002) ("The State also has a significant interest in the accuracy of the records it keeps, particularly vital records like birth certificates.");

(f) According to the national research council committee on national statistics, factual information contained in vital records is used to help diagnose and solve problems that impact national health, including tracking and diagnosing disparities in mortality rates based on age and

1 sex, identifying factors that account for the significant differences
 2 in life expectancy between males and females, measuring and seeking so-
 3 lutions to socioeconomic inequalities in health based on sex and age,
 4 and studying infant death rates based on sex, location, birth weight,
 5 and other information collected from vital records;

6 (g) Factual information from vital records is also necessary for na-
 7 tional security. It is used to identify potential disease epidemics,
 8 such as the zika virus, that may disproportionately impact one sex over
 9 the other; expose covert bioterrorist attacks, such as determining
 10 whether a sudden increase in certain symptoms in a population is due to
 11 random chance or should be further investigated; and identify criminals
 12 and terrorists, where vital records can be used to uncover fraudulently
 13 obtained driver's licenses or passports; and

14 (h) Allowing individuals to alter their vital records, including birth
 15 certificates, based upon subjective feelings or experiences undermines
 16 the government's interest in having accurate vital records.

17 SECTION 2. That Chapter 2, Title 39, Idaho Code, be, and the same is
 18 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
 19 ignated as Section 39-245A, Idaho Code, and to read as follows:

20 39-245A. CERTIFICATES OF BIRTH -- MATERIAL FACTS INCLUDED -- AMEND-
 21 MENTS.

22 (1) (a) The legislature finds that:

23 (i) There is a compelling interest in maintaining accurate, quan-
 24 titative, biology-based material facts on Idaho certificates of
 25 birth that provide material facts fundamental to the performance
 26 of government functions that secure the public health and safety,
 27 including but not limited to identifying public health trends,
 28 assessing risks, conducting criminal investigations, and helping
 29 individuals determine their biological lineage, citizenship, or
 30 susceptibility to genetic disorders;

31 (ii) The equal protection clause of the fourteenth amendment to
 32 the United States constitution prohibits purposeful discrimina-
 33 tion, not facially neutral laws of general applicability, such as
 34 a biology-based definition of sex that has been consistently ap-
 35 plied since our nation's founding;

36 (iii) Decades of court opinion have upheld the argument that bio-
 37 logical distinctions between male and female are a matter of sci-
 38 entific fact, and biological sex is an objectively defined cate-
 39 gory that has obvious, immutable, and distinguishable character-
 40 istics;

41 (iv) Identification of biological sex on a birth certificate im-
 42 pacts the health and safety of all individuals. For example, the
 43 society for evidence based gender medicine has declared that the
 44 conflation of sex and gender in health care is alarming, subjects
 45 hundreds of thousands of individuals to the risk of unintended
 46 medical harm, and will greatly impede medical research;

47 (v) Vital statistics are defined in section 39-241(21), Idaho
 48 Code, as data, being the plural of datum, which is a known fact;

1 (vi) Idaho certificates of birth are of an evidentiary character
2 and prima facie evidence of the facts recited therein, according
3 to section 39-274, Idaho Code;

4 (vii) Age and sex, unlike the names of natural parents whose rights
5 have been terminated, are legally applicable facts fundamental to
6 the performance of public and private policies and contracts;

7 (viii) The failure to maintain accurate, quantitative vital statis-
8 tistics and legal definitions upon which the government and others
9 may with confidence rely constitutes a breach of the public trust;
10 and

11 (ix) The government has a compelling interest in maintaining the
12 public trust and confidence and a duty to fulfill, to the best of
13 its ability, those functions that rely on accurate vital statis-
14 tics.

15 (b) Based on the findings in paragraph (a) of this subsection, the leg-
16 islature directs that an Idaho certificate of birth shall document spe-
17 cific quantitative, material facts at the time of birth, as provided in
18 subsection (2) of this section.

19 (2) Any certificate of birth issued under the provisions of this chap-
20 ter shall include the following quantitative statistics and material facts
21 specific to that birth: time of birth, date of birth, sex, birth weight,
22 birth length, and place of birth.

23 (3) For purposes of this chapter, "sex" means the immutable biological
24 and physiological characteristics, specifically the chromosomes and inter-
25 nal and external reproductive anatomy, genetically determined at conception
26 and generally recognizable at birth, that define an individual as male or fe-
27 male.

28 (4) The quantitative statistics and material facts identified in sub-
29 section (2) of this section may be amended within one (1) year of the filing
30 of the certificate by submitting to the registrar a notarized affidavit of
31 correction that:

32 (a) Is on a form prescribed by the registrar;

33 (b) Is signed by:

34 (i) The parents identified on the certificate of birth; or

35 (ii) The child's legal guardian;

36 (c) Is signed by the physician or other person in attendance who pro-
37 vided the medical information and certified to the facts of birth; and

38 (d) Declares that the information contained on the certificate of birth
39 incorrectly represents a material fact at the time of birth.

40 After one (1) year, the quantitative statistics and material facts
41 identified in subsection (2) of this section may be challenged in court only
42 on the basis of fraud, duress, or material mistake of fact, with the burden of
43 proof upon the party challenging the acknowledgment.

44 (5) In those instances in which an individual suffers from a physiolog-
45 ical disorder of sexual development and the individual's biological sex can-
46 not be recognized at birth as male or female based upon externally observable
47 reproductive anatomy, the physician shall make a presumptive determination
48 of the individual's sex, which may thereafter be amended based on the appro-
49 priate combination of genetic analysis and evaluation of the individual's

1 naturally occurring internal and external reproductive anatomy as provided
2 in section (4) of this section.

3 (6) Notwithstanding any provision of this section to the contrary, a
4 hospital may correct a birth certificate for a clerical or data entry error
5 at any time by submitting a notarized affidavit on a form specified by the
6 registrar with any appropriate supporting documentation.

7 SECTION 3. That Chapter 2, Title 39, Idaho Code, be, and the same is
8 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
9 ignated as Section 39-279, Idaho Code, and to read as follows:

10 39-279. SEVERABILITY. The provisions of this chapter are hereby de-
11 clared to be severable, and if any provision of this chapter or the applica-
12 tion of such provision to any person or circumstance is declared invalid for
13 any reason, such declaration shall not affect the validity of the remaining
14 portions of this chapter.

EXHIBIT B

LEGISLATURE OF THE STATE OF IDAHO
Sixty-fifth Legislature Second Regular Session - 2020

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 500, As Amended in the Senate

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO THE FAIRNESS IN WOMEN'S SPORTS ACT; AMENDING TITLE 33, IDAHO
2 CODE, BY THE ADDITION OF A NEW CHAPTER 62, TITLE 33, IDAHO CODE, TO
3 PROVIDE A SHORT TITLE, TO PROVIDE LEGISLATIVE FINDINGS AND PURPOSE, TO
4 PROVIDE FOR THE DESIGNATION OF ATHLETIC TEAMS, TO PROVIDE PROTECTION
5 FOR EDUCATIONAL INSTITUTIONS, TO PROVIDE FOR A CAUSE OF ACTION, AND TO
6 PROVIDE SEVERABILITY.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended
10 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
11 ter 62, Title 33, Idaho Code, and to read as follows:

12 CHAPTER 62

13 FAIRNESS IN WOMEN'S SPORTS ACT

14 33-6201. SHORT TITLE. This chapter shall be known and may be cited as
15 the "Fairness in Women's Sports Act."

16 33-6202. LEGISLATIVE FINDINGS AND PURPOSE. (1) The legislature finds
17 that there are "inherent differences between men and women," and that these
18 differences "remain cause for celebration, but not for denigration of the
19 members of either sex or for artificial constraints on an individual's op-
20 portunity," United States v. Virginia, 518 U.S. 515, 533 (1996);

21 (2) These "inherent differences" range from chromosomal and hormonal
22 differences to physiological differences;

23 (3) Men generally have "denser, stronger bones, tendons, and liga-
24 ments" and "larger hearts, greater lung volume per body mass, a higher red
25 blood cell count, and higher haemoglobin," Neel Burton, The Battle of the
26 Sexes, Psychology Today (July 2, 2012);

27 (4) Men also have higher natural levels of testosterone, which affects
28 traits such as hemoglobin levels, body fat content, the storage and use of
29 carbohydrates, and the development of type 2 muscle fibers, all of which re-
30 sult in men being able to generate higher speed and power during physical
31 activity, Doriane Lambelet Coleman, Sex in Sport, 80 Law and Contemporary
32 Problems 63, 74 (2017) (quoting Gina Kolata, Men, Women and Speed. 2 Words:
33 Got Testosterone?, N.Y. Times (Aug. 21, 2008));

34 (5) The biological differences between females and males, especially
35 as it relates to natural levels of testosterone, "explain the male and female
36 secondary sex characteristics which develop during puberty and have life-
37 long effects, including those most important for success in sport: cate-
38 gorically different strength, speed, and endurance," Doriane Lambelet Cole-
39 man and Wickliffe Shreve, "Comparing Athletic Performances: The Best Elite
40 Women to Boys and Men," Duke Law Center for Sports Law and Policy;

1 (6) While classifications based on sex are generally disfavored, the
2 Supreme Court has recognized that "sex classifications may be used to com-
3 pensate women for particular economic disabilities [they have] suffered, to
4 promote equal employment opportunity, [and] to advance full development of
5 the talent and capacities of our Nation's people," *United States v. Vir-*
6 *ginia*, 518 U.S. 515, 533 (1996);

7 (7) One place where sex classifications allow for the "full develop-
8 ment of the talent and capacities of our Nation's people" is in the context of
9 sports and athletics;

10 (8) Courts have recognized that the inherent, physiological differ-
11 ences between males and females result in different athletic capabilities.
12 See e.g. *Kleczek v. Rhode Island Interscholastic League, Inc.*, 612 A.2d
13 734, 738 (R.I. 1992) ("Because of innate physiological differences, boys
14 and girls are not similarly situated as they enter athletic competition.");
15 *Petrie v. Ill. High Sch. Ass'n*, 394 N.E.2d 855, 861 (Ill. App. Ct. 1979)
16 (noting that "high school boys [generally possess physiological advantages
17 over] their girl counterparts" and that those advantages give them an unfair
18 lead over girls in some sports like "high school track");

19 (9) A recent study of female and male Olympic performances since 1983
20 found that, although athletes from both sexes improved over the time span,
21 the "gender gap" between female and male performances remained stable.
22 "These suggest that women's performances at the high level will never match
23 those of men." Valerie Thibault et al., *Women and men in sport performance:*
24 *The gender gap has not evolved since 1983*, 9 *Journal of Sports Science and*
25 *Medicine* 214, 219 (2010);

26 (10) As Duke Law professor and All-American track athlete Doriane Cole-
27 man, tennis champion Martina Navratilova, and Olympic track gold medalist
28 Sanya Richards-Ross recently wrote: "The evidence is unequivocal that
29 starting in puberty, in every sport except sailing, shooting, and riding,
30 there will always be significant numbers of boys and men who would beat the
31 best girls and women in head-to-head competition. Claims to the contrary are
32 simply a denial of science," Doriane Coleman, Martina Navratilova, et al.,
33 *Pass the Equality Act, But Don't Abandon Title IX*, *Washington Post* (Apr. 29,
34 2019);

35 (11) The benefits that natural testosterone provides to male athletes
36 is not diminished through the use of puberty blockers and cross-sex hor-
37 mones. A recent study on the impact of such treatments found that even "after
38 12 months of hormonal therapy," a man who identifies as a woman and is taking
39 cross-sex hormones "had an absolute advantage" over female athletes and
40 "will still likely have performance benefits" over women, Tommy Lundberg
41 et al., "Muscle strength, size and composition following 12 months of gen-
42 der-affirming treatment in transgender individuals: retained advantage for
43 the transwomen," *Karolinksa Institutet* (Sept. 26, 2019); and

44 (12) Having separate sex-specific teams furthers efforts to promote sex
45 equality. Sex-specific teams accomplish this by providing opportunities
46 for female athletes to demonstrate their skill, strength, and athletic abil-
47 ities while also providing them with opportunities to obtain recognition and
48 accolades, college scholarships, and the numerous other long-term benefits
49 that flow from success in athletic endeavors.

1 33-6203. DESIGNATION OF ATHLETIC TEAMS. (1) Interscholastic, inter-
2 collegiate, intramural, or club athletic teams or sports that are sponsored
3 by a public primary or secondary school, a public institution of higher edu-
4 cation, or any school or institution whose students or teams compete against
5 a public school or institution of higher education shall be expressly desig-
6 nated as one (1) of the following based on biological sex:

- 7 (a) Males, men, or boys;
8 (b) Females, women, or girls; or
9 (c) Coed or mixed.

10 (2) Athletic teams or sports designated for females, women, or girls
11 shall not be open to students of the male sex.

12 (3) A dispute regarding a student's sex shall be resolved by the school
13 or institution by requesting that the student provide a health examination
14 and consent form or other statement signed by the student's personal health
15 care provider that shall verify the student's biological sex. The health
16 care provider may verify the student's biological sex as part of a routine
17 sports physical examination relying only on one (1) or more of the following:
18 the student's reproductive anatomy, genetic makeup, or normal endogenously
19 produced testosterone levels. The state board of education shall promul-
20 gate rules for schools and institutions to follow regarding the receipt and
21 timely resolution of such disputes consistent with this subsection.

22 33-6204. PROTECTION FOR EDUCATIONAL INSTITUTIONS. A government
23 entity, any licensing or accrediting organization, or any athletic associa-
24 tion or organization shall not entertain a complaint, open an investigation,
25 or take any other adverse action against a school or an institution of higher
26 education for maintaining separate interscholastic, intercollegiate, in-
27 tramural, or club athletic teams or sports for students of the female sex.

28 33-6205. CAUSE OF ACTION. (1) Any student who is deprived of an ath-
29 letic opportunity or suffers any direct or indirect harm as a result of a vi-
30 olation of this chapter shall have a private cause of action for injunctive
31 relief, damages, and any other relief available under law against the school
32 or institution of higher education.

33 (2) Any student who is subject to retaliation or other adverse action by
34 a school, institution of higher education, or athletic association or organ-
35 ization as a result of reporting a violation of this chapter to an employee
36 or representative of the school, institution, or athletic association or or-
37 ganization, or to any state or federal agency with oversight of schools or
38 institutions of higher education in the state, shall have a private cause of
39 action for injunctive relief, damages, and any other relief available under
40 law against the school, institution, or athletic association or organiza-
41 tion.

42 (3) Any school or institution of higher education that suffers any di-
43 rect or indirect harm as a result of a violation of this chapter shall have a
44 private cause of action for injunctive relief, damages, and any other relief
45 available under law against the government entity, licensing or accrediting
46 organization, or athletic association or organization.

47 (4) All civil actions must be initiated within two (2) years after the
48 harm occurred. Persons or organizations who prevail on a claim brought pur-

1 suant to this section shall be entitled to monetary damages, including for
2 any psychological, emotional, and physical harm suffered, reasonable attor-
3 ney's fees and costs, and any other appropriate relief.

4 33-6206. SEVERABILITY. The provisions of this chapter are hereby de-
5 clared to be severable and if any provision of this chapter or the applica-
6 tion of such provision to any person or circumstance is declared invalid for
7 any reason, such declaration shall not affect the validity of the remaining
8 portions of this chapter.

EXHIBIT C

LEGISLATURE OF THE STATE OF IDAHO
Sixty-seventh Legislature First Regular Session - 2023

IN THE SENATE

SENATE BILL NO. 1100, As Amended

BY EDUCATION COMMITTEE

AN ACT

1 RELATING TO PROTECTING THE PRIVACY AND SAFETY OF STUDENTS IN PUBLIC SCHOOLS;
2 AMENDING TITLE 33, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 66, TITLE
3 33, IDAHO CODE, TO PROVIDE LEGISLATIVE FINDINGS, TO DEFINE TERMS, TO ES-
4 TABLISH PROVISIONS REGARDING SCHOOL RESTROOMS, TO PROVIDE EXEMPTIONS,
5 TO PROVIDE FOR REASONABLE ACCOMMODATION IN CERTAIN INSTANCES, TO PRO-
6 VIDE FOR A CIVIL CAUSE OF ACTION, AND TO PROVIDE FOR PREEMPTION; PROVID-
7 ING SEVERABILITY; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE
8 DATE.
9

10 Be It Enacted by the Legislature of the State of Idaho:

11 SECTION 1. That Title 33, Idaho Code, be, and the same is hereby amended
12 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
13 ter 66, Title 33, Idaho Code, and to read as follows:

14 CHAPTER 66

15 PROTECTING THE PRIVACY AND SAFETY OF STUDENTS IN PUBLIC SCHOOLS

16 33-6601. LEGISLATIVE FINDINGS. The legislature finds that:

17 (1) There are real and inherent physical differences between men and
18 women;

19 (2) Every person has a natural right to privacy and safety in restrooms
20 and changing facilities where such person might be in a partial or full state
21 of undress in the presence of others;

22 (3) This natural right especially applies to students using public
23 school restrooms and changing facilities where student privacy and safety is
24 essential to providing a safe learning environment for all students;

25 (4) Requiring students to share restrooms and changing facilities with
26 members of the opposite biological sex generates potential embarrassment,
27 shame, and psychological injury to students, as well as increasing the like-
28 lihood of sexual assault, molestation, rape, voyeurism, and exhibitionism;

29 (5) Providing separate public school restrooms and changing facilities
30 for the different biological sexes is a long-standing and widespread prac-
31 tice protected by federal law, state law, and case law;

32 (6) Federal legislative action, federal executive action, and fed-
33 eral court judgments that prevent public schools from maintaining separate
34 restrooms and changing facilities for different biological sexes are in-
35 consistent with the United States constitution and violate the privacy and
36 safety rights of students; and

37 (7) A statewide policy ensuring separate school restrooms and chang-
38 ing facilities on the basis of biological sex is substantially related to the
39 important governmental interest in protecting the privacy and safety of all
40 students.

1 33-6602. DEFINITIONS. For the purposes of this chapter:

- 2 (1) "Changing facility" means a facility in which a person may be in a
3 state of undress in the presence of others, including a locker room, changing
4 room, or shower room.
5 (2) "Public school" means any public school teaching K-12 students
6 within an Idaho school district or charter school.
7 (3) "Sex" means the immutable biological and physiological character-
8 istics, specifically the chromosomes and internal and external reproductive
9 anatomy, genetically determined at conception and generally recognizable at
10 birth, that define an individual as male or female.

11 33-6603. SCHOOL RESTROOMS. (1) Every public school restroom or chang-
12 ing facility accessible by multiple persons at the same time must be:

- 13 (a) Designated for use by male persons only or female persons only; and
14 (b) Used only by members of that sex.

15 (2) No person shall enter a multi-occupancy restroom or changing facil-
16 ity that is designated for one sex unless such person is a member of that sex.
17 The public school with authority over the building shall ensure that all re-
18 strooms and changing facilities provide its users with privacy from members
19 of the opposite sex.

20 (3) In any other public school setting where a person may be in a state
21 of undress in the presence of others, school personnel must provide separate
22 and private areas designated for use by persons based on their sex, and no
23 person may enter these private areas unless such person is a member of the
24 designated sex.

25 (4) During any school authorized activity or event where persons share
26 overnight lodging, school personnel must provide separate sleeping quar-
27 ters for members of each sex. No person shall share sleeping quarters, a
28 restroom, or a changing facility with a person of the opposite sex, unless
29 the persons are members of the same family.

30 33-6604. EXEMPTIONS. This chapter shall not apply:

- 31 (1) To single-occupancy restrooms and changing facilities or restrooms
32 and changing facilities that are conspicuously designated for unisex or fam-
33 ily use;
34 (2) To restrooms and changing facilities that have been temporarily
35 designated for use by that person's biological sex;
36 (3) To a person of one sex who uses a single-sex facility designated for
37 the opposite sex, if such single-sex facility is the only facility reason-
38 ably available at the time of the person's use of the facility;
39 (4) To a person employed to clean, maintain, or inspect a restroom or
40 single-sex facility;
41 (5) To a person who enters a restroom or facility to render medical as-
42 sistance;
43 (6) To a person who is in need of assistance and, for the purposes
44 of receiving that assistance, is accompanied by a family member, a legal
45 guardian, or the person's designee who is a member of the designated sex for
46 the single-sex restroom or changing facility;
47 (7) To coaching staff and personnel during athletic events; or

1 (8) During an ongoing natural disaster or emergency, or when necessary
2 to prevent a serious threat to good order or student safety.

3 33-6605. REASONABLE ACCOMMODATION. (1) A public school shall provide
4 a reasonable accommodation to a student who:

5 (a) For any reason, is unwilling or unable to use a multi-occupancy re-
6 stroom or changing facility designated for the person's sex and located
7 within a public school building, or multi-occupancy sleeping quarters
8 while attending a public school-sponsored activity; and

9 (b) Provides a written request for reasonable accommodation to the pub-
10 lic school.

11 (2) A reasonable accommodation does not include access to a restroom,
12 changing facility, or sleeping quarter that is designated for use by members
13 of the opposite sex while persons of the opposite sex are present or could be
14 present.

15 33-6606. CIVIL CAUSE OF ACTION. (1) Any student who, while accessing a
16 public school restroom, changing facility, or sleeping quarters designated
17 for use by the student's sex, encounters a person of the opposite sex has a
18 private cause of action against the school if:

19 (a) The school gave that person permission to use facilities of the op-
20 posite sex; or

21 (b) The school failed to take reasonable steps to prohibit that person
22 from using facilities of the opposite sex.

23 (2) Any civil action arising under this chapter must be commenced
24 within four (4) years after the cause of action has occurred.

25 (3) Any student who prevails in an action brought under this chapter may
26 recover from the defendant public school five thousand dollars (\$5,000) for
27 each instance that the student encountered a person of the opposite sex while
28 accessing a public school restroom, changing facility, or sleeping quarters
29 designated for use by aggrieved student's sex. The student may also recover
30 monetary damages from the defendant public school for all psychological,
31 emotional, and physical harm suffered.

32 (4) Any student who prevails in action brought under this chapter is en-
33 titled to recover reasonable attorney's fees and costs from the defendant
34 public school.

35 (5) Nothing in this chapter limits other remedies at law or equity
36 available to the aggrieved student against the school.

37 33-6607. PREEMPTION. This chapter preempts any law, regulation, pol-
38 icy, or decree enacted or adopted by any city, county, municipality, or other
39 political subdivision within the state that purports to permit or require
40 public schools to allow persons to use facilities designated for the other
41 sex.

42 SECTION 2. SEVERABILITY. The provisions of this act are hereby declared
43 to be severable and if any provision of this act or the application of such
44 provision to any person or circumstance is declared invalid for any reason,
45 such declaration shall not affect the validity of the remaining portions of
46 this act.

1 SECTION 3. An emergency existing therefor, which emergency is hereby
2 declared to exist, this act shall be in full force and effect on and after
3 July 1, 2023.

EXHIBIT D

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@nicholsforidaho

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EXHIBIT E

← Tweet

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NEWSMAX

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