

## 2025 South Dakota Legislature

**House Bill 1259****AMENDMENT 1259K  
FOR THE SENATE STATE AFFAIRS ENGROSSED BILL**

1 **An Act to prohibit unauthorized access to certain multi-occupancy rooms.**

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

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

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

5 (1) "Changing room," a room or area in which an individual may be in a state of  
6 undress in the presence of others, including a multi-occupancy locker room or  
7 shower room;

8 (2) "Female," an individual who naturally has, had, will have, or would have, but for a  
9 congenital anomaly or intentional or unintentional disruption, the reproductive  
10 system that produces, transports, and utilizes eggs for fertilization;

11 (3) "Male," an individual who naturally has, had, will have, or would have, but for a  
12 congenital anomaly or intentional or unintentional disruption, the reproductive  
13 system that produces, transports, and utilizes sperm for fertilization;

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

15 (5) "Reasonable accommodation," access to:

16 (a) A unisex or family room; or

17 (b) A single-occupancy changing room or restroom which has been designated  
18 for employees of the district, provided the room is not available to the  
19 employees while being used by the student; and

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

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

23 (8) "Sex," an individual's biological sex, either male or female; and

24 (9) "Unisex or family room," a changing room or restroom that:

25 (a) Is intended for use by a single occupant, a single occupant and the  
26 occupant's caregiver, or members of the same family;

- 1            (b) Is enclosed by means of floor-to-ceiling walls; and  
 2            (c) Is accessible by means of a full door, with a secure lock that prevents entry  
 3            by another individual while the room is in use.

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

5            A public school must designate any multi-occupancy changing room, restroom, or  
 6            sleeping quarters in each facility or space owned or rented by the public school for use  
 7            exclusively by females or for use exclusively by males.

8            If any student is unable or unwilling to use a multi-occupancy changing room,  
 9            restroom, or sleeping quarters, in accordance with the designation set forth in this section,  
 10           and the student, or the student's parent in the case of a student under the age of eighteen,  
 11           files a written notice with the administrator of the school, the administrator may grant a  
 12           request for a reasonable accommodation.

13           A reasonable accommodation granted under this section must be for a stated  
 14           period of time and may not:

- 15           (1) Exceed the conclusion of the school year; or  
 16           (2) Include access to a facility designated for use exclusively by members of the  
 17           opposite sex.

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

19           A male may not enter a changing room or restroom designated exclusively for  
 20           females.

21           A female may not enter a changing room or restroom designated exclusively for  
 22           males.

23           A public school must take reasonable steps to provide individuals with privacy in  
 24           changing rooms, restrooms, and sleeping quarters by designating each as available for  
 25           use exclusively by female students or for use exclusively by male students.

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

- 27           (1) The accommodation of an individual protected under the Americans with  
 28           Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. (January 1, 2025) or the  
 29           Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq. (January 1, 2025);  
 30           (2) An individual who accompanies a student requiring assistance because of age;  
 31           (3) A law enforcement officer, fire official, or employee of the district, acting in an  
 32           official capacity;  
 33           (4) An individual providing emergency medical assistance; or

1       (5) An individual providing custodial, maintenance, or inspection services, provided the  
2       changing room or restroom is unoccupied.

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

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

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

8       If a public school sponsors or sanctions any event that requires students to be  
9       provided with changing rooms or sleeping quarters, the school must designate all multi-  
10      occupancy changing rooms and sleeping quarters as being for use exclusively by females  
11      or exclusively by males. A student may not be required to share sleeping quarters with a  
12      member of the opposite sex, unless the individuals are members of the same family.

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

18      If a student is unable or unwilling to use a room for overnight sleeping quarters, in  
19      accordance with the exclusive designation set forth in this section, that student, or the  
20      student's parent in the case of a student under the age of eighteen, may file, with the  
21      school administrator, a request to be reassigned to single-occupancy room.

22      An individual who encounters a member of the opposite sex in a restroom or  
23      changing room while making use of a restroom or changing room designated by the public  
24      school for use by the individual's sex, has a private cause of action for declaratory and  
25      injunctive relief against the school district that:

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

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

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

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

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

5           Terms used in sections 6 to 9, 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, including a multi-occupancy locker room or  
 8           shower room;
- 9           (2) "Female," an individual who naturally has, had, will have, or would have had, but  
 10           for a congenital anomaly or intentional or unintentional disruption, the reproductive  
 11           system that produces, transports, and utilizes eggs for fertilization;
- 12           (3) "Male," an individual who naturally has, had, will have, or would have had, but for  
 13           a congenital anomaly or intentional or unintentional disruption, the reproductive  
 14           system that produces, transports, and utilizes sperm for fertilization;
- 15           (4) "Restroom," a room that includes at least one toilet or urinal;
- 16           (5) "Sleeping quarters," a room that contains a bed and in which more than one  
 17           individual is housed overnight;
- 18           (6) "Sex," an individual's biological sex, either male or female; and
- 19           (7) "Unisex or family room," a changing room or restroom that:
- 20           (a) Is intended for use by a single occupant, a single occupant and the  
 21           occupant's caregiver, or members of the same family;
- 22           (b) Is enclosed by means of floor-to-ceiling walls; and
- 23           (c) Is accessible by means of a full door, with a secure lock that prevents entry  
 24           by another individual while the room is in use.

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

26           Except as otherwise provided in sections 2 and 3 of this Act, ~~the state or a political~~  
 27           ~~subdivision of this state must designate, as being for the exclusive use of females or~~  
 28           ~~males, any multi-occupancy changing room, restroom, or sleeping quarters in a building~~  
 29           ~~or facility owned or leased by the state or by a political subdivision of this state must be~~  
 30           ~~designated for the exclusive use of females or males:~~

- 31           (1) A building or facility owned by the state or by a political subdivision of this state;  
 32           or  
 33           (2) A space leased to or occupied by the state or by a political subdivision of this state.

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

2 Except as otherwise provided in section 10 of this Act, a male may not enter a  
3 changing room or restroom designated exclusively for females.

4 Except as otherwise provided in section 10 of this Act, a female may not enter a  
5 changing room or restroom designated exclusively for males.

6 The state or a political subdivision of the state shall take reasonable steps to  
7 prohibit a member of the opposite sex from using restrooms, changing rooms, and  
8 sleeping quarters designated for the exclusive use of males or females, in:

9 (1) A building or facility owned by the state or by a political subdivision of this state;

10 or

11 (2) A space leased to or occupied by the state or by a political subdivision of this state.

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

13 ~~Except as otherwise provided in section 9 of this Act, a male may not enter a~~  
14 ~~changing room or restroom designated exclusively for females.~~

15 ~~Except as otherwise provided in section 9 of this Act, a female may not enter a~~  
16 ~~changing room or restroom designated exclusively for males.~~

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

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

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

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

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

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

5           **Section 10. That a NEW SECTION be added to chapter 20-13:**

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

- 7           (1) An individual who accompanies a child under the age of ten, if the individual is the  
8           child's parent or lawful chaperone;  
9           (2) An individual who accompanies another individual requiring assistance because of  
10           age or a disability;  
11           (3) A law enforcement officer ~~or~~, fire official, ~~or other state or county employee~~ acting  
12           in an official capacity;  
13           (4) An individual providing emergency medical assistance; ~~or~~  
14           (5) An individual providing custodial, maintenance, or inspection services, provided the  
15           changing room or restroom is unoccupied; or  
16           (7) An individual providing services or rendering aid:  
17           (a) During a natural disaster or declared emergency; or  
18           (b) When necessary to maintain order and safety.

19           **Section 11. That a NEW SECTION be added to chapter 20-13:**

20           Neither the state nor a political subdivision of the state is liable to any person for  
21           complying with sections 6 to 10, inclusive, of this Act.

22           In any lawsuit or complaint filed against the state as a result of compliance with  
23           sections 6 to 10, inclusive, of this Act, the attorney general shall provide legal  
24           representation to the state without charge.