

117TH CONGRESS
2D SESSION

S. 3481

To secure the dignity and safety of incarcerated women.

IN THE SENATE OF THE UNITED STATES

JANUARY 12 (legislative day, JANUARY 10), 2022

Mr. COTTON introduced the following bill; which was read twice and referred
to the Committee on the Judiciary

A BILL

To secure the dignity and safety of incarcerated women.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Preventing Violence
5 Against Female Inmates Act of 2022”.

6 **SEC. 2. HOUSING PRISONERS BASED ON SEX.**

7 (a) FEDERAL PRISONS.—

8 (1) IN GENERAL.—Chapter 303 of title 18,
9 United States Code, is amended by adding at the
10 end the following:

1 **“§ 4051. Bar on housing together prisoners of dif-**
 2 **ferent sexes**

3 “(a) DEFINITIONS.—In this section:

4 “(1) BIOLOGICAL SEX.—The term ‘biological
 5 sex’ means the biological classification of male and
 6 female in the context of reproductive potential or ca-
 7 pacity, as indicated by sex chromosomes, naturally
 8 occurring sex hormones, gonads, and nonambiguous
 9 internal and external genitalia present at birth, with-
 10 out regard to a person’s psychological, chosen, or
 11 subjectively experienced sense of identity or gender.

12 “(2) GENDER IDENTITY.—The term ‘gender
 13 identity’ means a person’s self-perceived identity,
 14 self-concept, or asserted gender, regardless of the
 15 person’s biological sex.

16 “(b) BAR.—The Bureau of Prisons—

17 “(1) shall use the biological sex of persons
 18 charged with or convicted of offenses against the
 19 United States in making determinations regarding
 20 housing such persons; and

21 “(2) shall not co-locate in detention facilities
 22 persons charged with or convicted of offenses
 23 against the United States if those persons are not
 24 of the same biological sex, unless the Bureau of
 25 Prisons co-locates such persons without regard to
 26 their purported gender identity.”.

1 (2) TECHNICAL AND CONFORMING AMEND-
 2 MENT.—The table of sections for chapter 303 of
 3 title 18, United States Code, is amended by adding
 4 at the end the following:

“4051. Bar on housing together prisoners of different sexes.”.

5 (b) STATE PRISONS.—Section 501 of title I of the
 6 Omnibus Crime Control and Safe Streets Act of 1968 (34
 7 U.S.C. 10152) is amended by adding at the end the fol-
 8 lowing:

9 “(h) BAR ON HOUSING TOGETHER PRISONERS OF
 10 DIFFERENT SEXES.—

11 “(1) DEFINITIONS.—In this subsection, the
 12 terms ‘biological sex’ and ‘gender identity’ have the
 13 meanings given such terms in section 4051 of title
 14 18, United States Code.

15 “(2) LIMITATION ON ELIGIBILITY FOR
 16 FUNDS.—Beginning in the first fiscal year beginning
 17 after the date of enactment of this subsection, a
 18 State may not receive funds under this subpart for
 19 a fiscal year if the State does not submit to the At-
 20 torney General a certification that the State—

21 “(A) prohibits co-locating in detention fa-
 22 cilities persons charged with or convicted of of-
 23 fenses under the law of the State if those per-
 24 sons are not of the same biological sex, unless

1 the State co-locates such persons without re-
2 gard to their purported gender identity; and

3 “(B) requires the use of the biological sex
4 of persons charged with or convicted of offenses
5 under the law of the State in making deter-
6 minations regarding housing such persons.”.

○