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February 3, 2017

RECEIVED

FEB 06 2017

S.D. SEC. OF STATE

Mr. Jack Heyd, Chairman  
Committee to Ensure Student Privacy  
P.O. Box 374  
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 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 shown in red.

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 black ink, appearing to read "Jason Hancock". The signature is fluid and cursive, written over a white background.

Jason Hancock  
Director

JH:DO

Enc.

cc/enc.: 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 locker rooms, showers, restrooms, and changing facilities by restricting certain access.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE 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 a person's immutable biological sex as objectively determined by anatomy and genetics existing at the time of birth. A person's original birth certificate may be relied upon as definitive evidence of the person's biological sex.

Section 2. That chapter 13-24 be amended by adding a NEW SECTION to read:

Each locker room, shower room, restroom and changing facility located in a public elementary or secondary school that is designated for ~~student use and~~ is accessible by multiple ~~students~~ <sup>persons</sup> at the same time shall be designated for and used only by ~~students~~ <sup>persons</sup> of the same biological sex. In addition, any public school student participating in a school-sponsored activity off school premises that includes being in a state of undress in the presence of other ~~students~~ <sup>persons</sup> shall use a room designated for and used only by ~~students~~ <sup>persons</sup> of the same biological sex.

Section 3. That chapter 13-24 be amended by adding a NEW SECTION to read:

<sup>Act prohibits</sup> Nothing in this ~~section shall prohibit~~ a public school from providing accommodations such as a family restroom, or single occupancy restroom or changing facility upon a person's request due to special circumstances. In no event ~~shall~~ <sup>may</sup> the accommodation be access to a locker room, shower room, restroom, or ~~changing facility that is designated for use by members of the opposite sex while persons of the opposite sex are present or could be present.~~

Section 4. That chapter 13-24 be amended by adding a NEW SECTION to read:

The provisions of section 2 of this Act do not apply to any person who enters a locker room, shower room, restroom, or changing facility designated for members of the opposite biological sex if the person is entering as follows:

- (1) For custodial or maintenance purposes when the locker room, shower room, restroom, or changing facility is not occupied by any member of the opposite biological sex;
- (2) To render medical assistance; or
- (3) To prevent a serious threat to good order or safety during a natural disaster or emergency.

Section 5. That chapter 13-24 be amended by adding a NEW SECTION to read:

Nothing in this Act may be construed to prohibit a public school from adopting any policy necessary to accommodate any ~~disabled~~ <sup>with</sup> person or young child in need of physical assistance when using a locker room, shower room, restroom, or changing facility located in a public school. <sup>a disability</sup>