

10127

I N A S S E M B L Y

May 12, 2016

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 ASSEM-
BLY, 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
25 IN THE BOARD OF EDUCATION ALLOWING A STUDENT TO USE A MULTIPLE OCCUPANCY
26 BATHROOM OR CHANGING FACILITY DESIGNATED UNDER THIS SUBDIVISION FOR A
27 SEX OTHER THAN THE STUDENT'S BIOLOGICAL SEX.

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

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C. THIS SUBDIVISION DOES NOT APPLY TO:

(I) PERSONS ENTERING A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY DESIGNED FOR USE BY THE OPPOSITE SEX:

A. FOR CUSTODIAL PURPOSES;

B. FOR MAINTENANCE OR INSPECTION PURPOSES;

C. TO RENDER MEDICAL ASSISTANCE;

D. TO ACCOMPANY A STUDENT NEEDING ASSISTANCE WHEN THE ASSISTING INDIVIDUAL IS AN EMPLOYEE OR AUTHORIZED VOLUNTEER OF THE BOARD OF EDUCATION OR THE STUDENT'S PARENT OR AUTHORIZED CAREGIVER;

E. TO RECEIVE ASSISTANCE IN USING THE FACILITY;

F. TO ACCOMPANY A PERSON OTHER THAN A STUDENT NEEDING ASSISTANCE; OR

G. THAT HAS BEEN TEMPORARILY DESIGNATED FOR USE BY THAT PERSON'S BIOLOGICAL SEX; AND

(II) ANY PRIVATE SECTOR BUSINESS OR ENTITY.

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

21. A. SHALL REQUIRE EVERY MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY THAT IS DESIGNATED FOR STUDENT USE TO BE DESIGNATED FOR AND USED ONLY BY STUDENTS BASED ON THEIR BIOLOGICAL SEX. FOR PURPOSES OF THIS SUBDIVISION, THE FOLLOWING DEFINITIONS APPLY:

(I) "BIOLOGICAL SEX" SHALL MEAN THE PHYSICAL CONDITION OF BEING MALE OR FEMALE, WHICH IS STATED ON A PERSON'S BIRTH CERTIFICATE.

(II) "MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY" SHALL MEAN A FACILITY DESIGNED OR DESIGNATED TO BE USED BY MORE THAN ONE PERSON AT A TIME WHERE STUDENTS MAY BE IN VARIOUS STATES OF UNDRESS IN THE PRESENCE OF OTHER PERSONS. A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY MAY INCLUDE, BUT IS NOT LIMITED TO, A SCHOOL RESTROOM, LOCKER ROOM, CHANGING ROOM OR SHOWER ROOM.

(III) "SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITY" SHALL MEAN A FACILITY DESIGNED OR DESIGNATED TO BE USED BY ONLY ONE PERSON AT A TIME WHERE STUDENTS MAY BE IN VARIOUS STATES OF UNDRESS. A SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITY MAY INCLUDE, BUT IS NOT LIMITED TO, A SINGLE STALL RESTROOM DESIGNATED AS UNISEX OR FOR USE BASED ON BIOLOGICAL SEX.

B. NOTHING IN THIS SUBDIVISION SHALL PROHIBIT BOARDS OF EDUCATION FROM PROVIDING ACCOMMODATIONS SUCH AS SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITIES OR CONTROLLED USE OF FACILITY FACILITIES UPON A REQUEST DUE TO SPECIAL CIRCUMSTANCES, BUT IN NO EVENT SHALL THAT ACCOMMODATION RESULT IN THE BOARD OF EDUCATION ALLOWING A STUDENT TO USE A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY DESIGNATED UNDER THIS SUBDIVISION FOR A SEX OTHER THAN THE STUDENT'S BIOLOGICAL SEX.

C. THIS SUBDIVISION DOES NOT APPLY TO:

(I) PERSONS ENTERING A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY DESIGNED FOR USE BY THE OPPOSITE SEX:

A. FOR CUSTODIAL PURPOSES;

B. FOR MAINTENANCE OR INSPECTION PURPOSES;

C. TO RENDER MEDICAL ASSISTANCE;

D. TO ACCOMPANY A STUDENT NEEDING ASSISTANCE WHEN THE ASSISTING INDIVIDUAL IS AN EMPLOYEE OR AUTHORIZED VOLUNTEER OF THE BOARD OF EDUCATION OR THE STUDENT'S PARENT OR AUTHORIZED CAREGIVER;

E. TO RECEIVE ASSISTANCE IN USING THE FACILITY;

F. TO ACCOMPANY A PERSON OTHER THAN A STUDENT NEEDING ASSISTANCE; OR

G. THAT HAS BEEN TEMPORARILY DESIGNATED FOR USE BY THAT PERSON'S BIOLOGICAL SEX; AND

(II) ANY PRIVATE SECTOR BUSINESS OR ENTITY.

1 S 3. Section 2554 of the education law is amended by adding a new
2 subdivision 28 to read as follows:

3 28. A. SHALL REQUIRE EVERY MULTIPLE OCCUPANCY BATHROOM OR CHANGING
4 FACILITY THAT IS DESIGNATED FOR STUDENT USE TO BE DESIGNATED FOR AND
5 USED ONLY BY STUDENTS BASED ON THEIR BIOLOGICAL SEX. FOR PURPOSES OF
6 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 REQUEST DUE TO
24 SPECIAL CIRCUMSTANCES, BUT IN NO EVENT SHALL THAT ACCOMMODATION RESULT
25 IN THE BOARD OF EDUCATION ALLOWING A STUDENT TO USE A MULTIPLE OCCUPANCY
26 BATHROOM OR CHANGING FACILITY DESIGNATED UNDER THIS SUBDIVISION FOR A
27 SEX OTHER THAN THE STUDENT'S BIOLOGICAL SEX.

28 C. THIS SUBDIVISION DOES NOT APPLY TO:

29 (I) PERSONS ENTERING A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILI-
30 TY DESIGNED FOR USE BY THE OPPOSITE SEX:

31 A. FOR CUSTODIAL PURPOSES;

32 B. FOR MAINTENANCE OR INSPECTION PURPOSES;

33 C. TO RENDER MEDICAL ASSISTANCE;

34 D. TO ACCOMPANY A STUDENT NEEDING ASSISTANCE WHEN THE ASSISTING INDIV-
35 IDUAL IS AN EMPLOYEE OR AUTHORIZED VOLUNTEER OF THE BOARD OF EDUCATION
36 OR THE STUDENT'S PARENT OR AUTHORIZED CAREGIVER;

37 E. TO RECEIVE ASSISTANCE IN USING THE FACILITY;

38 F. TO ACCOMPANY A PERSON OTHER THAN A STUDENT NEEDING ASSISTANCE; OR

39 G. THAT HAS BEEN TEMPORARILY DESIGNATED FOR USE BY THAT PERSON'S
40 BIOLOGICAL SEX; AND

41 (II) ANY PRIVATE SECTOR BUSINESS OR ENTITY.

42 S 4. The education law is amended by adding a new section 319 to read
43 as follows:

44 S 319. SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING FACILITIES.

45 1. THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK AND THE
46 TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK ARE AUTHORIZED TO PROMULGATE
47 RULES OR POLICIES REQUIRING EVERY STATE UNIVERSITY OF NEW YORK AND CITY
48 UNIVERSITY OF NEW YORK, INCLUDING ALL THEIR CONSTITUENT UNITS INCLUDING
49 COMMUNITY COLLEGES, TO ENSURE THAT MULTIPLE OCCUPANCY BATHROOMS OR
50 CHANGING FACILITIES THAT ARE DESIGNATED FOR USE, BE DESIGNATED FOR AND
51 USED ONLY BY PERSONS BASED ON THEIR BIOLOGICAL SEX. FOR PURPOSES OF
52 THIS SECTION, THE FOLLOWING DEFINITIONS APPLY:

53 (A) "BIOLOGICAL SEX" SHALL MEAN THE PHYSICAL CONDITION OF BEING MALE
54 OR FEMALE, WHICH IS STATED ON A PERSON'S BIRTH CERTIFICATE.

55 (B) "MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY" SHALL MEAN A
56 FACILITY DESIGNED OR DESIGNATED TO BE USED BY MORE THAN ONE PERSON AT A

TIME WHERE PERSONS MAY BE IN VARIOUS STATES OF UNDRESS IN THE PRESENCE OF OTHER PERSONS. A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY MAY INCLUDE, BUT IS NOT LIMITED TO, A RESTROOM, LOCKER ROOM, CHANGING ROOM OR SHOWER ROOM.

(C) "SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITY" SHALL MEAN A FACILITY DESIGNED OR DESIGNATED TO BE USED BY ONLY ONE PERSON AT A TIME WHERE PERSONS MAY BE IN VARIOUS STATES OF UNDRESS. A SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITY MAY INCLUDE, BUT IS NOT LIMITED TO, A SINGLE STALL RESTROOM DESIGNATED AS UNISEX OR FOR USE BASED ON BIOLOGICAL SEX.

2. NOTHING IN THIS SECTION SHALL PROHIBIT THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK AND THE TRUSTEES OF THE CITY UNIVERSITY OF NEW YORK FROM PROMULGATING RULES OR POLICIES THAT PROVIDE ACCOMMODATIONS SUCH AS SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITIES UPON A REQUEST DUE TO SPECIAL CIRCUMSTANCES, BUT IN NO EVENT SHALL THAT ACCOMMODATION RESULT IN ALLOWING A PERSON TO USE A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY DESIGNATED UNDER THIS SECTION FOR A SEX OTHER THAN THE STUDENT'S BIOLOGICAL SEX.

3. THIS SECTION DOES NOT APPLY TO:

(A) PERSONS ENTERING A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY DESIGNED FOR USE BY THE OPPOSITE SEX:

(I) FOR CUSTODIAL PURPOSES;

(II) FOR MAINTENANCE OR INSPECTION PURPOSES;

(III) TO RENDER MEDICAL ASSISTANCE;

(IV) TO ACCOMPANY A PERSON NEEDING ASSISTANCE;

(V) FOR A MINOR UNDER THE AGE OF SEVEN WHO ACCOMPANIES A PERSON CARING FOR THAT MINOR; OR

(VI) THAT HAS BEEN TEMPORARILY DESIGNATED FOR USE BY THAT PERSON'S BIOLOGICAL SEX; AND

(B) ANY PRIVATE SECTOR BUSINESS OR ENTITY.

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

S 170-C. SINGLE-SEX MULTIPLE OCCUPANCY BATHROOM AND CHANGING FACILITIES. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "BIOLOGICAL SEX" SHALL MEAN THE PHYSICAL CONDITION OF BEING MALE OR FEMALE, WHICH IS STATED ON A PERSON'S BIRTH CERTIFICATE.

(B) "STATE AGENCY" SHALL MEAN ANY DEPARTMENT OF THE EXECUTIVE, ANY BUREAU, COMMISSION, AGENCY, BOARD OR OTHER AGENCY, ANY PUBLIC AUTHORITY, AND THE JUDICIARY AND THE LEGISLATURE.

(C) "MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY" SHALL MEAN A FACILITY DESIGNED OR DESIGNATED TO BE USED BY MORE THAN ONE PERSON AT A TIME WHERE PERSONS MAY BE IN VARIOUS STATES OF UNDRESS IN THE PRESENCE OF OTHER PERSONS. A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY MAY INCLUDE, BUT IS NOT LIMITED TO, A SCHOOL RESTROOM, LOCKER ROOM, CHANGING ROOM OR SHOWER ROOM.

(D) "SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITY" SHALL MEAN A FACILITY DESIGNED OR DESIGNATED TO BE USED BY ONLY ONE PERSON AT A TIME WHERE PERSONS MAY BE IN VARIOUS STATES OF UNDRESS. A SINGLE OCCUPANCY BATHROOM OR CHANGING FACILITY MAY INCLUDE, BUT IS NOT LIMITED TO, A SINGLE STALL RESTROOM DESIGNATED AS UNISEX OR FOR USE BASED ON BIOLOGICAL SEX.

2. STATE AGENCIES SHALL REQUIRE EVERY MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY TO BE DESIGNATED FOR AND ONLY USED BY PERSONS BASED ON THEIR BIOLOGICAL SEX.

1 3. NOTHING IN THIS SECTION SHALL PROHIBIT STATE AGENCIES FROM PROVID-
2 ING ACCOMMODATIONS SUCH AS SINGLE OCCUPANCY BATHROOM OR CHANGING FACILI-
3 TIES UPON A PERSON'S REQUEST DUE TO A SPECIAL CIRCUMSTANCE, BUT IN NO
4 EVENT SHALL THAT ACCOMMODATION RESULT IN THE STATE AGENCY ALLOWING A
5 PERSON TO USE A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY DESIG-
6 NATED UNDER THIS SECTION FOR A SEX OTHER THAN THE PERSON'S BIOLOGICAL
7 SEX.

8 4. THIS SECTION DOES NOT APPLY TO:

9 (A) PERSONS ENTERING A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILI-
10 TY DESIGNED FOR USE BY THE OPPOSITE SEX:

11 (I) FOR CUSTODIAL PURPOSES;

12 (II) FOR MAINTENANCE OR INSPECTION PURPOSES;

13 (III) TO RENDER MEDICAL ASSISTANCE;

14 (IV) TO ACCOMPANY A PERSON NEEDING ASSISTANCE;

15 (V) FOR A MINOR UNDER THE AGE OF SEVEN WHO ACCOMPANIES A PERSON CARING
16 FOR THAT MINOR; OR

17 (VI) THAT HAS BEEN TEMPORARILY DESIGNATED FOR USE BY THAT PERSON'S
18 BIOLOGICAL SEX; AND

19 (B) ANY PRIVATE SECTOR BUSINESS OR ENTITY.

20 S 6. This act shall take effect on the ninetieth day after it shall
21 have become a law.