

Senate Engrossed

schools; biological sex; requirements

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SENATE CONCURRENT RESOLUTION 1013

A CONCURRENT RESOLUTION

ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING
TO PUBLIC SCHOOLS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,
4 the following measure, relating to public schools, is enacted to become
5 valid as a law if approved by the voters and on proclamation of the
6 Governor:

7 AN ACT

8 AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED
9 STATUTES, BY ADDING SECTION 15-120.05; AMENDING TITLE 15,
10 CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
11 SECTION 15-509; RELATING TO PUBLIC SCHOOLS.

12 Be it enacted by the Legislature of the State of Arizona:

13 Section 1. Title 15, chapter 1, article 1, Arizona
14 Revised Statutes, is amended by adding section 15-120.05, to
15 read:

16 15-120.05. Public schools; reasonable accommodations;
17 restrooms; changing facilities; sleeping
18 quarters; cause of action; definitions

19 A. A PUBLIC SCHOOL SHALL PROVIDE A REASONABLE
20 ACCOMMODATION TO ANY PERSON IF ALL OF THE FOLLOWING APPLY:

21 1. THE PERSON, FOR ANY REASON, IS UNWILLING OR UNABLE
22 TO USE A MULTIOCCUPANCY RESTROOM OR CHANGING FACILITY THAT IS
23 DESIGNATED FOR THE PERSON'S SEX AND THAT IS LOCATED IN A
24 PUBLIC SCHOOL BUILDING OR IN MULTIOCCUPANCY SLEEPING QUARTERS
25 WHILE THE PERSON ATTENDS A PUBLIC SCHOOL-SPONSORED ACTIVITY.

26 2. THE PERSON REQUESTS IN WRITING A REASONABLE
27 ACCOMMODATION FROM THE PUBLIC SCHOOL.

28 3. THE PERSON SUBMITS SATISFACTORY EVIDENCE OF THE
29 PERSON'S SEX TO THE PUBLIC SCHOOL.

30 B. A REASONABLE ACCOMMODATION MAY INCLUDE EITHER OF THE
31 FOLLOWING:

32 1. ACCESS TO A SINGLE-OCCUPANCY RESTROOM OR CHANGING
33 FACILITY.

34 2. USE OF AN EMPLOYEE RESTROOM OR CHANGING FACILITY.

35 C. A REASONABLE ACCOMMODATION DOES NOT INCLUDE ACCESS
36 TO A RESTROOM OR CHANGING FACILITY THAT IS DESIGNATED FOR USE
37 BY PERSONS OF THE OPPOSITE SEX WHILE PERSONS OF THE OPPOSITE
38 SEX ARE PRESENT.

39 D. PUBLIC SCHOOLS MAY ADOPT POLICIES TO IMPLEMENT THIS
40 SECTION, WHICH MAY INCLUDE:

41 1. PROVISIONS NECESSARY TO ACCOMMODATE PERSONS
42 PROTECTED UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990
43 (P.L. 101-336; 104 STAT. 327) OR YOUNG CHILDREN WHO NEED
44 PHYSICAL ASSISTANCE WHEN USING RESTROOMS OR CHANGING
45 FACILITIES THAT ARE LOCATED IN PUBLIC SCHOOLS.

1 2. PROVISIONS AUTHORIZING A PERSON TO ENTER A
2 MULTI OCCUPANCY RESTROOM, A MULTI OCCUPANCY CHANGING FACILITY OR
3 MULTI OCCUPANCY SLEEPING QUARTERS THAT ARE DESIGNATED FOR USE
4 BY PERSONS OF THE OPPOSITE SEX IF THE PERSON ENTERS THE
5 MULTI OCCUPANCY RESTROOM, CHANGING FACILITY OR SLEEPING
6 QUARTERS FOR ONE OF THE FOLLOWING PURPOSES:

7 (a) TO PERFORM CUSTODIAL OR MAINTENANCE SERVICES WHILE
8 THE MULTI OCCUPANCY RESTROOM, CHANGING FACILITY OR SLEEPING
9 QUARTERS ARE UNOCCUPIED.

10 (b) TO PROVIDE EMERGENCY MEDICAL ASSISTANCE.

11 (c) TO MAINTAIN ORDER OR ADDRESS A SERIOUS THREAT TO
12 STUDENT SAFETY DURING AN EMERGENCY SITUATION, INCLUDING A
13 NATURAL DISASTER.

14 E. ANY PERSON WHOSE WRITTEN REQUEST FOR A REASONABLE
15 ACCOMMODATION UNDER THIS SECTION IS DENIED BY A PUBLIC SCHOOL,
16 AN ADMINISTRATOR OF A PUBLIC SCHOOL OR AN EMPLOYEE OF A PUBLIC
17 SCHOOL HAS A PRIVATE CAUSE OF ACTION AGAINST THE PUBLIC SCHOOL
18 UNLESS THE PUBLIC SCHOOL CAN DEMONSTRATE THAT THE
19 ACCOMMODATION WOULD CAUSE AN UNDUE HARDSHIP.

20 F. EXCEPT AS PROVIDED IN SUBSECTION G OF THIS SECTION,
21 A PERSON HAS A PRIVATE CAUSE OF ACTION AGAINST THE PUBLIC
22 SCHOOL IF BOTH OF THE FOLLOWING ARE MET:

23 1. THE PERSON EITHER:

24 (a) WHILE IN A MULTI OCCUPANCY RESTROOM OR CHANGING
25 FACILITY THAT IS DESIGNATED FOR THE PERSON'S SEX AND LOCATED
26 IN A PUBLIC SCHOOL BUILDING, ENCOUNTERS SOMEONE OF THE
27 OPPOSITE SEX.

28 (b) IS REQUIRED BY THE PUBLIC SCHOOL TO SHARE SLEEPING
29 QUARTERS WITH SOMEONE OF THE OPPOSITE SEX WHO IS NOT A MEMBER
30 OF THE PERSON'S FAMILY. FOR THE PURPOSES OF THIS SUBDIVISION,
31 "FAMILY" MEANS A PERSON'S SPOUSE, PARENT OR GUARDIAN, CHILD,
32 SIBLING OR GRANDPARENT.

33 2. THE PUBLIC SCHOOL, AN ADMINISTRATOR OF THE PUBLIC
34 SCHOOL OR AN EMPLOYEE OF THE PUBLIC SCHOOL GAVE THE PERSON OF
35 THE OPPOSITE SEX PERMISSION TO USE THE RESTROOM, CHANGING
36 FACILITY OR SLEEPING QUARTERS.

37 G. A PERSON DOES NOT HAVE A PRIVATE CAUSE OF ACTION
38 UNDER SUBSECTION F OF THIS SECTION IF EITHER OF THE FOLLOWING
39 APPLIES:

40 1. THE PERSON OF THE OPPOSITE SEX IS A YOUNG CHILD WHO
41 IS ACCOMPANIED BY AN ADULT WHO IS NOT A PERSON OF THE OPPOSITE
42 SEX.

43 2. THE PERSON OF THE OPPOSITE SEX IS PRESENT IN THE
44 MULTI OCCUPANCY RESTROOM, MULTI OCCUPANCY CHANGING FACILITY OR

1 MULTI OCCUPANCY SLEEPING QUARTERS CONSISTENT WITH THE POLICIES
2 ADOPTED PURSUANT TO SUBSECTION D OF THIS SECTION.

3 H. ANY CLAIMS ARISING UNDER THIS SECTION MUST BE
4 BROUGHT IN SUPERIOR COURT IN THE COUNTY WHERE EITHER THE
5 AGGRIEVED PERSON RESIDES OR THE PUBLIC SCHOOL IS LOCATED AT
6 THE TIME OF FILING.

7 I. ALL CIVIL ACTIONS BROUGHT PURSUANT TO THIS SECTION
8 MUST BE INITIATED WITHIN TWO YEARS AFTER THE ALLEGED VIOLATION
9 OCCURRED.

10 J. ANY PERSON WHO PREVAILS ON A CLAIM BROUGHT PURSUANT
11 TO THIS SECTION:

12 1. MAY RECOVER MONETARY DAMAGES FOR ALL PSYCHOLOGICAL,
13 EMOTIONAL AND PHYSICAL HARM SUFFERED.

14 2. IS ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND
15 COSTS.

16 K. THIS SECTION DOES NOT LIMIT OTHER REMEDIES AT LAW OR
17 EQUITY THAT ARE AVAILABLE TO THE AGGRIEVED PERSON AGAINST THE
18 PUBLIC SCHOOL.

19 L. FOR THE PURPOSES OF THIS SECTION:

20 1. "CHANGING FACILITY":

21 (a) MEANS A FACILITY IN WHICH A PERSON MAY BE IN A
22 STATE OF UNDRESS IN THE PRESENCE OF OTHERS.

23 (b) INCLUDES A LOCKER ROOM, CHANGING ROOM OR SHOWER
24 ROOM.

25 2. "RESTROOM" MEANS A FACILITY THAT INCLUDES ONE OR
26 MORE TOILETS OR URINALS.

27 3. "SATISFACTORY EVIDENCE" MEANS EITHER:

28 (a) A PERSON'S ORIGINAL BIRTH CERTIFICATE.

29 (b) A PERSON'S AMENDED, CORRECTED OR OTHERWISE MODIFIED
30 BIRTH CERTIFICATE WITH A WRITTEN STATEMENT BY A PHYSICIAN
31 ATTESTING THAT THE BIOLOGICAL SEX REGISTERED ON THE BIRTH
32 CERTIFICATE IS CONSISTENT WITH THE PERSON'S CHROMOSOMAL COUNT.

33 4. "SEX" MEANS A PERSON'S IMMUTABLE BIOLOGICAL SEX AS
34 DETERMINED BY ANATOMY, PHYSIOLOGY, GENETICS AND HORMONES
35 EXISTING AT THE TIME OF THE PERSON'S BIRTH.

36 Sec. 2. Title 15, chapter 5, article 1, Arizona Revised
37 Statutes, is amended by adding section 15-509, to read:

38 15-509. Pronouns; biological sex; parental permission;
39 prohibition; policies; definition

40 A. AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF A SCHOOL
41 DISTRICT OR CHARTER SCHOOL MAY NOT KNOWINGLY ADDRESS, IDENTIFY
42 OR REFER TO A STUDENT WHO IS UNDER EIGHTEEN YEARS OF AGE BY
43 EITHER OF THE FOLLOWING UNLESS THE SCHOOL DISTRICT OR CHARTER
44 SCHOOL RECEIVES WRITTEN PERMISSION FROM THE STUDENT'S PARENT:

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

1. A PRONOUN THAT DIFFERS FROM THE PRONOUN THAT ALIGNS WITH THE STUDENT'S BIOLOGICAL SEX.

2. A FIRST NAME OTHER THAN THE FIRST OR MIDDLE NAME THAT IS LISTED ON THE STUDENT'S OFFICIAL SCHOOL RECORDS, EXCEPT THAT AN EMPLOYEE OR INDEPENDENT CONTRACTOR MAY ADDRESS, IDENTIFY OR REFER TO A STUDENT BY A NICKNAME THAT IS COMMONLY ASSOCIATED WITH THE STUDENT'S NAME OF RECORD.

B. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY NOT REQUIRE AN EMPLOYEE OR INDEPENDENT CONTRACTOR TO ADDRESS, IDENTIFY OR REFER TO A PERSON BY A PRONOUN THAT DIFFERS FROM THE PRONOUN THAT ALIGNS WITH THE PERSON'S BIOLOGICAL SEX IF DOING SO IS CONTRARY TO THE EMPLOYEE'S OR INDEPENDENT CONTRACTOR'S RELIGIOUS OR MORAL CONVICTIONS.

C. EACH SCHOOL DISTRICT GOVERNING BOARD AND CHARTER SCHOOL GOVERNING BODY SHALL ADOPT POLICIES TO IMPLEMENT THIS SECTION.

D. THIS SECTION DOES NOT PROHIBIT ANY PERSON DESCRIBED IN SUBSECTION A OF THIS SECTION FROM DISCUSSING MATTERS OF PUBLIC CONCERN OUTSIDE THE CONTEXT OF THE PERSON'S OFFICIAL DUTIES.

E. FOR THE PURPOSES OF THIS SECTION, "BIOLOGICAL SEX" MEANS A PERSON'S IMMUTABLE BIOLOGICAL SEX AS DETERMINED BY ANATOMY, PHYSIOLOGY, GENETICS AND HORMONES EXISTING AT THE TIME OF THE PERSON'S BIRTH.

Sec. 3. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

2. The Secretary of State shall submit this proposition to the voters at the next general election as provided by article IV, part 1, section 1, Constitution of Arizona.