

Effective 1/30/2024

Part 3
Sex-based Distinctions in Privacy Spaces

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, as a defense to an allegation that the student is not eligible to access and use a sex-designated privacy space under Subsection (1), 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.
- (5) Subsection (1) does not apply to:
 - (a) a unisex or single-occupant facility; or
 - (b) an intersex individual.

Amended by Chapter 11, 2025 General Session

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 following offenses:
- (a) voyeurism, as described in Section 76-12-306; and
 - (b) recorded or photographed voyeurism, as described in Section 76-12-307.
- (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 76-5-419(6) or 76-5-420(5).
- (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, 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
 - (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.

Amended by Chapter 173, 2025 General Session

63G-31-303 Unisex or single-occupant facilities.

The availability of a unisex facility or single-occupant facility satisfies a government entity's obligations regarding an individual who, because of the individual's gender identity, as defined in Section 34A-5-102, or reasonable fear of bullying, is uncomfortable using:

- (1) for a student, a privacy space in accordance with Section 63G-31-301; or
- (2) a changing room in accordance with Section 63G-31-302.

Enacted by Chapter 2, 2024 General Session

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 as described in Section 76-5-419;
 - (b) an offense of lewdness involving a child as described in Section 76-5-420;
 - (c) voyeurism as described in Section 76-12-306;
 - (d) recorded or photographed voyeurism as described in Section 76-12-307;
 - (e) distribution of images obtained through voyeurism as described in Section 76-12-308;
 - (f) loitering in a privacy space as described in Section 76-12-309; or
 - (g) 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 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, 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) 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.

Amended by Chapter 11, 2025 General Session

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 53H-1-101.
 - (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) 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 the individual's

sex corresponds 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): 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.
- (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 assigns or places an individual in the dwelling unit who seeks a dwelling unit that is not sex-designated.

Amended by Chapter 9, 2025 Special Session 1