

SOUTH DAKOTA LEGISLATIVE RESEARCH COUNCIL

2025 South Dakota Legislature

FISCAL NOTE 2025-FN1259A

HB1259, An Act to prohibit unauthorized access to certain multi-occupancy rooms.

HB 1259, as amended, would create several new obligations for state and local governments and create new private causes of action which may only be used against these governments.

Sections 2 through 5 apply to public schools. With this bill, public schools would be required to designate all their multi-occupancy changing rooms, restrooms, and sleeping quarters for use exclusively by males or females, but students may be granted a reasonable accommodation. Public schools would have to take reasonable steps to maintain privacy in these rooms, with some exceptions.

Section 5, along with requiring the same type of designations at school sponsored or sanctioned events, would create a new private cause of action. Anyone who encounters a member of the opposite sex in a restroom or changing room designated by a public school for use by their own sex or is assigned to share sleeping quarters with a member of the opposite sex could sue the school district in question for declarative and injunctive relief within two years of the violation.

Section 6 through 9 apply to state and local governments. In a similar vein to the previous sections, state and local governments would be required to designate multi-occupancy changing rooms, restrooms, and sleeping quarters for exclusive use by males or females. Here as well, a private cause of action would be created for use against state and local governments.

Several states have passed similar measures to HB 1259, but few encompass as many state entities and buildings as this bill does. As of the beginning of 2025, only two states have passed similar bills affecting both public schools and government buildings: Florida and Utah. Fiscal notes were prepared for both of these bills, but neither state found their version would have any determinable fiscal impact.

It is not known what proportion of the current facilities at public schools and state and local government buildings meet the requirements laid out in this bill. Coming into compliance could entail purchasing signage to designate male- and female-exclusive rooms, but in other instances, it may require reconstructing the facilities to ensure separate rooms for each sex are available. With leased buildings, if a state or local government is not allowed to make the necessary changes to comply with this bill, the government may be forced to find alternative space at a higher cost.

It is also not known how often the private causes of action to be created by the bill may be used. The more civil cases brought, the more resources spent by judges and court staff to manage the cases and by school districts and state and local governments to defend the cases and potentially pay out settlements or judgements. For both causes of action, an aggrieved individual who prevails in court may also recover reasonable attorney fees and costs.

Considering the scope of HB 1259 and uncertainty as to its implementation, it is not possible to determine what the fiscal impact of the bill would be at this time.

APPROVED BY: /s/ John McCullough
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