



## 2025 South Dakota Legislature

# House Bill 1259

HOUSE STATE AFFAIRS ENGROSSED

Introduced by: **Representative** Schaeffbauer

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 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 for use exclusively by females or for use exclusively by males.

7            If a public school student participates in a school or school district sponsored or  
 8            sanctioned activity occurring at a location other than the school in which the student is  
 9            enrolled, the school must ensure that any multi-occupancy changing room, restroom, or  
 10           sleeping quarters, located at the site of the activity and available to the student, is  
 11           designated for use exclusively by females or for use exclusively by males.

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

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

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

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

23           A male may not enter a changing room, restroom, or sleeping quarters designated  
 24           exclusively for females.

25           A female may not enter a changing room, restroom, or shower room designated  
 26           exclusively for males.

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

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

- 30           (1) The accommodation of an individual protected under the Americans with  
 31           Disabilities Act of 1990, 42 U.S.C. § 12101, et seq. (January 1, 2025) or the  
 32           Rehabilitation Act of 1973, 29 U.S.C. § 701, et seq. (January 1, 2025);  
 33           (2) An individual who accompanies a student requiring assistance because of age;

1       (3) A law enforcement officer, fire official, or employee of the district, acting in an  
2           official capacity;

3       (4) An individual providing emergency medical assistance; or

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

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

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

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

11           If a school district sponsors or sanctions any event that requires students to be  
12           provided with overnight sleeping accommodations, the school must designate all sleeping  
13           quarters as being for use exclusively by females or exclusively by males. A student may  
14           not be required to share sleeping quarters with a member of the opposite sex, unless the  
15           individuals are members of the same family.

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

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

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

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

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

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

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

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

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

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

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

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

17       (4) "Restroom," a room that includes at least one toilet or urinal;

18       (5) "Sleeping quarters," a room that contains a bed and in which more than one  
19 individual is housed overnight;

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

21       (7) "Unisex or family room," a changing room or restroom that:

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

24           (b) Is enclosed by means of floor-to-ceiling walls; and

25           (c) Is accessible by means of a full door, with a secure lock that prevents entry  
26 by another individual while the room is in use.

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

28           Except as otherwise provided in sections 2 and 3 of this Act, any multi-occupancy  
29 changing room, restroom, or shower room in a building or facility owned or leased by the  
30 state or by a political subdivision of this state must be designated for the exclusive use of  
31 females or males.

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

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

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

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

8           An individual who encounters a 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 state or political subdivision that:

12           (1) Provided the member of the opposite sex permission to use the restroom or  
13 changing 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 the state or a political subdivision to share sleeping  
17 quarters with an individual of the opposite sex has a private cause of action for declaratory  
18 and injunctive relief against the state or political subdivision.

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 state or offending political  
22 subdivision.

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

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

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

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

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

30           (4) An individual providing emergency medical assistance; or

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