

## 2nd Sub. H.B. 257

# SEX-BASED DESIGNATIONS FOR PRIVACY, ANTI-BULLYING, AND WOMEN'S OPPORTUNITIES

SENATE FLOOR AMENDMENTS

AMENDMENT 2

JANUARY 24, 2024 9:47 PM

Senator **Jen Plumb** proposes the following amendments:

1. *Page 1, Lines 20 through 22:*

20           ▶       enacts provisions regarding publicly owned or publicly funded ~~{sex-designated}~~  
21 shower or locker room facilities where the general public has an expectation of  
22 privacy;

2. *Page 11, Lines 327 through 335:*

327                                   Part 3. ~~{Sex-based Distinctions in}~~ Privacy Spaces  
328           63G-31-301. ~~{Sex-designated privacy}~~ Privacy spaces in public schools.  
329           ~~{(1) To preserve the individual privacy of male and female students in the public~~  
330 education system, a student may only access an operational sex-designated privacy space  
331 within a public school that is designated for student use if the student's sex corresponds with  
332 the sex designation of the privacy space.}  
333           ~~{(2)}~~ (1) For a student who makes a request to use a privacy space other than ~~{the~~  
334 corresponding} a sex-designated privacy space ~~{described in Subsection (1)}~~ because of the  
335 student's gender identity, as defined in Section 34A-5-102, or reasonable fear of bullying, the

3. *Page 12, Line 345 through Page 14, Line 417:*

345           ~~{(4) An individual may use the following evidence as a defense to an allegation that the~~  
346 student is not eligible to access and use a sex-designated privacy space under Subsection (1):  
347 —— (a) the student's unamended birth certificate that corresponds with the sex designation  
348 of privacy space, which may be supported with a review of any amendment history obtained  
349 under Section 26B-8-125; or  
350 —— (b) documentation of a medical treatment or procedure that is consistent only with the  
351 sex designation of the privacy space;  
352 —— (5) Subsection (1) does not apply to:  
353 —— (a) a unisex or single-occupant facility; or  
354 —— (b) an intersex individual.}  
355           Section 9. Section **63G-31-302** is enacted to read:  
356           63G-31-302. Sex-designated changing rooms in publicly owned facilities open to  
357 the general public.  
358           ~~{(1)(a) Except as provided in Subsection (1)(b), to preserve the individual privacy of~~

359 ~~males and females, an individual may only access an operational sex-designated changing room~~  
360 ~~in a government entity's facility that is open to the general public if:~~

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

362 ~~—— (ii) the individual has:~~

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

366 ~~—— (B) undergone a primary sex characteristic surgical procedure as defined in Section~~  
367 ~~58-67-102 to correspond with the sex designation of the changing room.~~

368 ~~—— (b) Subsection (1)(a) does not apply to:~~

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

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

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

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

378 ~~—— (v) an individual whose employment duties include the maintenance or cleaning of the~~  
379 ~~changing room.}~~

380 ~~{(2)}~~ (1) ~~An individual in a changing room has a reasonable expectation of privacy,~~  
381 ~~satisfying the privacy element of the offense of voyeurism in Section 76-9-702.7.~~

382 ~~{(3)}~~ (2) ~~An individual who knowingly enters a changing room~~ ~~{in violation of Subsection~~  
383 ~~(1)}~~

383 ~~commits the offense of criminal trespass under Section 76-6-206 if the individual enters or~~  
384 ~~remains in the changing room:~~

385 ~~(a) under circumstances which a reasonable person would expect to likely cause affront~~  
386 ~~or alarm to, on, or in the presence of another individual; or~~

387 ~~(b) for any purpose other than the intended use of the changing room.~~

388 ~~{(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an~~  
389 ~~individual from the offense of lewdness related to genitalia under Subsection 76-9-202(3) or~~  
390 ~~76-9-202.5(4):~~

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

394 ~~—— (a) for an individual whose birth sex corresponds with the sex designation of the~~  
395 ~~changing room:~~

396 ~~—— (i) an individual's unamended birth certificate that corresponds with the sex~~

397 ~~designation of the changing room, which may be supported with a review of any amendment~~

398 ~~history obtained under Section 26B-8-125; or~~  
399 ~~—— (ii) documentation of a medical treatment or procedure that is consistent only with the~~  
400 ~~sex designation of the changing room; or~~  
401 ~~—— (b) for an individual whose birth sex does not correspond with the sex designation of~~  
402 ~~the changing room:~~  
403 ~~—— (i) the individual's amended birth certificate, which may be supported with a review of~~  
404 ~~any amendment history obtained under Section 26B-8-125; and~~  
405 ~~—— (ii) documentation that demonstrates that the individual has undergone a primary sex~~  
406 ~~characteristic surgical procedure as defined in Section 58-67-102.~~  
407 ~~—— (6) Subsection (1) does not apply to:~~  
408 ~~—— (a) a unisex or single-occupant facility;~~  
409 ~~—— (b) a changing room that is not open to the general public; or~~  
410 ~~—— (c) an intersex individual.}~~  
411 Section 10. Section **63G-31-303** is enacted to read:  
412 63G-31-303. Unisex or single-occupant facilities.  
413 The availability of a unisex facility or single-occupant facility satisfies a government  
414 entity's obligations regarding an individual who, because of the individual's gender identity, as  
415 defined in Section 34A-5-102, or reasonable fear of bullying, is uncomfortable using {:  
416 ~~—— (1) for a student,}~~ a sex-designated privacy space {in accordance with Section  
417 ~~—— (2) a changing room in accordance with Section 63G-31-302.}~~ .

4. Page 14, Lines 425 through 428:

425 (c) voyeurism under Section 76-9-702.7; or  
426 (d) loitering in a privacy space under Section 76-9-702.8 {; or  
427 ~~—— (e) for a changing room described in Section 63G-31-301, an offense of criminal~~  
428 ~~trespass under Subsection 63G-31-301(3).}~~ .

5. Page 38, Lines 1167 through 1168:

1167 (d) the actor enters a {sex-designated} changing room in violation of Subsection  
1168 63G-31-302 {(3)} (2) .

6. Page 42, Lines 1271 through 1272:

1271 (A) criminal trespass in a {sex-designated} changing room under Subsection  
1272 76-6-206(2)(d);

7. Page 42, Lines 1290 through 1293:

1290 (c) Within the common area of a changing room defined in 63G-31-101, exposing,

1291 displaying, or otherwise uncovering genitalia {that does not correspond with the sex designation  
1292 of the changing room} constitutes an act or an attempted act described in Subsection (1) that  
1293 constitutes lewdness.

8. *Page 44, Lines 1328 through 1329:*

1328 (A) criminal trespass in a {sex-designated} changing room under Subsection  
1329 76-6-206(2)(d);

9. *Page 44, Lines 1336 through 1339:*

1336 (b) Within the common area of a government entity's changing room defined in  
1337 63G-31-101, exposing, displaying, or otherwise uncovering genitalia {that does not correspond  
1338 with the sex designation of the changing room} constitutes an act or an attempted act described  
1339 in Subsection (1) that constitutes lewdness involving a child.

10. *Page 44, Lines 1356 through 1357:*

1356 (A) criminal trespass in a {sex-designated} changing room under Subsection  
1357 76-6-206(2)(d);

11. *Page 45, Lines 1380 through 1381:*

1380 (A) criminal trespass in a {sex-designated} changing room under Subsection  
1381 76-6-206(2)(d);

12. *Page 46, Lines 1402 through 1403:*

1402 (i) criminal trespass in a {sex-designated} changing room under Subsection  
1403 76-6-206(2)(d);