

STATE OF NEW YORK

5422

2017-2018 Regular Sessions

IN ASSEMBLY

February 8, 2017

Introduced by M. of A. MURRAY -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the education law and the executive law, in relation to providing for single-sex multiple occupancy bathroom and changing facilities in schools and public bathrooms

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Section 1804 of the education law is amended by adding a
2 new subdivision 13 to read as follows:

3 13. a. The board of education shall require every multiple occupancy
4 bathroom or changing facility that is designated for student use to be
5 designated for and used only by students based on their biological sex.
6 For purposes of this subdivision, the following definitions apply:

7 (i) "Biological sex" shall mean the physical condition of being male
8 or female, which is stated on a person's birth certificate.

9 (ii) "Multiple occupancy bathroom or changing facility" shall mean a
10 facility designed or designated to be used by more than one person at a
11 time where students may be in various states of undress in the presence
12 of other persons. A multiple occupancy bathroom or changing facility may
13 include, but is not limited to, a school restroom, locker room, changing
14 room or shower room.

15 (iii) "Single occupancy bathroom or changing facility" shall mean a
16 facility designed or designated to be used by only one person at a time
17 where students may be in various states of undress. A single occupancy
18 bathroom or changing facility may include, but is not limited to, a
19 single stall restroom designated as unisex or for use based on biolog-
20 ical sex.

21 b. Nothing in this subdivision shall prohibit boards of education from
22 providing accommodations such as single occupancy bathroom or changing
23 facilities or controlled use of faculty facilities upon a request due to
24 special circumstances, but in no event shall that accommodation result

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 in the board of education allowing a student to use a multiple occupancy
2 bathroom or changing facility designated under this subdivision for a
3 sex other than the student's biological sex.

4 c. This subdivision does not apply to:

5 (i) persons entering a multiple occupancy bathroom or changing facili-
6 ty designed for use by the opposite sex:

7 A. for custodial purposes;

8 B. for maintenance or inspection purposes;

9 C. to render medical assistance;

10 D. to accompany a student needing assistance when the assisting indi-
11 vidual is an employee or authorized volunteer of the board of education
12 or the student's parent or authorized caregiver;

13 E. to receive assistance in using the facility;

14 F. to accompany a person other than a student needing assistance; or

15 G. that has been temporarily designated for use by that person's
16 biological sex; and

17 (ii) any private sector business or entity.

18 § 2. Section 2503 of the education law is amended by adding a new
19 subdivision 21 to read as follows:

20 21. a. Shall require every multiple occupancy bathroom or changing
21 facility that is designated for student use to be designated for and
22 used only by students based on their biological sex. For purposes of
23 this subdivision, the following definitions apply:

24 (i) "Biological sex" shall mean the physical condition of being male
25 or female, which is stated on a person's birth certificate.

26 (ii) "Multiple occupancy bathroom or changing facility" shall mean a
27 facility designed or designated to be used by more than one person at a
28 time where students may be in various states of undress in the presence
29 of other persons. A multiple occupancy bathroom or changing facility may
30 include, but is not limited to, a school restroom, locker room, changing
31 room or shower room.

32 (iii) "Single occupancy bathroom or changing facility" shall mean a
33 facility designed or designated to be used by only one person at a time
34 where students may be in various states of undress. A single occupancy
35 bathroom or changing facility may include, but is not limited to, a
36 single stall restroom designated as unisex or for use based on biolog-
37 ical sex.

38 b. Nothing in this subdivision shall prohibit boards of education from
39 providing accommodations such as single occupancy bathroom or changing
40 facilities or controlled use of faculty facilities upon a request due to
41 special circumstances, but in no event shall that accommodation result
42 in the board of education allowing a student to use a multiple occupancy
43 bathroom or changing facility designated under this subdivision for a
44 sex other than the student's biological sex.

45 c. This subdivision does not apply to:

46 (i) persons entering a multiple occupancy bathroom or changing facili-
47 ty designed for use by the opposite sex:

48 A. for custodial purposes;

49 B. for maintenance or inspection purposes;

50 C. to render medical assistance;

51 D. to accompany a student needing assistance when the assisting indi-
52 vidual is an employee or authorized volunteer of the board of education
53 or the student's parent or authorized caregiver;

54 E. to receive assistance in using the facility;

55 F. to accompany a person other than a student needing assistance; or

1 G. that has been temporarily designated for use by that person's
2 biological sex; and

3 (ii) any private sector business or entity.

4 § 3. Section 2554 of the education law is amended by adding a new
5 subdivision 28 to read as follows:

6 28. a. Shall require every multiple occupancy bathroom or changing
7 facility that is designated for student use to be designated for and
8 used only by students based on their biological sex. For purposes of
9 this subdivision, the following definitions apply:

10 (i) "Biological sex" shall mean the physical condition of being male
11 or female, which is stated on a person's birth certificate.

12 (ii) "Multiple occupancy bathroom or changing facility" shall mean a
13 facility designed or designated to be used by more than one person at a
14 time where students may be in various states of undress in the presence
15 of other persons. A multiple occupancy bathroom or changing facility may
16 include, but is not limited to, a school restroom, locker room, changing
17 room or shower room.

18 (iii) "Single occupancy bathroom or changing facility" shall mean a
19 facility designed or designated to be used by only one person at a time
20 where students may be in various states of undress. A single occupancy
21 bathroom or changing facility may include, but is not limited to, a
22 single stall restroom designated as unisex or for use based on biolog-
23 ical sex.

24 b. Nothing in this subdivision shall prohibit boards of education from
25 providing accommodations such as single occupancy bathroom or changing
26 facilities or controlled use of faculty facilities upon request due to
27 special circumstances, but in no event shall that accommodation result
28 in the board of education allowing a student to use a multiple occupancy
29 bathroom or changing facility designated under this subdivision for a
30 sex other than the student's biological sex.

31 c. This subdivision does not apply to:

32 (i) persons entering a multiple occupancy bathroom or changing facili-
33 ty designed for use by the opposite sex:

34 A. for custodial purposes;

35 B. for maintenance or inspection purposes;

36 C. to render medical assistance;

37 D. to accompany a student needing assistance when the assisting indi-
38 vidual is an employee or authorized volunteer of the board of education
39 or the student's parent or authorized caregiver;

40 E. to receive assistance in using the facility;

41 F. to accompany a person other than a student needing assistance; or

42 G. that has been temporarily designated for use by that person's
43 biological sex; and

44 (ii) any private sector business or entity.

45 § 4. The education law is amended by adding a new section 319 to read
46 as follows:

47 § 319. Single-sex multiple occupancy bathroom and changing facilities.

48 1. The board of trustees of the state university of New York and the
49 trustees of the city university of New York are authorized to promulgate
50 rules or policies requiring every state university of New York and city
51 university of New York, including all their constituent units including
52 community colleges, to ensure that multiple occupancy bathrooms or
53 changing facilities that are designated for use, be designated for and
54 used only by persons based on their biological sex. For purposes of
55 this section, the following definitions apply:

1 (a) "Biological sex" shall mean the physical condition of being male
2 or female, which is stated on a person's birth certificate.

3 (b) "Multiple occupancy bathroom or changing facility" shall mean a
4 facility designed or designated to be used by more than one person at a
5 time where persons may be in various states of undress in the presence
6 of other persons. A multiple occupancy bathroom or changing facility may
7 include, but is not limited to, a restroom, locker room, changing room
8 or shower room.

9 (c) "Single occupancy bathroom or changing facility" shall mean a
10 facility designed or designated to be used by only one person at a time
11 where persons may be in various states of undress. A single occupancy
12 bathroom or changing facility may include, but is not limited to, a
13 single stall restroom designated as unisex or for use based on biolog-
14 ical sex.

15 2. Nothing in this section shall prohibit the board of trustees of the
16 state university of New York and the trustees of the city university of
17 New York from promulgating rules or policies that provide accommodations
18 such as single occupancy bathroom or changing facilities upon a request
19 due to special circumstances, but in no event shall that accommodation
20 result in allowing a person to use a multiple occupancy bathroom or
21 changing facility designated under this section for a sex other than the
22 student's biological sex.

23 3. This section does not apply to:

24 (a) persons entering a multiple occupancy bathroom or changing facili-
25 ty designed for use by the opposite sex:

26 (i) for custodial purposes;

27 (ii) for maintenance or inspection purposes;

28 (iii) to render medical assistance;

29 (iv) to accompany a person needing assistance;

30 (v) for a minor under the age of seven who accompanies a person caring
31 for that minor; or

32 (vi) that has been temporarily designated for use by that person's
33 biological sex; and

34 (b) any private sector business or entity.

35 § 5. The executive law is amended by adding a new section 170-c to
36 read as follows:

37 § 170-c. Single-sex multiple occupancy bathroom and changing facili-
38 ties. 1. For purposes of this section, the following definitions shall
39 apply:

40 (a) "Biological sex" shall mean the physical condition of being male
41 or female, which is stated on a person's birth certificate.

42 (b) "State agency" shall mean any department of the executive, any
43 bureau, commission, agency, board or other agency, any public authority,
44 and the judiciary and the legislature.

45 (c) "Multiple occupancy bathroom or changing facility" shall mean a
46 facility designed or designated to be used by more than one person at a
47 time where persons may be in various states of undress in the presence
48 of other persons. A multiple occupancy bathroom or changing facility may
49 include, but is not limited to, a school restroom, locker room, changing
50 room or shower room.

51 (d) "Single occupancy bathroom or changing facility" shall mean a
52 facility designed or designated to be used by only one person at a time
53 where persons may be in various states of undress. A single occupancy
54 bathroom or changing facility may include, but is not limited to, a
55 single stall restroom designated as unisex or for use based on biolog-
56 ical sex.

1 2. State agencies shall require every multiple occupancy bathroom or
2 changing facility to be designated for and only used by persons based on
3 their biological sex.

4 3. Nothing in this section shall prohibit state agencies from provid-
5 ing accommodations such as single occupancy bathroom or changing facili-
6 ties upon a person's request due to a special circumstance, but in no
7 event shall that accommodation result in the state agency allowing a
8 person to use a multiple occupancy bathroom or changing facility desig-
9 nated under this section for a sex other than the person's biological
10 sex.

11 4. This section does not apply to:

12 (a) persons entering a multiple occupancy bathroom or changing facili-
13 ty designed for use by the opposite sex:

14 (i) for custodial purposes;

15 (ii) for maintenance or inspection purposes;

16 (iii) to render medical assistance;

17 (iv) to accompany a person needing assistance;

18 (v) for a minor under the age of seven who accompanies a person caring
19 for that minor; or

20 (vi) that has been temporarily designated for use by that person's
21 biological sex; and

22 (b) any private sector business or entity.

23 § 6. This act shall take effect on the ninetieth day after it shall
24 have become a law.