Privacy Protections in Sex-designated Areas

2025 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephanie Gricius

LONG TITLE

General Description:

This bill modifies provisions regarding sex-designated privacy spaces in education and government facilities.

Highlighted Provisions:

This bill:

- defines terms;
- requires the Utah Board of Higher Education to provide guidance regarding student housing that degree-granting institutions own or control;
- provides a definitional change for nonprofit exceptions to and broadens the scope of a nonprofit educational institution exception to the Utah Fair Housing Act;
- narrows an exception for sex-designated privacy spaces to apply only to a determination of the School Activity Eligibility Commission and a student's participation in a certain gender-designated interscholastic activity;
- removes an ambiguous medical treatment documentation provision from certain lists of evidence supporting an individual's access to certain sex-designated privacy spaces;
- amends provisions regarding government entity facility compliance to specify which government entity bears certain duties;
- requires degree-granting institutions to comply with sex designations in assigning students to dwelling units within the institution's sex-designated student housing; and
- makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

53B-1-118, as enacted by Laws of Utah 2024, Chapter 3

53G-6-1005, as enacted by Laws of Utah 2022, Chapter 478

57-21-3, as last amended by Laws of Utah 2024, Chapter 200
63G-31-101, as enacted by Laws of Utah 2024, Chapter 2
63G-31-201, as enacted by Laws of Utah 2024, Chapter 2
63G-31-202, as enacted by Laws of Utah 2024, Chapter 2
63G-31-301, as enacted by Laws of Utah 2024, Chapter 2
63G-31-302, as enacted by Laws of Utah 2024, Chapter 2
63G-31-304, as enacted by Laws of Utah 2024, Chapter 2
ENACTS:
53B-1-411, Utah Code Annotated 1953
63G-31-305, Utah Code Annotated 1953

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53B-1-118** is amended to read:

53B-1-118 . Prohibited discriminatory practices -- Restrictions -- Campus climate survey -- Exceptions.

(1) As used in this section:

(a) "Important government interest" means a governmental purpose relating to[~~,~~] :

(i) athletic competition or athletic safety in public education; or[~~,~~]

(ii) privacy, including compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex.

(b) "Personal identity characteristics" means an individual's race, color, ethnicity, sex, sexual orientation, national origin, religion, or gender identity.

(c)(i) "Prohibited discriminatory practice" means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that, based on an individual's personal identity characteristics:

(A) promotes the differential treatment of an individual without an important government interest;

(B) influences the employment decisions of an individual other than through the use of neutral hiring processes with regard to personal identity characteristics and in accordance with federal law;

(C) influences an individual's admission to, advancement in, or graduation from an institution, the public education system, or an academic program; or

(D) influences an individual's participation in an institution-sponsored or public education system-sponsored program.

(ii) "Prohibited discriminatory practice" also means engaging in or maintaining a policy, procedure, practice, program, office, initiative, or required training that:

(A) asserts that one personal identity characteristic is inherently superior or inferior to another personal identity characteristic;

(B) asserts that an individual, by virtue of the individual's personal identity characteristics, is inherently privileged, oppressed, racist, sexist, oppressive, or a victim, whether consciously or unconsciously;

(C) asserts that an individual should be discriminated against in violation of Title VI, Title VII, and Title IX, receive adverse treatment, be advanced, or receive beneficial treatment because of the individual's personal identity characteristics;

(D) asserts that an individual's moral character is determined by the individual's personal identity characteristics;

(E) asserts that an individual, by virtue of the individual's personal identity characteristics, bears responsibility for actions committed in the past by other individuals with the same personal identity characteristics;

(F) asserts that an individual should feel discomfort, guilt, anguish, or other psychological distress solely because of the individual's personal identity characteristics;

(G) asserts that meritocracy is inherently racist or sexist;

(H) asserts that socio-political structures are inherently a series of power relationships and struggles among racial groups;

(I) promotes resentment between, or resentment of, individuals by virtue of their personal identity characteristics;

(J) ascribes values, morals, or ethical codes, privileges, or beliefs to an individual because of the individual's race, color, ethnicity, sex, sexual orientation, national origin, or gender identity;

(K) considers an individual's personal identity characteristics in determining receipt of state financial aid or other state financial assistance, including a scholarship award or tuition waiver; or

(L) is referred to or named diversity, equity, and inclusion.

(iii) "Prohibited discriminatory practice" does not include policies or procedures required by state or federal law, including laws relating to prohibited discrimination or harassment.

(d) "Student success and support" means an office, division, employment position, or

other unit of an institution established or maintained to provide support, guidance, and resources that equip all students, including all students at higher risk of not completing a certificate or degree, with experiences and opportunities for success in each student's academic and career goals, and without excluding individuals on the basis of an individual's personal identity characteristics.

(e) "Title VI" means Title VI of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000d et seq.

(f) "Title VII" means Title VII of the Civil Rights Act of 1964, 42 U.S.C. Sec. 2000e et seq.

(g) "Title IX" means Title IX of the Education Amendments of 1972, 20 U.S.C. Sec. 1681 et seq.

(2) An institution may not:

(a) engage in prohibited discriminatory practices;

(b) take, express, or assert a position or opinion on subjects described in Subsection 67-27-107(1)(b)(ii);

(c) establish or maintain an office, division, employment position, or other unit of an institution established to implement, develop, plan, or promote campus policies, procedures, practices, programs, or initiatives, regarding prohibited discriminatory practices; or

(d) employ or assign an employee or a third-party whose duties for an institution include coordinating, creating, developing, designing, implementing, organizing, planning, or promoting policies, programming, training, practices, activities, and procedures relating to prohibited discriminatory practices.

(3) An institution shall:

(a) ensure that all students have access to programs providing student success and support;

(b) publish the titles and syllabi of all mandatory courses, seminars, classes, workshops, and training sessions on the institution's website in an online database readily searchable by the public;

(c) annually train employees on the separation of personal political advocacy from an institution's business and employment activities;

(d) develop strategies, including inviting speakers, to promote viewpoint diversity; and

(e) establish policies and procedures to include opportunities for education and research on free speech and civic education.

(4) Beginning on or before July 1, 2025, the board shall report to the Higher Education Appropriations Subcommittee on the status and allocation of appropriated funds for student success and support.

(5) The Legislature shall, in a line item appropriation, appropriate ongoing funding to support an institution's student success and support program in accordance with this section.

(6)(a) On or before January 1, 2025, the board shall contract with a third-party contractor, in accordance with Title 63G, Chapter 6a, Utah Procurement Code, to conduct a campus expression climate survey of each institution:

(i) to assess student, faculty, and staff perceptions of and experiences with an institution's campus environment that measures the student's, faculty member's, and staff member's perception of and experience with an institution's campus environment; and

(ii) that measures the student's, faculty member's, and staff member's perception of and experience with campus policy and practice regarding freedom of speech and academic freedom at the institution.

(b) The board shall collect the results of each campus expression climate survey under Subsection (6) and submit the results to the Office of Legislative Research and General Counsel beginning on or before July 1.

(7)(a) The Office of Legislative Research and General Counsel shall provide a summary report on the data collected from the campus expression climate surveys to the Education Interim Committee on or before:

(i) November 1, 2027, for reports received in years 2025, 2026, and 2027;

(ii) November 1, 2030, for reports received in years 2028, 2029, and 2030; and

(iii) November 1, 2033, for reports received in years 2031, 2032, and 2033.

(b) On or before November 1, 2035, the Office of Legislative Research and General Counsel shall provide a comprehensive report of the campus expression climate surveys to the Education Interim Committee.

(8) Nothing in this section requires an individual to respond to a campus expression climate survey.

(9) Nothing in this section limits or prohibits an institution's authority to establish policies that:

(a) are necessary to comply with state or federal law, including laws relating to prohibited discrimination or harassment;

(b) require disclosure of an employee's academic research, classroom teaching, or coursework; or

(c) require for employment, tenure, or promotion to disclose or discuss the applicant's:

(i) research;

(ii) teaching agenda;

(iii) artistic creations; or

(iv) pedagogical approaches or experiences with students of all learning abilities.

(10) This section does not apply to:

(a) requirements necessary for athletic and accreditation compliance;

(b) academic research;

(c) academic course teaching in the classroom;

(d) a grant that would otherwise require:

(i) a department, office, division, or other unit of an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the institution's board of trustees; or

(ii) an institution to engage in a prohibited discriminatory practice if the grant has been reviewed and approved by the board;

(e) requirements necessary for an institution to establish or maintain eligibility for any federal program; or

(f) private scholarships administered by an institution.

(11) Notwithstanding any other provision of this part, the University of Utah may take any action required for the University of Utah to comply with the terms of an agreement entered into between the University of Utah and the Ute Indian Tribe before July 1, 2024.

(12)(a) Beginning on July 1, 2025, the board shall conduct a biennial review of an institution of higher education's compliance with this section as follows:

(i) for 2025, on each institution of higher education; and

(ii) for 2026, and every year after, on one-half of the degree granting institutions of higher education and one-half of the technical colleges.

(b) If the board identifies a violation of this section, the board shall:

(i) on or before 30 days after the day on which the board identifies the violation, work with the institution to create a remediation plan; and

(ii) provide the institution 180 days after the day of the creation of the remediation plan to cure the violation.

(13) On or before November 1 of each year, the board shall prepare and submit a report to

the Higher Education Appropriations Subcommittee on:

(a) the review process and each institution's compliance determination; or

(b) if a violation is identified, the remediation plan and progress under Subsection (12)(b).

(14) On or before December 1 of each year, the Higher Education Appropriations Subcommittee shall:

(a) report the findings under Subsections (4) and (13) to the Legislature; and

(b) make appropriation recommendations about an institution's compliance with this section.

(15) The Legislature may withhold future state appropriations to an institution that fails to cure a violation of this section within the time provided under Subsection (12)(b).

(16) The board shall make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish a procedure for accepting and processing an individual's complaint against an institution for an alleged violation of this section.

Section 2. Section **53B-1-411** is enacted to read:

53B-1-411 . Board guidance to degree-granting institutions on student housing.

The board shall make policies or otherwise provide to each degree-granting institution guidance regarding the institution's student housing, including:

(1) compliance with the requirements for sex-designated dwelling units within the institution's student housing under Section 63G-31-305; and

(2) practices to ensure individual privacy within the institution's student housing.

Section 3. Section **53G-6-1005** is amended to read:

53G-6-1005 . Reasonable accommodations.

Nothing in this part prohibits an athletic association, LEA, or school from adopting reasonable safety and privacy rules and policies that designate facilities, including restrooms, shower facilities, and dressing facilities[~~, provided that~~] if the rules and policies described in this section afford reasonable accommodations based on gender identity to all students in compliance with Title 63G, Chapter 31, Distinctions on the Basis of Sex.

Section 4. Section **57-21-3** is amended to read:

57-21-3 . Exemptions -- Sale by private individuals -- Nonprofit organizations -- Noncommercial transactions.

(1) This chapter does not apply to a single-family dwelling unit sold or rented by its owner if:

(a) the owner does not own an interest in four or more single-family dwelling units held for sale or lease at the same time;

(b) during a 24-month period, the owner does not sell two or more single-family dwelling units in which the owner was not residing or was not the most recent resident at the time of sale;

(c) the owner does not retain or use the facilities or services of a real estate broker or salesperson; and

(d) the owner does not use a discriminatory housing practice under Subsection 57-21-5 (2) in the sale or rental of the dwelling.

(2) This chapter does not apply to a dwelling or a temporary or permanent residence facility if:

(a) the discrimination is by sex, as defined in Section 68-3-12.5, sexual orientation, gender identity, or familial status for reasons of personal modesty or privacy, or in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; and

(b) the dwelling or the temporary or permanent residence facility is:

(i) operated by a nonprofit or charitable organization;

(ii) owned by, operated by, or under contract with a religious organization, a religious association, a religious educational institution, or a religious society;

(iii) owned by, operated by, or under contract with an affiliate of an entity described in Subsection (2)(b)(ii); or

(iv) owned by or operated by a person under contract with an entity described in Subsection (2)(b)(ii).

(3) This chapter, except for Subsection 57-21-5(2), does not apply to the rental of a room in a single-family dwelling by an owner-occupant of the single-family dwelling to another person if:

(a) the dwelling is designed for occupancy by four or fewer families; and

(b) the owner-occupant resides in one of the units.

(4)(a)(i) Unless membership in a religion is restricted by race, color, sex, or national origin, this chapter does not prohibit an entity described in Subsection (4)(a)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling or temporary or permanent residence facility the entity owns or operates for primarily noncommercial purposes to persons of the same religion; or

(B) giving preference to persons of the same religion when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence

facility, the entity owns or operates for primarily noncommercial purposes.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(a)(i):

(A) a religious organization, association, or society; or

(B) a nonprofit institution or organization operated, supervised, or controlled by or in conjunction with a religious organization, association, or society.

(b)(i) This chapter does not prohibit an entity described in Subsection (4)(b)(ii) from:

(A) limiting the sale, rental, or occupancy of a dwelling, or a temporary or permanent residence facility, the entity owns or operates to persons of a particular religion, sex, sexual orientation, or gender identity; or

(B) giving preference to persons of a particular religion, sex, sexual orientation, or gender identity when selling, renting, or selecting occupants for a dwelling, or a temporary or permanent residence facility, the entity owns or operates.

(ii) The following entities are entitled to the exemptions described in Subsection (4)(b)(i):

(A) an entity described in Subsection (4)(a)(ii); and

(B) a person who owns a dwelling, or a temporary or permanent residence facility, that is under contract with an entity described in Subsection (4)(a)(ii).

(5)(a) If the conditions of Subsection (5)(b) are met, this chapter does not prohibit a private club not open to the public, including a fraternity or sorority associated with an institution of higher education, from:

(i) limiting the rental or occupancy of lodgings to members; or

(ii) giving preference to its members.

(b) This Subsection (5) applies only if the private club owns or operates the lodgings as an incident to its primary purpose and not for a commercial purpose.

(6) This chapter does not prohibit distinctions based on inability to fulfill the terms and conditions, including financial obligations, of a lease, rental agreement, contract of purchase or sale, mortgage, trust deed, or other financing agreement.

(7) This chapter does not prohibit a nonprofit educational institution from:

(a) requiring its single students to live in a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution;

(b) segregating a dwelling, or a temporary or permanent residence facility, that is owned by, operated by, or under contract with the nonprofit educational institution on the

basis of sex, as defined in Section 68-3-12.5, regardless of gender identity, or familial status or both:

(i) for reasons of personal modesty or privacy; or

(ii) in the furtherance of a religious institution's free exercise of religious rights under the First Amendment of the United States Constitution or the Utah Constitution; or

(c) otherwise assisting another person in making a dwelling, or a temporary or permanent residence facility, available to students on a sex-segregated basis as may be permitted by:

(i) regulations implementing the federal Fair Housing Amendments Act of 1988;

(ii) Title IX of the Education Amendments of 1972; or

(iii) other applicable law.

(8) This chapter does not prohibit any reasonable local, state, or federal restriction regarding the maximum number of occupants permitted to occupy a dwelling.

(9) A provision of this chapter that pertains to familial status does not apply to the existence, development, sale, rental, advertisement, or financing of an apartment complex, condominium, or other housing development designated as housing for older persons, as defined by Title VIII of the Civil Rights Act of 1968, as amended.

Section 5. Section **63G-31-101** is amended to read:

63G-31-101 . Definitions.

As used in this chapter:

(1)(a) "Changing room" means a space designated for multiple individuals to dress or undress within the same space.

(b) "Changing room" includes:

(i) a dressing room, fitting room, locker room, or shower room; and

(ii) a restroom when a changing room contains or is attached to the restroom.

(2)(a) "Facility" means a publicly owned or controlled building, structure, or other improvement.

(b) "Facility" includes a subset of a publicly owned or controlled building, structure, or other improvement, including a restroom or locker room.

(3) "Government entity" means[~~:~~] the same as that term is defined in Section 63G-2-103.

[~~(a) the state; or~~]

[~~(b) any county, municipality, special district, special service district, or other political subdivision or administrative unit of the state, including:~~]

[~~(i) a state institution of higher education as defined in Section 53B-2-101; or~~]

[~~(ii) a local education agency as defined in Section 53G-7-401.~~]

(4) "Intersex individual" means the same as that term is defined in Section 26B-8-101.

(5) "Men's restroom" means a restroom that is designated for the exclusive use of males and not females.

(6)(a) "Open to the general public" means that a privacy space is:

(i) freely accessible to a member of the general public;

(ii) accessible to an individual who has purchased a ticket, paid an entry fee, paid a membership fee, or otherwise paid to access the facility containing the relevant privacy space; or

(iii) accessible to a student of an institution of higher education described in Section 52B-2-101, either freely or as described in Subsection (6)(a)(ii).

(b) "Open to the general public" does not include a privacy space that is:

(i) only accessible to employees of a government entity; or

(ii) any area that is not normally accessible to the public.

(7) "Privacy space" means a restroom or changing room within a publicly owned or controlled facility, where an individual has a reasonable expectation of privacy.

(8) "Publicly owned or controlled" means that a government entity has at least a partial ownership interest in or has control of a facility, program, or event.

(9)(a) "Restroom" means any space that includes a toilet.

(b) "Restroom" includes:

(i) sex-designated men's restrooms;

(ii) sex-designated women's restrooms;

(iii) unisex restrooms; and

(iv) single-occupant restrooms.

(10) "Sex-designated" means that a facility, program, or event is designated specifically for males or females and not the opposite sex.

(11) "Single-occupant" means, in relation to a single-occupant facility or privacy space, that the facility or privacy space:

(a) has floor-to-ceiling walls;

(b) has an entirely encased and locking door; and

(c) is designated for single occupancy.

(12) "Unisex" means, in relation to a unisex facility or privacy space, that the facility or privacy space:

(a) is designated for the use of both sexes; or

(b) is not sex-designated.

(13) "Women's restroom" means a restroom that is designated for the exclusive use of females and not males.

Section 6. Section **63G-31-201** is amended to read:

63G-31-201 . Distinctions on the basis of sex.

(1) A government entity may not, on the basis of sex, exclude an individual from participation in, deny an individual from the benefits of, or subject an individual to a sex-based distinction in or under any government or otherwise publicly owned or controlled facility, program, or event, unless the distinction is substantially related to an important government objective.

(2) Each government entity shall ensure the preservation of distinctions on the basis of sex that protect individual privacy and competitive opportunity, as described in this chapter.

(3)(a) As used in this Subsection (3), "athletic facility" does not include a privacy space.

(b) To preserve the individual privacy and competitive opportunity of females, an individual is not entitled to and may not access, use, or benefit from a government entity's athletic facility, program, or event if:

(i) the facility, program, or event is designated for females; and

(ii) the individual is not female.

(c) To preserve the individual privacy and competitive opportunity of males, an individual is not entitled to and may not access, use, or benefit from a government entity's athletic facility, program, or event if:

(i) the facility, program, or event is designated for males; and

(ii) the individual is not male.

(4) [~~Notwithstanding~~]Subsections (1) through (3)[~~, this chapter does~~] and Subsection 63G-31-204(4) do not apply to:

(a) a determination of the School Activity Eligibility Commission, created in Section 53G-6-1003, regarding a student's athletic eligibility; or

(b) [~~in the context of~~] the participation of a student[~~ who~~] , if the student has obtained the eligibility approval of the commission under Subsection 53G-6-1004(2)[~~ to participate~~] , in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate, as those terms are defined in Section 53G-6-1001.

Section 7. Section **63G-31-202** is amended to read:

63G-31-202 . Sex-based distinctions to protect individual privacy.

A distinction on the basis of sex that provides separate accommodations for the sexes is substantially related to the important government objective of protecting individual privacy, including in the following contexts:

(1) a privacy space;[~~and~~]

(2) a correctional facility as defined in Section 77-16b-102[~~.~~] ; and

(3) multi-occupancy sex-designated publicly owned dwellings.

Section 8. Section **63G-31-301** is amended to read:

63G-31-301 . Sex-designated privacy spaces in public schools.

(1) To preserve the individual privacy of male and female students in the public education system, a student may only access an operational sex-designated privacy space within a public school that is designated for student use if the student's sex corresponds with the sex designation of the privacy space.

(2) For a student who makes a request to use a privacy space other than the sex-designated privacy space that corresponds with the student's sex because of the student's gender identity, as defined in Section 34A-5-102, or reasonable fear of bullying, the local education agency, as defined in Section 53E-1-102, shall coordinate with the student's parent or legal guardian to develop a privacy plan that provides the student with:

(a)(i) reasonable access to a unisex or single-occupant facility; or

(ii) reasonable access to a faculty or staff restroom; or

(b) if the access described in Subsection (2)(a) is unavailable, reasonable access to private use of an otherwise sex-designated privacy space through staggered scheduling or another policy provision that provides for temporary private access.

(3) An LEA satisfies the LEA's duties regarding student use of a privacy space under this chapter if the LEA:

(a) gives notice to students of the provisions of this section;

(b) takes administrative action to address violations of and promote compliance with this section; and

(c) develops a privacy plan in accordance with Subsection (2).

(4) An individual may use[~~the following evidence~~] , as a defense to an allegation that the student is not eligible to access and use a sex-designated privacy space under Subsection (1)[~~:~~] ,

[~~(a)~~] the student's unamended birth certificate that corresponds with the sex designation of privacy space, which may be supported with a review of any amendment history obtained under Section 26B-8-125[~~; or~~] .

[~~(b) documentation of a medical treatment or procedure that is consistent only with the sex designation of the privacy space.~~]

(5) Subsection (1) does not apply to:

(a) a unisex or single-occupant facility; or

(b) an intersex individual.

Section 9. Section **63G-31-302** is amended to read:

63G-31-302 . Sex-designated changing rooms in publicly owned facilities open to the general public.

(1)(a) Except as provided in Subsection (1)(b), to preserve the individual privacy of males and females, an individual may only access an operational sex-designated changing room in a government entity's facility that is open to the general public if:

(i) the individual's sex corresponds with the sex designation of the changing room; or

(ii) the individual has:

(A) legally amended the individual's birth certificate to correspond with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(B) undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102 to correspond with the sex designation of the changing room.

(b) Subsection (1)(a) does not apply to:

(i) a minor child who requires assistance to access or use the changing room that corresponds with the sex of the minor's parent, guardian, or relative;

(ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined in Section 76-5-111 who requires assistance to access or use the changing room that corresponds with the sex of a caretaker;

(iii) an individual providing public safety services, including law enforcement, emergency medical services as defined in Section 26B-4-101, and fire protection;

(iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide health care services to a patient of the health care facility; or

(v) an individual whose employment duties include the maintenance or cleaning of the changing room.

(2) An individual in a changing room has a reasonable expectation of privacy, satisfying the privacy element of the offense of voyeurism in Section 76-9-702.7.

(3) An individual who knowingly enters a changing room in violation of Subsection (1)

commits the offense of criminal trespass under Section 76-6-206 if the individual enters or remains in the changing room under circumstances which a reasonable person would expect to likely cause affront or alarm to, on, or in the presence of another individual.

(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an individual from the offense of lewdness related to genitalia under Subsection 76-9-702(3) or 76-9-702.5(4).

(5) An individual may use the following evidence as a defense against an allegation that the individual is not eligible to access and use a sex-designated changing room under Subsection (1):

(a) for an individual whose birth sex corresponds with the sex designation of the changing room[~~:~~] **,**

[~~(i)~~] an individual's unamended birth certificate that corresponds with the sex designation of the changing room, which may be supported with a review of any amendment history obtained under Section 26B-8-125; or

[~~(ii) documentation of a medical treatment or procedure that is consistent only with the sex designation of the changing room; or~~]

(b) for an individual whose birth sex does not correspond with the sex designation of the changing room:

(i) the individual's amended birth certificate, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(ii) documentation that demonstrates that the individual has undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102.

(6) Subsection (1) does not apply to:

(a) a unisex or single-occupant facility;

(b) a changing room that is not open to the general public; or

(c) an intersex individual.

Section 10. Section **63G-31-304** is amended to read:

63G-31-304 . Government entity facility compliance.

(1) Except as provided under Section 53G-8-211, a government entity shall contact law enforcement if the entity receives a complaint or allegation regarding the following within a privacy space in a facility that is open to the general public:

(a) an offense of lewdness under Section 76-9-702;

(b) an offense of lewdness involving a child under Section 76-9-702.5;

(c) voyeurism under Section 76-9-702.7;

(d) loitering in a privacy space under Section 76-9-702.8; or

(e) for a changing room described in Section 63G-31-302, an offense of criminal trespass under Subsection 63G-31-302(2).

(2) To preserve the individual privacy of males and females in privacy spaces:

(a) a government entity that has administrative control over access to a given facility with a privacy space that is open to the general public shall adopt a privacy compliance plan to address compliance with the government entity's duties under this chapter;

(b) for construction of a new facility[~~, a~~] with a privacy space that is open to the general public, the government entity that has authority over construction or remodeling of the facility shall ensure that the new construction includes a single-occupant facility; and

(c) for existing privacy spaces, [~~a~~] the government entity that has authority over construction or remodeling of the facility that contains the privacy space:

(i) shall consider the feasibility of retrofitting or remodeling to include:

(A) floor-to-ceiling walls and doors or similar privacy protections;

(B) curtains; or

(C) other methods of improving individual privacy within the facility that are comparable to the methods described in Subsections (2)(a)(i) and (ii); and

(ii) may reduce the number of fixtures that state law requires by up to 20% to provide adequate space for the retrofitting or remodeling described in Subsection (2)(a).

(3) [~~A~~] The government entity with authority regarding the design of a facility with a privacy space that is open to the general public shall ensure sufficient sex-designated privacy spaces through compliance with Sections 15A-3-112 and 15A-3-304 regarding unisex facilities.

Section 11. Section **63G-31-305** is enacted to read:

63G-31-305 . Higher education student housing.

(1) As used in this section:

(a) "Degree-granting institution" means the same as that term is defined in Section 53B-1-101.5.

(b) "Dwelling unit" means the same as that term is defined in Section 15A-5-102.

(c) "Student housing" means housing that a degree-granting institution publicly owns or controls.

(2) Except as provided in Subsection (1)(b), to preserve the individual privacy of males and

females, a degree-granting institution that provides student housing may only rent to, assign, or otherwise place an individual in a dwelling unit that is sex-designated within the institution's student housing if:

(a) the individual's sex corresponds with the sex designation of the dwelling unit within the institution's student housing; or

(b) the individual has:

(i) legally amended the individual's birth certificate to correspond with the sex designation of the dwelling unit within the institution's student housing, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(ii) undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102 to correspond with the sex designation of the dwelling unit within the institution's student housing.

(3) An individual may use the following evidence as a defense against an allegation that the individual is not eligible for renting, assignment, or placement in a sex-designated dwelling unit under Subsection (2):

(a) for an individual whose birth sex corresponds with the sex designation of the dwelling unit, an individual's unamended birth certificate that corresponds with the sex designation of the dwelling unit, which may be supported with a review of any amendment history obtained under Section 26B-8-125; or

(b) for an individual whose birth sex does not correspond with the sex designation of the dwelling unit:

(i) the individual's amended birth certificate, which may be supported with a review of any amendment history obtained under Section 26B-8-125; and

(ii) documentation that demonstrates that the individual has undergone a primary sex characteristic surgical procedure as defined in Section 58-67-102.

(4) Subsection (2) does not apply to:

(a) dwelling units within student housing that the institution designates as unisex or single-occupant; or

(b) an intersex individual.

(5) Nothing in this section prohibits a degree-granting institution from offering a dwelling unit in student housing that is not sex-designated if the institution only places an individual in the dwelling unit who seeks a dwelling unit that is not sex-designated.

Section 12. **Effective Date.**

This bill takes effect on May 7, 2025.