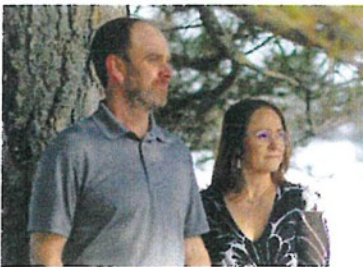


WHAT STATES CAN DO TO PROTECT

## Girls' Privacy and Safety at School and College

### Joe and Serena Wailes'

11-year-old daughter was assigned to share a bedroom with a boy (who identified female) on an overnight school trip. The young girl only found out because the male student told her on the first night of the trip. The Wailes' daughter was extremely uncomfortable.



But school district policy assigned rooms based on gender identity rather than sex—without informing the parents or other students. Policies like these violate student privacy.

Women deserve to have their privacy and dignity safeguarded at school, and their right to privacy and safety should not be dependent on others' beliefs about gender.

Unfortunately, many schools and colleges are implementing policies that devalue girls by allowing males into the women's locker rooms, restrooms, and even sleeping arrangements. Allowing males into these spaces preserved for girls' privacy puts them in a vulnerable position for inappropriate exposure, harassment, and potential abuse.

### GIRLS' PRIVACY & SAFETY BEING STRIPPED AWAY

**LOCKER ROOMS:** UPenn female swimmers were exposed to a naked man in the women's locker room. They felt the inherent discomfort of the situation, and they knew it was wrong. One swimmer on the team later pointed out that they even shared a locker room with kids when they went on a swim team training trip. "So there were children as young as four and five that were changing in the same locker room that we were."

**SHOWERS:** At Sun Prairie East High School in Wisconsin, four freshman girls were exposed to a male student who identifies as female while the girls were showering in the locker room. The girls were shocked and left as quickly as possible – fleeing their own locker room because they were so uncomfortable.

**HARASSMENT:** A.C., a 15-year-old girl from West Virginia, had to change in the girls' locker room with a male athlete identifying as a girl. A.C. was forced to endure vulgar, sexual comments directed at her by this student over the course of the season.



WHAT STATES CAN DO TO PROTECT

# Girls' Privacy and Safety at School and College



## Key Points:

- Women and girls should have the opportunity to excel in education without being stripped of their dignity.
- Girls and boys deserve private spaces to shower and undress.
- A girl shouldn't be forced to share a locker room, hotel room, or restroom with a boy.
- The government should protect the privacy and safety of all students, not undermine it.
- Students experiencing discomfort with their bodies need compassionate support. This law gives schools, students, and parents options so they can accommodate every student while respecting everyone's privacy.

## FREQUENTLY ASKED QUESTIONS

### Q. How can a school or college determine a person's sex?

Schools can rely on the sex listed on a student's original, unaltered birth certificate. If a birth certificate is unavailable or has been changed, then schools can simply ask a person to identify his or her sex.

### Q. If students who identify as the opposite sex use either the privacy facilities of their sex or single-user facilities, won't they be harassed?

Schools have the duty to stop bullying of any kind, for any reason. But authorizing students to use the locker rooms and restrooms of the opposite sex does nothing to solve this problem. It merely violates other students' constitutional right to privacy. Bodily privacy laws allows schools and colleges to find solutions that protect the interests of *all* students without compromising the privacy and safety of women and girls.

### Q. Does this bill comply with federal laws and Supreme Court rulings on gender identity and equal protection?

Yes. Title IX and its regulations allow schools and colleges to maintain separate "living facilities," "locker room[s]," "shower facilities," and "toilets, locker room, and shower facilities" for boys and girls based on sex. See 20 U.S.C. § 1686; 34 C.F.R. § 106.33.

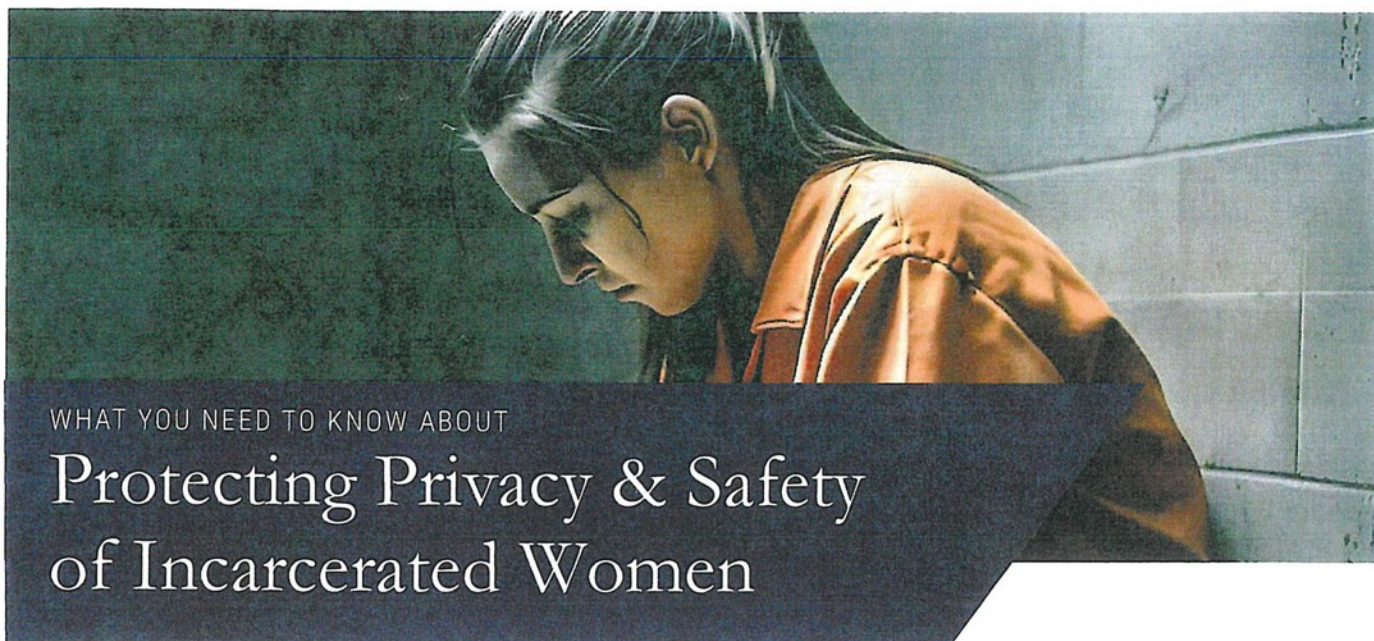
The Supreme Court's decision in *Bostock*, which only applied to employment discrimination claims under Title VII, did not change the authority—and duty—of states to protect privacy for women and girls.

### Q. How successful have these laws been in litigation?

Very successful! Federal courts in Florida, Tennessee, Oklahoma, and Idaho have upheld state laws and local policies that protect girls' privacy in intimate spaces like locker rooms and restrooms.

As one federal court of appeals explained: "Courts have long found a privacy interest in shielding one's body from the opposite sex in a variety of legal contexts."





WHAT YOU NEED TO KNOW ABOUT

## Protecting Privacy & Safety of Incarcerated Women

*In 2021, California began placing inmates in correctional facilities based on gender identity rather than sex. After 2 years, the state issued a report detailing the harm this caused to incarcerated women in California.*

# 382

*men requested a transfer to a women's facility after the policy was enacted.*

# 55%

*of women expressed strong concerns about being forced to share housing with men.*

# 27%

*of women reported negative experiences with transferred men, including sexual and physical assault.*

Women deserve to have their privacy and dignity safeguarded in correctional facilities, and their right to privacy and safety should not be dependent on others' beliefs about gender.

The number of men who identify as women requesting transfers to women's correctional facilities has increased exponentially. Unfortunately, men have been allowed to transfer into women's correctional facilities and enter women's private spaces like showers, restrooms, and sleeping areas.

Many women are **experiencing harassment and abuse** under such policies. This is especially distressing for women who are survivors of sexual assault or abuse, who make up over 50% of incarcerated women.

The **Women's Safety and Protection Act** provides safety and privacy for women in correctional facilities and maintains order and dignity in vulnerable spaces such as showers, restrooms, and housing facilities.

### PRINCIPLES TO SAFEGUARD INCARCERATED WOMEN

1. Require that every shower and restroom in a correctional facility be designated for only one sex, and ensure that users will have privacy from the opposite sex.
2. Require correctional facilities to designate sleeping quarters for only one sex, and ensure only members of the designated sex have access to the space.
3. Provide a legal remedy for women who are harmed by violations of the law to hold the correctional facilities accountable.



WHAT YOU NEED TO KNOW ABOUT

# Protecting Privacy & Safety of Incarcerated Women



## Women Speaking Out

**Amy Locane** was forced to share intimate spaces with a man at a women's correctional facility in New Jersey. She had to shower and dress in the same space as the male, who exposed himself to her. She endured harassment and sexual advances while in these spaces.

In **California**, several women have bravely voiced concerns about men in women's prisons:

- *"There are a lot of **wolves in sheep's clothing**. There are a lot of men who are now all of a sudden **transgender**."*
- *"They are coming into our spaces and moving us out of them. The little rehabilitation that is going on here is being destroyed and evaporated...**If you are in survival mode every day, you can't rehabilitate.**"*

## FREQUENTLY ASKED QUESTIONS

**Q. Many inmates, including those who identify as the opposite sex, have reported abuse when housed in their respective facilities. How do you reconcile the abuse they are experiencing?**

Correctional facilities have the duty to stop violence and abuse directed at any inmate. Abuse, sexual or otherwise, should never be tolerated. However, evidence shows that approving transfers of men to women's prisons did not solve an abuse issue, but rather increased abuse in women's prisons. Women's spaces must be protected by keeping inmates separated by their sex.

**Q. Doesn't the Prison Rape Elimination Act (PREA) provide a solution to incarcerated abuse?**

PREA has in many ways failed to protect women from sexual abuse while incarcerated. With the original goal of eradicating prison rape across various correctional facilities, PREA has since had changes that have worked against this goal. PREA prevents policies that review inmate transfer requests based exclusively on biological sex. Rather, PREA coerces states to put aside an inmate's sex as the deciding factor when reviewing a transfer request by a male who asserts a female identity to a women's facility.

**Q. Will this bill result in our state losing federal funding under the PREA?**

No. Both Florida and Louisiana have passed these laws, and neither state has lost its federal PREA funding. Even if the federal government threatened a state's funding, a state would only face a 5% decrease in funding for the following three programs: (1) Edward Byrne Memorial Justice Assistance Grant Formula Program, (2) Juvenile Justice and Delinquency Prevention Act Formula Grant Program, and (3) STOP Violence Against Women Formula Grant Program. On average, this would only amount to around a \$350,000 reduction in the state's federal PREA funding under these grants.

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**The Dignity for Incarcerated Women Act safeguards women's spaces and ensures that what is happening to women in places like California doesn't happen in your state.**