

3rd Sub. H.B. 257

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

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

1. Page 1, Lines 20 through 21:

20           ▶       enacts provisions regarding ~~{sex-designated}~~ restroom, shower, or locker room  
21 facilities that students use within the public education system;

2. Page 12, Lines 351 through 358:

351                               Part 3. ~~{Sex-based Distinctions in}~~ Privacy Spaces  
352       63G-31-301. ~~{Sex-designated privacy}~~ Privacy spaces in public schools.  
353       ~~{(1) To preserve the individual privacy of male and female students in the public~~  
354 ~~education system, a student may only access an operational sex-designated privacy space~~  
355 ~~within a public school that is designated for student use if the student's sex corresponds with~~  
356 ~~the sex designation of the privacy space.}~~  
357       ~~{(2)}~~ (1) For a student who makes a request to use a privacy space other than ~~{the}~~ a  
358 sex-designated privacy space ~~{that corresponds with the student's sex}~~ because of the student's

3. Page 13, Line 369 through Page 15, Line 432:

369       ~~{(4) An individual may use the following evidence as a defense to an allegation that the~~  
370 ~~student is not eligible to access and use a sex-designated privacy space under Subsection (1):~~  
371 ~~—— (a) the student's unamended birth certificate that corresponds with the sex designation~~  
372 ~~of privacy space, which may be supported with a review of any amendment history obtained~~  
373 ~~under Section 26B-8-125; or~~  
374 ~~—— (b) documentation of a medical treatment or procedure that is consistent only with the~~  
375 ~~sex designation of the privacy space.~~  
376 ~~—— (5) Subsection (1) does not apply to:~~  
377 ~~—— (a) a unisex or single-occupant facility; or~~  
378 ~~—— (b) an intersex individual.}~~  
379       Section 10. Section **63G-31-302** is enacted to read:  
380       63G-31-302. ~~{Sex-designated changing}~~ Changing rooms in publicly owned facilities open  
to  
381 the general public.  
382       ~~{(1) (a) Except as provided in Subsection (1)(b), to preserve the individual privacy of~~  
383 ~~males and females, an individual may only access an operational sex-designated changing room~~

384 in a government entity's facility that is open to the general public if:  
385 —— (i) the individual's sex corresponds with the sex designation of the changing room; or  
386 —— (ii) the individual has:  
387 —— (A) legally amended the individual's birth certificate to correspond with the sex  
388 designation of the changing room, which may be supported with a review of any amendment  
389 history obtained under Section 26B-8-125; and  
390 —— (B) undergone a primary sex characteristic surgical procedure as defined in Section  
391 58-67-102 to correspond with the sex designation of the changing room.  
392 —— (b) Subsection (1)(a) does not apply to:  
393 —— (i) a minor child who requires assistance to access or use the changing room that  
394 corresponds with the sex of the minor's parent, guardian, or relative;  
395 —— (ii) a dependent minor, as defined in Section 76-5-110, or a dependent adult, as defined  
396 in Section 76-5-111 who requires assistance to access or use the changing room that  
397 corresponds with the sex of a caretaker;  
398 —— (iii) an individual providing public safety services, including law enforcement,  
399 emergency medical services as defined in Section 26B-4-101, and fire protection;  
400 —— (iv) an employee of a health care facility, as defined in Section 26B-2-201, to provide  
401 health care services to a patient of the health care facility; or  
402 —— (v) an individual whose employment duties include the maintenance or cleaning of the  
403 changing room.}  
404 {(2)} (1) An individual in a changing room has a reasonable expectation of privacy,  
405 satisfying the privacy element of the offense of voyeurism in Section 76-9-702.7.  
406 {(3)} (2) An individual who knowingly enters a changing room {in violation of Subsection  
407 (1)}  
408 commits the offense of criminal trespass under Section 76-6-206 if the individual enters or  
409 remains in the changing room under circumstances which a reasonable person would expect to  
410 likely cause affront or alarm to, on, or in the presence of another individual  
411 {(4) The surgical provision described in Subsection (1)(a)(ii) does not shield an  
412 individual from the offense of lewdness related to genitalia under Subsection 76-9-202(3) or  
413 76-9-202.5(4).  
414 —— (5) An individual may use the following evidence as a defense against an allegation  
415 that the individual is not eligible to access and use a sex-designated changing room under  
416 Subsection (1):  
417 —— (a) for an individual whose birth sex corresponds with the sex designation of the  
418 changing room:  
419 —— (i) an individual's unamended birth certificate that corresponds with the sex  
420 designation of the changing room, which may be supported with a review of any amendment  
421 history obtained under Section 26B-8-125; or  
422 —— (ii) documentation of a medical treatment or procedure that is consistent only with the  
sex designation of the changing room; or

423 ~~— (b) for an individual whose birth sex does not correspond with the sex designation of~~  
424 ~~the changing room:~~  
425 ~~— (i) the individual's amended birth certificate, which may be supported with a review of~~  
426 ~~any amendment history obtained under Section 26B-8-125; and~~  
427 ~~— (ii) documentation that demonstrates that the individual has undergone a primary sex~~  
428 ~~characteristic surgical procedure as defined in Section 58-67-102.~~  
429 ~~— (6) Subsection (1) does not apply to:~~  
430 ~~— (a) a unisex or single-occupant facility;~~  
431 ~~— (b) a changing room that is not open to the general public; or~~  
432 ~~— (c) an intersex individual.}~~

4. Page 15, Lines 437 through 439:

437 ~~defined in Section 34A-5-102, or reasonable fear of bullying, is uncomfortable using {:~~  
438 ~~— (1) for a student,} a sex-designated privacy space {in accordance with Section~~  
439 ~~63G-31-301; or~~  
439 ~~— (2) a changing room in accordance with Section 63G-31-302.}~~

5. Page 15, Lines 447 through 450:

447 (c) voyeurism under Section 76-9-702.7; or  
448 (d) loitering in a privacy space under Section 76-9-702.8 {; or  
449 ~~— (e) for a changing room described in Section 63G-31-302, an offense of criminal~~  
450 ~~trespass under Subsection 63G-31-302(2).}~~

6. Page 39, Line 1189 through Page 40, Line 1204:

1189 (d) the actor enters a {sex-designated} changing room in violation of Subsection  
1190 63G-31-302 {~~(3)~~} (2) .  
1191 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2)(a) [~~or~~],  
1192 (b), or (d) is a class B misdemeanor.  
1193 (b) [H] The following is a class A misdemeanor:  
1194 (i) if a violation of Subsection (2)(a) or (b) is committed in a dwelling,~~the violation is~~  
1195 ~~a class A misdemeanor.];~~ or  
1196 (ii) if a violation of Subsection (2)(d) is committed while also committing the offense  
1197 of:  
1198 (A) lewdness under Section 76-9-702;  
1199 (B) lewdness involving a child under Section 76-9-702.5;  
1200 (C) voyeurism under Section 76-9-702.7; or  
1201 (D) loitering in a privacy space under Section 76-9-702.8 {; or  
1202 ~~— (iii) if a violation of Subsection (2)(d) is committed in a sex-designated privacy space;~~  
1203 ~~as defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex.}~~

1204 (c) A violation of Subsection (2)(c) is an infraction.

7. Page 41, Lines 1242 through 1245:

1242 (e) makes a false report after having previously made a false report, or intentionally  
1243 aides, abets, or causes a third party to make a false report, to an emergency response service,  
1244 including a law enforcement dispatcher or a 911 emergency response service, alleging a  
1245 violation of Section 63G-31-302 regarding a ~~{sex-designated}~~ changing room.

8. Page 42, Line 1292 through Page 43, Line 1301:

1292 (iii) the person has previously been convicted of a violation of Subsection (1) and has  
1293 also previously been convicted of a violation of Section 76-9-702.5[-]; or  
1294 (iv) the person commits the offense of lewdness while also committing the offense of:  
1295 (A) criminal trespass in a ~~{sex-designated}~~ changing room under Subsection  
1296 76-6-206(2)(d);  
1297 (B) lewdness involving a child under Section 76-9-702.5;  
1298 (C) voyeurism under Section 76-9-702.7; or  
1299 (D) loitering in a privacy space under Section 76-9-702.8 ~~{; or~~  
1300 ~~(v) the person commits the offense of lewdness in a sex-designated privacy space, as~~  
1301 ~~defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex}~~ .

9. Page 43, Lines 1316 through 1320:

1316 (c) Within the common area of a dressing room, fitting room, locker room, changing  
1317 facility, or any other space designated for multiple individuals to dress or undress within the  
1318 same space, exposing, displaying, or otherwise uncovering genitalia ~~{that does not correspond~~  
1319 ~~with the sex designation of the changing room}~~ constitutes an act or an attempted act described  
1320 in Subsection (1) that constitutes lewdness.

10. Page 44, Line 1352 through Page 45, Line 1362:

1352 (ii) the person has previously been convicted of a violation of this section[-]; or  
1353 (iii) the person commits the offense of lewdness involving a child while also  
1354 committing the offense of:  
1355 (A) criminal trespass in a ~~{sex-designated}~~ changing room under Subsection  
1356 76-6-206(2)(d);  
1357 (B) lewdness under Section 76-9-702;  
1358 (C) voyeurism under Section 76-9-702.7; or  
1359 (D) loitering in a privacy space under Section 76-9-702.8 ~~{; or~~  
1360 ~~(iv) the person commits the offense of lewdness involving a child in a sex-designated~~  
1361 ~~privacy space, as defined in Section 76-9-702.8, that is not designated for individuals of the~~

1362 ~~actor's sex~~ } .

11. Page 45, Lines 1366 through 1370:

1366 (b) Within the common area of a government entity's dressing room, fitting room,  
1367 locker room, changing facility, or any other space designated for multiple individuals to dress  
1368 or undress within the same space, exposing, displaying, or otherwise uncovering genitalia ~~{that~~  
1369 ~~does not correspond with the sex designation of the changing room}~~ } constitutes an act or an  
1370 attempted act described in Subsection (1) that constitutes lewdness involving a child.

12. Page 45, Line 1384 through Page 46, Line 1393:

1384 (i) a violation of Subsection (1) committed against a child under 14 years of age [is a  
1385 ~~third degree felony~~]; ~~or~~  
1386 (ii) a violation of Subsection (1) committed while also committing the offense of:  
1387 (A) criminal trespass in a ~~{sex-designated}~~ changing room under Subsection  
1388 76-6-206(2)(d);  
1389 (B) lewdness under Section 76-9-702;  
1390 (C) lewdness involving a child under Section 76-9-702.5; or  
1391 (D) loitering in a privacy space under Section 76-9-702.8 ~~{or~~  
1392 ~~(iii) a violation of Subsection (1) in a sex-designated privacy space, as defined in~~  
1393 ~~Section 76-9-702.8, that is not designated for individuals of the actor's sex}~~ } .

13. Page 46, Lines 1410 through 1419:

1410 (i) a violation of Subsection (4) committed against a child under 14 years of age is a  
1411 class A misdemeanor[?]; ~~or~~  
1412 (ii) a violation of Subsection (4) committed while also committing the offense of:  
1413 (A) criminal trespass in a ~~{sex-designated}~~ changing room under Subsection  
1414 76-6-206(2)(d);  
1415 (B) lewdness under Section 76-9-702;  
1416 (C) lewdness involving a child under Section 76-9-702.5; or  
1417 (D) loitering in a privacy space ~~{or~~  
1418 ~~(iii) a violation of Subsection (4) committed in a sex-designated privacy space, as~~  
1419 ~~defined in Section 76-9-702.8, that is not designated for individuals of the actor's sex}~~ } .

14. Page 47, Lines 1424 through 1446:

1424 (l) As used in this section ~~{or~~  
1425 ~~(a) "Privacy}~~ , "privacy space" means the following in which an individual has a reasonable  
1426 expectation of privacy:  
1427 (i) a restroom or any other space that includes a toilet;

1428 (ii) a dressing room, fitting room, locker room, changing facility, or any other space  
1429 designated for multiple individuals to dress or undress within the same space; or  
1430 (iii) any room or space that includes a shower.  
1431 { ~~(b)~~ "Sex-designated" means that a facility, program, or event is designated specifically  
1432 for males or females and not the opposite sex. }  
1433 (2) An actor commits the offense of unlawfully loitering in a privacy space if the actor  
1434 intentionally or knowingly remains unlawfully or loiters in a privacy space.  
1435 (3) (a) Except as provided in Subsection (3)(b), a violation of Subsection (2) is a class  
1436 B misdemeanor.  
1437 (b) A violation of Subsection (4) is a class A misdemeanor if the actor commits the  
1438 offense {~~⋮~~  
1439 ~~(i)~~} while also committing the offense of:  
1440 {~~(A)~~} ~~(i)~~ criminal trespass in a {~~sex-designated~~} changing room under Subsection  
1441 76-6-206(2)(d);  
1442 {~~(B)~~} ~~(ii)~~ lewdness under Section 76-9-702;  
1443 {~~(C)~~} ~~(iii)~~ lewdness involving a child under Section 76-9-702.5; or  
1444 {~~(D)~~} ~~(iv)~~ voyeurism under Section 76-9-702.7 {~~⋮~~ or  
1445 ~~(ii) in a sex-designated privacy space that is not designated for individuals of the actor's~~  
1446 ~~sex~~} .