2022 South Dakota Legislature

House Bill 1005

Introduced by: Representative Deutsch

An Act to provide for the designated use of public school multi-occupancy rooms and sleeping rooms.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That chapter 13-32 be amended with a NEW SECTION:

As used in this Act, the term, sex, means a person's immutable, biological sex, as determined by the person's genetics and anatomy existing at the time of the person's birth.

Section 2. That chapter 13-32 be amended with a NEW SECTION:

The school administrator shall designate any multi-occupancy shower room, changing room, or rest room, located in a public school, for use exclusively by members of the same sex.

If any student is unable or unwilling, for any reason, to use a multi-occupancy shower room, changing room, or rest room, in accordance with the designation set forth in this section, the student may file, with the school administrator, a request for a reasonable accommodation.

For purposes of this section, a reasonable accommodation includes access to a single-occupancy shower room, changing room, or rest room, but does not include access to a multi-occupancy shower room, changing room, or rest room, which has been designated for the exclusive use of members of the opposite sex.

A reasonable accommodation granted under this section must be for a stated period of time and may not exceed the conclusion of the annual school calendar.

Section 3. That chapter 13-32 be amended with a NEW SECTION:
Any student who requested a reasonable accommodation in accordance with section 2, and was denied such by the school administrator, may appeal the decision to the superintendent of the school district and thereafter to the board of the district.

Any student aggrieved by a decision of the board may appeal to the circuit court, as provided in chapter 13-46.

Section 4. That chapter 13-32 be amended with a NEW SECTION:

A student has a private cause of action against a school district if:

(1) The student encounters a member of the opposite sex in a multi-occupancy shower room, changing room, or rest room, which:
   (a) Is in a public school building; and
   (b) Has been designated for exclusive use by members of the student's sex, as provided in section 2 of this Act; and

(2) (a) An employee of the district gave the member of the opposite sex express permission to use the shower room, changing room, or rest room; or
   (b) The use was permitted in accordance with a school district policy.

Any action under this section must be commenced within two years from the date of the encounter.

Any student who prevails in an action under this section is entitled to recover economic and noneconomic damages, together with costs and reasonable attorney's fees.

Section 5. That chapter 13-32 be amended with a NEW SECTION:

If a school district sponsors or sanctions any event that requires students to be provided with overnight sleeping accommodations, the school administrator shall designate each multi-occupancy room used for such purpose as being for use exclusively by members of the same sex, and shall assign students accordingly.

If any student is unable or unwilling, for any reason, to use a multi-occupancy room for overnight sleeping accommodations, in accordance with the designation set forth in this section, that student may file, with the school administrator, a request for a reasonable accommodation. For purposes of this section, a reasonable accommodation includes assigning the student to a single room for overnight sleeping accommodations.

Nothing in this section precludes the use of a room for overnight accommodations by members of the same immediate family.

Section 6. That chapter 13-32 be amended with a NEW SECTION:
Any student who requested a reasonable accommodation in accordance with section 5 of this Act and was denied such by the school administrator may appeal the decision to the superintendent of the school district and thereafter to the board of the district.

Any student aggrieved by a decision of the board may appeal to the circuit court, as provided in chapter 13-46.

Section 7. That chapter 13-32 be amended with a NEW SECTION:

A student has a private cause of action against a school district if an employee of the district expressly permits a student of the opposite sex to utilize, for overnight sleeping accommodations, a room that has been designated for use exclusively by members of the same sex.

Any action under this section must be commenced within two years from the date of the utilization.

Any student who prevails in an action under this section is entitled to recover economic and noneconomic damages, together with costs and reasonable attorney's fees.

Section 8. That chapter 13-32 be amended with a NEW SECTION: