

REFERENCE TITLE: public schools; restrooms; reasonable accommodations

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SB 1040

Introduced by
Senator Kavanagh

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 15-120.04; RELATING TO PUBLIC SCHOOLS

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 15-120.04, to read:

4 15-120.04. Public schools; reasonable accommodations;
5 restrooms; changing facilities; sleeping
6 quarters; cause of action; definitions

7 A. A PUBLIC SCHOOL SHALL PROVIDE A REASONABLE ACCOMMODATION TO ANY
8 PERSON WHO BOTH:

9 1. FOR ANY REASON, IS UNWILLING OR UNABLE TO USE EITHER A
10 MULTI-OCCUPANCY RESTROOM OR CHANGING FACILITY DESIGNATED FOR THE PERSON'S
11 SEX AND LOCATED IN A PUBLIC SCHOOL BUILDING OR MULTI-OCCUPANCY SLEEPING
12 QUARTERS WHILE ATTENDING A PUBLIC SCHOOL-SPONSORED ACTIVITY.

13 2. REQUESTS IN WRITING A REASONABLE ACCOMMODATION FROM THE PUBLIC
14 SCHOOL.

15 B. A REASONABLE ACCOMMODATION MAY INCLUDE EITHER OF THE FOLLOWING:

16 1. ACCESS TO A SINGLE-OCCUPANCY RESTROOM OR CHANGING FACILITY.

17 2. USE OF AN EMPLOYEE RESTROOM OR CHANGING FACILITY.

18 C. A REASONABLE ACCOMMODATION DOES NOT INCLUDE ACCESS TO A RESTROOM
19 OR CHANGING FACILITY THAT IS DESIGNATED FOR USE BY PERSONS OF THE OPPOSITE
20 SEX WHILE PERSONS OF THE OPPOSITE SEX ARE PRESENT OR COULD BE PRESENT.

21 D. THIS SECTION DOES NOT PROHIBIT PUBLIC SCHOOLS FROM ADOPTING
22 POLICIES NECESSARY TO ACCOMMODATE PERSONS PROTECTED UNDER THE AMERICANS
23 WITH DISABILITIES ACT OF 1990 (P.L. 101-336; 104 STAT. 327) OR YOUNG
24 CHILDREN IN NEED OF PHYSICAL ASSISTANCE WHEN USING RESTROOMS OR CHANGING
25 FACILITIES LOCATED IN PUBLIC SCHOOLS.

26 E. ANY PERSON WHOSE WRITTEN REQUEST FOR A REASONABLE ACCOMMODATION
27 UNDER THIS SECTION IS DENIED BY THE PUBLIC SCHOOL HAS A PRIVATE CAUSE OF
28 ACTION AGAINST THE PUBLIC SCHOOL UNLESS THE PUBLIC SCHOOL CAN DEMONSTRATE
29 THAT THE ACCOMMODATION WOULD CAUSE AN UNDUE HARDSHIP.

30 F. ANY PERSON WHO ENCOUNTERS A PERSON OF THE OPPOSITE SEX IN A
31 MULTI-OCCUPANCY RESTROOM OR CHANGING FACILITY DESIGNATED FOR THE PERSON'S
32 SEX AND LOCATED IN A PUBLIC SCHOOL BUILDING OR WHO IS REQUIRED BY THE
33 PUBLIC SCHOOL TO SHARE SLEEPING QUARTERS WITH A PERSON OF THE OPPOSITE
34 SEX, UNLESS SUCH PERSONS ARE OF THE SAME FAMILY, HAS A PRIVATE CAUSE OF
35 ACTION AGAINST THE PUBLIC SCHOOL IF THE PUBLIC SCHOOL GAVE THE PERSON OF
36 THE OPPOSITE SEX PERMISSION TO USE THE RESTROOM, CHANGING FACILITY OR
37 SLEEPING QUARTERS. FOR THE PURPOSES OF THIS SUBSECTION, "FAMILY" MEANS A
38 PERSON'S SPOUSE, PARENT OR GUARDIAN, CHILD, SIBLING OR GRANDPARENT.

39 G. ANY CLAIMS ARISING PURSUANT TO THIS SECTION SHALL BE BROUGHT IN
40 SUPERIOR COURT IN THE COUNTY WHERE EITHER THE PERSON RESIDES OR THE PUBLIC
41 SCHOOL IS LOCATED AT THE TIME OF FILING.

42 H. ALL CIVIL ACTIONS BROUGHT PURSUANT TO THIS SECTION MUST BE
43 INITIATED WITHIN TWO YEARS AFTER THE ALLEGED VIOLATION OCCURRED.

1 I. PERSONS WHO ARE AGGRIEVED UNDER THIS SECTION AND WHO PREVAIL IN
2 COURT MAY RECOVER MONETARY DAMAGES FOR ALL PSYCHOLOGICAL, EMOTIONAL AND
3 PHYSICAL HARM SUFFERED.

4 J. PERSONS WHO PREVAIL ON A CLAIM BROUGHT PURSUANT TO THIS SECTION
5 ARE ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND COSTS.

6 K. THIS SECTION DOES NOT LIMIT OTHER REMEDIES AT LAW OR EQUITY THAT
7 ARE AVAILABLE TO THE AGGRIEVED PERSON AGAINST THE PUBLIC SCHOOL.

8 L. FOR THE PURPOSES OF THIS SECTION:

9 1. "CHANGING FACILITY":

10 (a) MEANS A FACILITY IN WHICH A PERSON MAY BE IN A STATE OF UNDRRESS
11 IN THE PRESENCE OF OTHERS.

12 (b) INCLUDES A LOCKER ROOM, CHANGING ROOM OR SHOWER ROOM.

13 2. "RESTROOM" MEANS A FACILITY THAT INCLUDES ONE OR MORE TOILETS OR
14 URINALS.

15 3. "SEX" MEANS A PERSON'S IMMUTABLE BIOLOGICAL SEX AS DETERMINED BY
16 ANATOMY AND GENETICS EXISTING AT THE TIME OF THE PERSON'S BIRTH. EVIDENCE
17 OF A PERSON'S BIOLOGICAL SEX INCLUDES ANY GOVERNMENT-ISSUED IDENTIFICATION
18 DOCUMENT THAT ACCURATELY REFLECTS THE PERSON'S SEX AS LISTED ON THE
19 PERSON'S ORIGINAL BIRTH CERTIFICATE.

20 Sec. 2. Short title

21 This act may be cited as the "Arizona Accommodations for All
22 Children Act".