

**MONTANA FOURTH JUDICIAL DISTRICT COURT,  
MISSOULA COUNTY**

CASEY PERKINS, an individual;  
SPENCER MCDONALD, an  
individual; KASANDRA  
REDDINGTON, an individual; JANE  
DOE, an individual; and JOHN DOE,  
an individual,

Plaintiffs,

vs.

STATE OF MONTANA;  
GREGORY GIANFORTE, in his  
official capacity as Governor of  
the State of Montana; and AUSTIN  
KNUDSEN, in his official capacity  
as Attorney General of the State of  
Montana,

Defendants.

Dept. 5

Cause No. DV 25-282

Hon. Shane A. Vannatta

**TEMPORARY RESTRAINING  
ORDER AND ORDER  
SETTING PRELIMINARY  
INJUNCTION HEARING**

Plaintiffs Casey Perkins, Spencer McDonald, Kasandra Reddington, Jane Doe, and John Doe (collectively, “Plaintiffs”) move for a temporary restraining order to enjoin Defendants the State of Montana, Governor Gregory Gianforte, and Attorney General Austin Knudsen (collectively, “Defendants”) from enforcing House Bill 121 (the “Act”), adopted on March 27, 2025. Plaintiffs allege that the Act violates their rights under the Montana Constitution, including the rights to equal protection, privacy, to pursue life’s basic necessities, and due process.

Plaintiffs seek a temporary restraining order until such time as the Court conducts a hearing and rules on Plaintiffs’ concurrently filed motion for a preliminary injunction. Pursuant to Mont. Code Ann. §§ 27-19-315, 27-19-201(1)

and for the reasons set forth in Plaintiffs’ brief in support, verified complaint, and supporting declarations, the Court concludes a temporary restraining order should issue and sets a hearing on Plaintiffs’ motion for a preliminary injunction.

In their motion and supporting papers, Plaintiffs have made the requisite showing that they are likely to succeed on, or have at least shown serious questions going to, the merits of their claims that the Act violates the Montana Constitution. *See* § 27-19-201(1), MCA; *Stensvad v. Newman Ayers Ranch, Inc.*, 2024 MT 246, ¶ 23, 418 Mont. 378, 557 P.3d 1240.

First, Plaintiffs have shown at least serious questions going to the merits of their equal protection claim as follows. *See* Mont. Const. art. II, § 4. The Act discriminates on the basis of transgender status, intersex status, and sex. *See Cross v. State*, Cause No. DV-23-541, 2023 WL 6392607, Order Granting Plaintiffs’ Motion for Preliminary Injunction at \*8–9 (Mont. Fourth Jud. Dist. Ct., Missoula Cnty., Sept. 27, 2023), *aff’d*, *Cross by & through Cross v. State*, 2024 MT 303, 560 P.3d 637. Because transgender status is a suspect classification and because equal treatment on the basis of sex is a fundamental right, the Act is subject to strict scrutiny. *See id.* at \*9–11 & n.7. The Act fails strict scrutiny because it is motivated by animus and supported by no evidence that its restrictions advance its purported purpose to protect women’s safety and privacy. *See Powell v. State Comp. Ins. Fund*, 2000 MT 321, ¶ 17, 302 Mont. 518, 15 P.3d 877.

Second, Plaintiffs have shown at least serious questions going to the merits of their claim that the Act violates their constitutional right to privacy as follows.

*See* Mont. Const. art. II, § 10. Decisions about how to express a person’s gender identity are personal and private, as is information about a person’s transgender or intersex status, anatomy, genetics, and medical history. *See State v. Nelson* (1997), 283 Mont. 231, 239–41, 941 P.2d 441, 446–48. The Act infringes on these personal and private decisions and information.

Third, Plaintiffs have shown at least serious questions going to the merits of their claim that the Act burdens their right to pursue life’s basic necessities as follows. *See* Mont. Const. art. II, § 3. Access to restrooms and other sex-separated facilities consistent with a person’s gender identity is a basic necessity. *See Wadsworth v. State* (1996), 275 Mont. 287, 299, 911 P.2d 1165, 1172. Under the Act, however, transgender people cannot use sex-separated facilities that correspond with their gender identity and intersex people cannot use sex-separated facilities at all.

Fourth, Plaintiffs have at least shown serious questions going to the merits of their claim that the Act violates due process by giving intersex people no notice of how they can comply with the law as follows. *See City of Whitefish v. O’Shaughnessy* (1985), 216 Mont. 433, 440, 704 P.2d 1021, 1025. Intersex people do not fit in the Act’s restrictive definitions of “female” or “male.” As a result, they do not know whether they are permitted to use any sex-separated facilities at all. *See State v. Dugan*, 2013 MT 38, ¶¶ 66–67, 369 Mont. 39, 303 P.3d 755; *Edwards v. State of Montana*, Cause No. DV-23-1026, Order on Cross Motions for Summary Judgment (Mont. Fourth Jud. Dist. Ct., Missoula Cnty., Feb. 18, 2025).

Plaintiffs have also established that they are likely to suffer irreparable harm in the absence of a temporary restraining order as follows. It is well settled in Montana that, “[f]or the purposes of a preliminary injunction, the loss of a constitutional right constitutes an irreparable injury.” *Planned Parenthood of Montana v. State by & through Knudsen*, 2022 MT 157, ¶ 6, 409 Mont. 378, 515 P.3d 301 (citation omitted). Plaintiffs are concretely harmed by the Act because it denies them access to restrooms, changing rooms, and sleeping quarters that align with their gender identity.

Plaintiffs have established the remaining two factors as follows. The remaining factors — the balance of the equities and the public interest — merge into one inquiry when the government opposes a temporary restraining order or preliminary injunction. *Planned Parenthood of Mont. v. State*, 2024 MT 228, ¶ 39, 418 Mont. 253, 557 P.3d 440. The balance of equities tips in Plaintiffs’ favor “because ‘the government suffers no harm from an injunction that merely ends unconstitutional practices.’” *Id.* (quoting *Doe v. Kelly*, 878 F.3d 710, 718 (9th Cir. 2017)). And “it is always in the public interest to prevent the violation of a party’s constitutional rights.” *Id.* (citations and internal quotation marks omitted). Here, granting a temporary restraining order will serve the public interest by preserving the status quo until such time as the Court can rule on the application for a preliminary injunction.


## ORDER

Based on the foregoing and for the reasons set forth in Plaintiffs' brief in support, verified complaint, and accompanying declarations,

IT IS HEREBY ORDERED that Defendants and their agents, employees, representatives, and successors are TEMPORARILY RESTRAINED and ENJOINED from enforcing the Act, directly or indirectly, until such time as the Court rules on Plaintiffs' motion for preliminary injunction.

IT IS FURTHER ORDERED that the Court sets a hearing on Plaintiffs' preliminary injunction motion at **1:00 PM, Monday, April 21, 2025**, in District Courtroom 1 of the Missoula County Courthouse. The temporary restraining order shall not expire after 10 days as provided by Mont. Code Ann. § 27-19-316; the Court finds good cause to extend the length of the temporary restraining order as allowed under Mont. Code Ann. § 27-19-317 due to the unavailability of the undersigned judge.

DATED: April 2, 2025, at 10:30 AM, MDT.

  
Shane A. Vannatta, District Court Judge