State of South Dakota

NINETY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2016

848X0115

HOUSE BILL NO. 1008

Introduced by: Representatives Deutsch, Craig, Novstrup (Al), Partridge, Russell, Schoenbeck, Verchio, and Zikmund and Senators Greenfield (Brock), Haverly, Holien, Olson, and Otten (Ernie)

FOR AN ACT ENTITLED, An Act to restrict access to certain restrooms and locker rooms in public schools.

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

Section 1. That chapter 13-24 be amended by adding a NEW SECTION to read:

The term, biological sex, as used in this Act, means the physical condition of being male or female as determined by a person's chromosomes and identified at birth by a person's anatomy.

Section 2. That the code be amended by adding a NEW SECTION to read:

Every restroom, locker room, and shower room located in a public elementary or secondary school that is designated for student use and is accessible by multiple students at the same time shall be designated for and used only by students of the same biological sex. In addition, any public school student participating in a school sponsored activity off school premises which includes being in a state of undress in the presence of other students shall use those rooms designated for and used only by students of the same biological sex.

Section 3. That the code be amended by adding a NEW SECTION to read:

100 copies were printed on recycled paper by the South Dakota Legislative Research Council at a cost of $.161 per page.

Insertions into existing statutes are indicated by underscores.
Deletions from existing statutes are indicated by ~~overstrikes~~.

If any student asserts that the student's gender is different from the student's biological sex, and if the student's parent or guardian consents to that assertion in writing to a public school administrator, or if the student is an adult or an emancipated minor and makes the assertion in writing to a public school administrator, the student shall be provided with a reasonable accommodation. A reasonable accommodation is one that does not impose an undue hardship on a school district. A reasonable accommodation may not include the use of student restrooms, locker rooms, or shower rooms designated for use by students of the opposite biological sex if students of the opposite biological sex are present or could be present. A reasonable accommodation may include a single-occupancy restroom, a unisex restroom, or the controlled use of a restroom, locker room, or shower room that is designated for use by faculty. The requirement to provide a reasonable accommodation pursuant to this section does not apply to any nonpublic school entity.

Section 4. That the code be amended by adding a NEW SECTION to read:

If any public school district, school district officer or employee, school board, or school board member is sued in state or federal court as a result of a decision based upon and consistent with a student's biological sex, notwithstanding any assertion that the student's gender is different than the student's biological sex, the attorney general shall represent the school district, school district officer or employee, school board, or school board member at no cost to the school district, school district officer or employee, school board, or school board member, and the State of South Dakota shall assume all financial responsibility for the legal expenses. The legal expenses for which the state is responsible include any award for monetary damages or attorneys' fees and costs which may be awarded and for which the school district, school district officer or employee, school board, or school board member would otherwise be responsible.