

SENATOR GARY CAMMACK, CHAIR | REPRESENTATIVE DEAN WINK, VICE CHAIR
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500 EAST CAPITOL AVENUE, PIERRE, SD 57501 | 605-773-3251 | SDLEGISLATURE.GOV



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S.D. SEC. OF STATE

October 7, 2016

Mr. Jack Heyd, Chairman
Committee to Ensure Student Privacy
234 Douglas Road
Box Elder, SD 57719

Dear Mr. Heyd:

Pursuant to SDCL 12-13-25, this office is required to review each initiated law. Further, this office is required by SDCL 12-13-24 to determine if each initiative is "written in a clear and coherent manner in the style and form of other legislation" and that it is "worded so that the effect of the initiative is not misleading or likely to cause confusion among voters."

We have reviewed your initiative and approve it for proper style and form as well as clarity, with our enclosed style and form recommendations.

This letter constitutes neither an endorsement of your initiative nor a guarantee of its statutory sufficiency. It does constitute fulfillment of your responsibility pursuant to SDCL 12-13-25 to submit your draft to this office for review and comment. If you proceed with your initiative, please take care to ensure your statements or advertising do not imply that this office endorses or approves your proposal.

Sincerely,

A handwritten signature in blue ink that reads "Jason Hancock".

Jason Hancock
Director

JH:DO

Enclosure

CC: The Honorable Shantel Krebs, Secretary of State
The Honorable Marty Jackley, Attorney General

FOR AN ACT ENTITLED, An Act to ensure student privacy in public school restrooms, locker rooms, and showers.

BE IT ENACTED BY THE PEOPLE OF SOUTH DAKOTA:

Section 1. That chapter 13-24 be amended by adding a NEW SECTION to read:

The term, biological sex, as used in this Act, means the physical condition of being male or female as determined by a person's chromosomes and anatomy as identified at birth.

Section 2. That the code be amended by adding a NEW SECTION to read:

~~Every~~ ^{Each} restroom, locker room, and shower room located in a public elementary or secondary school that is designated for student use and is accessible by multiple students at the same time shall be designated for and used only by students of the same biological sex. In addition, any public school student participating in a school sponsored activity off school premises ~~which~~ ^{that} includes being in a state of undress in the presence of other students shall use ~~those rooms~~ ^{a room} designated for and used only by students of the same biological sex.

Section 3. That the code be amended by adding a NEW SECTION to read:

If any student asserts that the student's gender is different from the student's biological sex, ~~and if~~ the student's parent or guardian consents to that assertion in writing to a public school administrator, ~~or if the student is an adult or an emancipated minor and makes the assertion in writing to a public school administrator,~~ the student shall ~~be provided~~ ^{provide the student} with a reasonable accommodation. A reasonable accommodation is one that does not impose an undue hardship on ~~school districts~~ ^{a district}. A reasonable accommodation may not include the use of student ~~restrooms,~~ ^{any restroom} locker ~~rooms,~~ ^{room} or shower ~~rooms~~ ^{room} designated for use by students of the opposite biological sex if students of the opposite biological sex are present or could be present. A reasonable accommodation may include a single-occupancy restroom, a unisex restroom, or the controlled use of a restroom, locker room, or shower room that is designated for use by faculty. The requirement to provide a reasonable accommodation pursuant to this section does not apply to any nonpublic school entity.

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