

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

House Bill 2526

By Delegates Foggin, W. Clark, Sheedy, McGeehan,
Coop-Gonzalez, Hillenbrand, Ridenour, Roop, Pritt,
Kyle, and Heckert

[Introduced February 18, 2025; referred to the
Committee on the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
2 designated §18-18-1 and §18-18-2; relating to prohibiting public school students' use of
3 multiple occupancy restrooms or changing areas within schools for the gender that the
4 students were not assigned to them at birth; defining terms associated with this code,
5 establishing penalties for violating this article and granting rule-making authority to the
6 State Board of Education.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. PUBLIC SCHOOL RESTROOMS, DESIGNATION BASED ON SEX.

§18-18-1. Definitions.

1 As used in this section:

2 (a) "Multiple occupancy restroom or changing area" means an area in a public school
3 district or open-enrollment public charter school building that is designed or designated to be used
4 by one or more individuals at the same time and in which one or more individuals may be in various
5 stages of undress in the presence of other individuals.

6 (b) "Multiple occupancy restroom or changing area" includes without limitation the
7 following:

8 (1) A restroom;

9 (2) A locker room;

10 (3) A changing room; and

11 (4) A shower room; and

12 (c) "Sex" means the physical condition of being male or female based on genetics and
13 physiology.

§18-18-2. School requirements for multiple occupancy restroom or changing area.

1 (a) A public school district or open-enrollment public charter school must rely upon a public
2 school student's sex as identified on his or her original birth certificate issued at or near the time of
3 his or her birth.

4 (b) To ensure privacy and safety, each public school district and open-enrollment public
5 charter school that serves students in prekindergarten through grade 12 (preK-12) in this state
6 shall:

7 (1) Require each multiple occupancy restroom or changing area to be designated as
8 follows:

9 (A) For the exclusive use by the male sex; or

10 (B) For the exclusive use by the female sex; and

11 (2) Provide a reasonable accommodation to an individual who is unwilling or unable to use
12 a multiple occupancy restroom or changing area designated for the individual's sex.

13 (C) A reasonable accommodation under this section may include, without limitation,
14 access to a single-occupancy restroom or changing area.

15 (D) A reasonable accommodation shall not include access to a restroom or changing area
16 that is designated for use by members of the opposite sex to an individual while members of the
17 opposite sex of the individual are present or may be present in the restroom or changing area.

18 (c) This section does not apply to an individual who enters a multiple occupancy restroom
19 or changing area designated for use by the opposite sex when he or she enters for at least one of
20 the following circumstances:

21 (1) For custodial, maintenance, or inspection purposes;

22 (2) To render emergency medical assistance; or

23 (3) To address an ongoing emergency, including, without limitation, a physical altercation.

24 (d) Nothing in this section shall be construed to prohibit a public school district or open-
25 enrollment public charter school from adopting a policy that is necessary to accommodate
26 individuals protected under the Americans with Disabilities Act of 1990, or young children who are
27 in need of physical assistance when using a restroom or changing facility that is located in a public
28 school district or open-enrollment public charter school.

29 (e) An allegation of noncompliance with this section shall be referred to the State Board of

Education by filing a formal complaint.

(1) Upon the board finding noncompliance with this section, the following individuals, as applicable, shall be subject to a minimum fine of up to \$500, and may receive additional sanctions as determined by the board:

(A) The superintendent of a county board of education where the noncompliance occurred, if the superintendent is found specifically to be noncompliant with this section;

(B) The principal or vice principal of a public school where the noncompliance occurred, if the principal or vice principal is found specifically to be noncompliant with this section; or

(C) A teacher or supervisor of a classroom or school sponsored activity, if the teacher or supervisor is found specifically to be noncompliant with this section.

(f) A parent, legal guardian, or person standing in loco parentis of a public school student shall have a cause of action against a county school board or an open-enrollment public charter school if:

(1) His or her public school student:

(A) Encounters a member of the opposite sex in a public school or open-enrollment public charter school multiple occupancy restroom or changing area that is designated for the public school student's sex if the member of the opposite sex received permission from the public school board or open-enrollment public charter school superintendent or the public school or open-enrollment public charter school building principal or vice principal to use the multiple occupancy restroom or changing area; or

(B) Is required by a public school district or open enrollment public charter school superintendent or the public school or open enrollment public charter school building principal to share sleeping quarters with a member of the opposite sex who is not an immediate family member of the public school student; or

(2) The public school or county board of education or open-enrollment public charter school is found to be noncompliant under subsection (e) of this section.

56 (g) The State Board of Education shall promulgate rules to implement this section.

NOTE: The purpose of this bill is to assign the use of bathrooms and multi-person common changing rooms by gender and to prohibit the usage of a designated room under this section by a person of the opposite sex, with exceptions for family members, rendering medical or other assistance; and to establish penalties for violations.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.