

2025 South Dakota Legislature

House Bill 1259**AMENDMENT 1259A
FOR THE INTRODUCED BILL**

1 **An Act to prohibit unauthorized access to certain multi-occupancy rooms and to**
2 **provide a penalty therefor.**

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

4 **Section 1. That a NEW SECTION be added to chapter 13-32:**

5 Terms used in sections 1 to 5, inclusive of this Act mean:

6 (1) "Changing room," a room or area in which an individual may be in a state of
7 undress in the presence of others;

8 (2) "Female," an individual who, at the time of birth, belonged to the biological sex
9 that has the specific reproductive role of producing eggs an individual who naturally
10 has, had, will have, or would have, but for a congenital anomaly or intentional or
11 unintentional disruption, the reproductive system that produces, transports, and
12 utilizes eggs for fertilization;

13 (2)(3) "Male," an individual who, at the time of birth, belonged to the biological sex that
14 has the specific reproductive role of producing sperm an individual who naturally
15 has, had, will have, or would have, but for a congenital anomaly or intentional or
16 unintentional disruption, the reproductive system that produces, transports, and
17 utilizes sperm for fertilization;

18 (4) "Public school," a school under the authority of the board of a school district;

19 (3)(5) "Reasonable accommodation," access to:

20 (a) A unisex or family room; or

21 (b) A ~~single-occupancy~~ changing room, ~~rest room, or shower room, or restroom~~
22 which has been designated for employees of the district, provided the room
23 is not available to the employees while being used by the student; and

24 (6) "Restroom," a room that includes one or more toilets or urinals;

25 (7) "Sleeping quarters," a room that contains a bed and in which more than one
26 individual is housed overnight;

- 1 (8) "Sex," an individual's biological sex, either male or female; and
 2 (4)(9) "Unisex or family room," a changing room, ~~or restroom, or shower room~~ that:
 3 (a) Is intended for use by a single occupant, a single occupant and the
 4 occupant's caregiver, or members of the same family;
 5 (b) Is enclosed by means of floor-to-ceiling walls; and
 6 (c) Is accessible by means of a full door, with a secure lock that prevents entry
 7 by another individual while the room is in use.

8 **Section 2. That a NEW SECTION be added to chapter 13-32:**

9 ~~The administrator of a~~ A public school ~~shall~~ must designate any multi-occupancy
 10 ~~student~~ changing room, restroom, or ~~shower room, located in the school, sleeping~~
 11 quarters for use exclusively by females or for use exclusively by males.

12 If a public school student participates in a school or school district sponsored or
 13 sanctioned activity occurring at a location other than the school in which the student is
 14 enrolled, the school ~~administrator or the administrator's designee~~ must ensure that any
 15 multi-occupancy changing room, restroom, or ~~shower room sleeping quarters~~, located at
 16 the site of the activity and available to the student, is designated for use exclusively by
 17 females or for use exclusively by males.

18 If any student is unable or unwilling to use a multi-occupancy changing room,
 19 restroom, or ~~shower room sleeping quarters~~, in accordance with the designation set forth
 20 in this section, and the student, or the student's parent in the case of a student under the
 21 age of eighteen, files a written notice with the administrator of the school, the
 22 administrator ~~must~~ may grant a request for a reasonable accommodation.

23 A reasonable accommodation granted under this section must be for a stated
 24 period of time and may not ~~exceed~~:

- 25 (1) ~~Exceed~~ the conclusion of the school year; or
 26 (2) ~~Include access to a facility designated for use exclusively by members of the~~
 27 opposite sex.

28 **Section 3. That a NEW SECTION be added to chapter 13-32:**

29 ~~A student who does not meet the definition of a female male~~ may not enter a
 30 changing room, restroom, or ~~shower room sleeping quarters~~ designated exclusively for
 31 females.

32 ~~A student who does not meet the definition of a male female~~ may not enter a
 33 changing room, restroom, or shower room designated exclusively for males.

A public school must take reasonable steps to provide individuals with privacy in changing rooms, restrooms, and sleeping quarters for members of the opposite sex.

The prohibitions set forth in this section do not apply to:

- (1) The accommodation of ~~students~~ an individual protected under the Americans with Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. (January 1, 2025) or the Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq. (January 1, 2025);
- (2) An individual who accompanies a student requiring assistance because of age;
- (3) A law enforcement officer, fire official, or employee of the district, acting in an official capacity;
- (4) An individual providing emergency medical assistance; ~~or~~
- (5) An individual providing custodial, maintenance, or inspection services, provided the changing room, restroom, or shower room is unoccupied; ~~or~~
- ~~(6) A student who was born with a medically verifiable genetic disorder of sexual development, which resulted in:

 - ~~(a) External biological characteristics that are unresolvably ambiguous; or~~
 - ~~(b) An abnormal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or a female, as applicable.~~~~

Section 4. That a NEW SECTION be added to chapter 13-32:

Any ~~multi-occupancy~~ changing room, ~~or~~ restroom, ~~or~~ shower room that is located in a public school and normally reserved for use by employees of the district is governed by the provisions of sections 6 to 9, inclusive, of this Act.

Section 5. That a NEW SECTION be added to chapter 13-32:

If a school district sponsors or sanctions any event that requires students to be provided with overnight sleeping accommodations, the school ~~administrator~~ must designate ~~each multi-occupancy room used for such purpose~~ all sleeping quarters as being for use exclusively by females or exclusively by males, ~~and must assign students accordingly~~. A student may not be required to share sleeping quarters with a member of the opposite sex, unless the individuals are members of the same family.

In any other setting in a public school where an individual may be in a state of undress in the presence of others, the school must provide separate, private areas designated for use by individuals based on the individual's sex. Except as otherwise provided in section 3 of this Act, no individual may enter private areas unless the individual is a member of the designated sex.

1 If a student is unable or unwilling to use a ~~multi-occupancy~~ room for overnight
 2 sleeping ~~accommodations quarters~~, in accordance with the exclusive designation set forth
 3 in this section, that student, or the student's parent in the case of a student under the
 4 age of eighteen, may file, with the school administrator, a request to be reassigned to ~~a~~
 5 single-occupancy room.

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

8 ~~An individual who encountered member of the opposite sex in a restroom or~~
 9 ~~changing room while making use of a restroom or changing room designated for use by~~
 10 ~~the individual's sex, has a private cause of action for declaratory and injunctive relief~~
 11 ~~against the school district that:~~

12 ~~(1) Provided the member of the opposite sex permission to use a restroom or changing~~
 13 ~~room of the individual's sex; or~~

14 ~~(2) Failed to take reasonable steps to prohibit the member of the opposite sex from~~
 15 ~~using the restroom or changing room of the individual's sex.~~

16 ~~An individual who is assigned by a public school to share sleeping quarters with an~~
 17 ~~individual of the opposite sex has a private cause of action for declaratory and injunctive~~
 18 ~~relief against the school district.~~

19 ~~Any civil action brought pursuant to this section must be initiated within two years~~
 20 ~~of the violation. An individual who is aggrieved under this section and prevails in court~~
 21 ~~may recover reasonable attorney fees and costs from the offending school district.~~

22 **Section 6. That a NEW SECTION be added to chapter 20-13:**

23 Terms used in sections 6 to 9, inclusive, of this Act mean:

24 ~~(1) "Changing room," a room or area in which an individual may be in a state of~~
 25 ~~undress in the presence of others;~~

26 ~~(2) "Female," an individual who, at the time of birth, belonged to the biological sex~~
 27 ~~that has the specific reproductive role of producing eggs an individual who naturally~~
 28 ~~has, had, will have, or would have had, but for a congenital anomaly or intentional~~
 29 ~~or unintentional disruption, the reproductive system that produces, transports, and~~
 30 ~~utilizes eggs for fertilization;~~

31 ~~(2)(3) "Male," an individual who, at the time of birth, belonged to the biological sex that~~
 32 ~~has the specific reproductive role of producing sperm an individual who naturally~~
 33 ~~has, had, will have, or would have had, but for a congenital anomaly or intentional~~

- 1 or unintentional disruption, the reproductive system that produces, transports, and
 2 utilizes sperm for fertilization; and
 3 (4) "Restroom," a room that includes at least one toilet or urinal;
 4 (5) "Sleeping quarters," a room that contains a bed and in which more than one
 5 individual is housed overnight;
 6 (6) "Sex," an individual's biological sex, either male or female; and
 7 (3)(7) "Unisex or family room," a changing room, or restroom, or shower room that:
 8 (a) Is intended for use by a single occupant, a single occupant and the
 9 occupant's caregiver, or members of the same family;
 10 (b) Is enclosed by means of floor-to-ceiling walls; and
 11 (c) Is accessible by means of a full door, with a secure lock that prevents entry
 12 by another individual while the room is in use.

13 **Section 7. That a NEW SECTION be added to chapter 20-13:**

14 Except as otherwise provided in sections 1 to 3, inclusive, 2 and 3 of this Act, any
 15 multi-occupancy changing room, restroom, or shower room in a building or facility owned
 16 or leased by the state or by a political subdivision of this state must:

17 (1) Be designated for the exclusive use of:

18 (a) Females; or

19 (b) Males; or

20 (2) Be designated as a unisex or family room be designated for the exclusive use of
 21 females or males.

22 **Section 8. That a NEW SECTION be added to chapter 20-13:**

23 Except as otherwise provided in section 9 of this Act, an individual who does not
 24 meet the definition of a female a male may not enter a changing room, or restroom, or
 25 shower room designated exclusively for females.

26 Except as otherwise provided in section 9 of this Act, an individual who does not
 27 meet the definition of a male a female may not enter a changing room, or restroom, or
 28 shower room designated exclusively for males.

29 An individual is guilty of a Class 2 misdemeanor if the individual:

30 (1) Knowingly enters a changing room, restroom, or shower room, in violation of this
 31 section; and

32 (2) Refuses to leave the changing room, restroom, or shower room upon being
 33 requested to do so by:

~~(a) An individual who, acting in an official capacity, is authorized to make the request; or~~

~~(b) An individual who is permitted to be in the changing room, restroom, or shower room, in accordance with sections 6 to 9, inclusive, of this Act.~~

~~The state or a political subdivision shall take reasonable steps to provide an individual with privacy from a member of the opposite sex, in restrooms and changing rooms in any building or facility owned or operated by the state or the political subdivision.~~

~~An individual who encounters an member of the opposite sex in a restroom or changing room while making use of a restroom or changing room designated for use by the individual's sex, has a private cause of action for declaratory and injunctive relief against the state or political subdivision that:~~

~~(1) Provided the member of the opposite sex permission to use the restroom or changing room of the individual's sex; or~~

~~(2) Failed to take reasonable steps to prohibit the member of the opposite sex from using the restroom or changing room of the individual's sex.~~

~~An individual who is assigned by the state or a political subdivision to share sleeping quarters with an individual of the opposite sex has a private cause of action for declaratory and injunctive relief against the state or political subdivision.~~

~~Any civil action brought pursuant to this section must be initiated within two years of the violation. An individual who is aggrieved under this section and prevails in court may recover reasonable attorney fees and costs from the state or offending political subdivision.~~

Section 9. That a NEW SECTION be added to chapter 20-13:

The prohibitions set forth in section 8 of this Act do not apply to:

(1) An individual who accompanies a child under the age of ten, if the individual is the child's parent or lawful chaperone;

(2) An individual who accompanies another individual requiring assistance because of age or a disability;

(3) A law enforcement officer or fire official acting in an official capacity;

(4) An individual providing emergency medical assistance; or

(5) An individual providing custodial, maintenance, or inspection services, provided the changing room, restroom, or shower room is unoccupied; ~~or~~

~~(6) An individual born with a medically verifiable genetic disorder of sexual development, which resulted in:~~

- 1 ~~(a) External biological characteristics that are unresolvably ambiguous; or~~
- 2 ~~(b) An abnormal sex chromosome structure, sex steroid hormone production,~~
- 3 ~~or sex steroid hormone action for a male or a female, as applicable.~~

AMENDED