

REFERENCE TITLE: **schools; biological sex; requirements**

State of Arizona  
Senate  
Fifty-sixth Legislature  
Second Regular Session  
2024

# **SCR 1013**

Introduced by  
Senator Kavanagh

## **A CONCURRENT RESOLUTION**

**ENACTING AND ORDERING THE SUBMISSION TO THE PEOPLE OF A MEASURE RELATING  
TO PUBLIC SCHOOLS.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it resolved by the Senate of the State of Arizona, the House of  
2 Representatives concurring:

3 1. Under the power of the referendum, as vested in the Legislature,  
4 the following measure, relating to public schools, is enacted to become  
5 valid as a law if approved by the voters and on proclamation of the  
6 Governor:

7 AN ACT

8 AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED  
9 STATUTES, BY ADDING SECTION 15-120.05; AMENDING TITLE 15,  
10 CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING  
11 SECTION 15-509; RELATING TO PUBLIC SCHOOLS.

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

13 Section 1. Title 15, chapter 1, article 1, Arizona  
14 Revised Statutes, is amended by adding section 15-120.05, to  
15 read:

16 15-120.05. Public schools; reasonable accommodations;  
17 restrooms; changing facilities; sleeping  
18 quarters; cause of action; definitions

19 A. A PUBLIC SCHOOL SHALL PROVIDE A REASONABLE  
20 ACCOMMODATION TO ANY PERSON IF ALL OF THE FOLLOWING APPLY:

21 1. THE PERSON, FOR ANY REASON, IS UNWILLING OR UNABLE  
22 TO USE A MULTIOCCUPANCY RESTROOM OR CHANGING FACILITY THAT IS  
23 DESIGNATED FOR THE PERSON'S SEX AND THAT IS LOCATED IN A  
24 PUBLIC SCHOOL BUILDING OR IN MULTIOCCUPANCY SLEEPING QUARTERS  
25 WHILE THE PERSON ATTENDS A PUBLIC SCHOOL-SPONSORED ACTIVITY.

26 2. THE PERSON REQUESTS IN WRITING A REASONABLE  
27 ACCOMMODATION FROM THE PUBLIC SCHOOL.

28 3. THE PERSON SUBMITS SATISFACTORY EVIDENCE OF THE  
29 PERSON'S SEX TO THE PUBLIC SCHOOL.

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

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

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

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

39 D. THIS SECTION DOES NOT PROHIBIT PUBLIC SCHOOLS FROM  
40 DOING EITHER OF THE FOLLOWING:

41 1. ADOPTING POLICIES NECESSARY TO ACCOMMODATE PERSONS  
42 PROTECTED UNDER THE AMERICANS WITH DISABILITIES ACT OF 1990  
43 (P.L. 101-336; 104 STAT. 327) OR YOUNG CHILDREN WHO NEED  
44 PHYSICAL ASSISTANCE WHEN USING RESTROOMS OR CHANGING  
45 FACILITIES THAT ARE LOCATED IN PUBLIC SCHOOLS.

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2. AUTHORIZING A PERSON TO ENTER A MULTIOCCUPANCY RESTROOM, A MULTIOCCUPANCY CHANGING FACILITY OR MULTIOCCUPANCY SLEEPING QUARTERS THAT ARE DESIGNATED FOR USE BY PERSONS OF THE OPPOSITE SEX IF THE PERSON ENTERS THE MULTIOCCUPANCY RESTROOM, CHANGING FACILITY OR SLEEPING QUARTERS FOR ONE OF THE FOLLOWING PURPOSES:

(a) TO PERFORM CUSTODIAL OR MAINTENANCE SERVICES WHILE THE MULTIOCCUPANCY RESTROOM, CHANGING FACILITY OR SLEEPING QUARTERS ARE UNOCCUPIED.

(b) TO PROVIDE EMERGENCY MEDICAL ASSISTANCE.

(c) TO MAINTAIN ORDER OR ADDRESS A SERIOUS THREAT TO STUDENT SAFETY DURING AN EMERGENCY SITUATION, INCLUDING A NATURAL DISASTER.

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

F. A PERSON HAS A PRIVATE CAUSE OF ACTION AGAINST THE PUBLIC SCHOOL IF BOTH OF THE FOLLOWING ARE MET:

1. THE PERSON EITHER:

(a) WHILE IN A MULTIOCCUPANCY RESTROOM OR CHANGING FACILITY THAT IS DESIGNATED FOR THE PERSON'S SEX AND LOCATED IN A PUBLIC SCHOOL BUILDING, ENCOUNTERS SOMEONE OF THE OPPOSITE SEX.

(b) IS REQUIRED BY THE PUBLIC SCHOOL TO SHARE SLEEPING QUARTERS WITH SOMEONE OF THE OPPOSITE SEX WHO IS NOT A MEMBER OF THE PERSON'S FAMILY. FOR THE PURPOSES OF THIS SUBDIVISION, "FAMILY" MEANS A PERSON'S SPOUSE, PARENT OR GUARDIAN, CHILD, SIBLING OR GRANDPARENT.

2. THE PUBLIC SCHOOL GAVE THE PERSON OF THE OPPOSITE SEX PERMISSION TO USE THE RESTROOM, CHANGING FACILITY OR SLEEPING QUARTERS.

G. ANY CLAIMS ARISING UNDER THIS SECTION MUST BE BROUGHT IN SUPERIOR COURT IN THE COUNTY WHERE EITHER THE AGGRIEVED PERSON RESIDES OR THE PUBLIC SCHOOL IS LOCATED AT THE TIME OF FILING.

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

I. ANY PERSON WHO PREVAILS ON A CLAIM BROUGHT PURSUANT TO THIS SECTION:

1. MAY RECOVER MONETARY DAMAGES FOR ALL PSYCHOLOGICAL, EMOTIONAL AND PHYSICAL HARM SUFFERED.

1           2. IS ENTITLED TO RECOVER REASONABLE ATTORNEY FEES AND  
2 COSTS.

3           J. THIS SECTION DOES NOT LIMIT OTHER REMEDIES AT LAW OR  
4 EQUITY THAT ARE AVAILABLE TO THE AGGRIEVED PERSON AGAINST THE  
5 PUBLIC SCHOOL.

6           K. FOR THE PURPOSES OF THIS SECTION:

7           1. "CHANGING FACILITY":

8           (a) MEANS A FACILITY IN WHICH A PERSON MAY BE IN A  
9 STATE OF UNDRESS IN THE PRESENCE OF OTHERS.

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

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

14           3. "SATISFACTORY EVIDENCE" MEANS EITHER:

15           (a) A PERSON'S ORIGINAL BIRTH CERTIFICATE.

16           (b) A PERSON'S AMENDED, CORRECTED OR OTHERWISE MODIFIED  
17 BIRTH CERTIFICATE WITH A WRITTEN STATEMENT BY A PHYSICIAN  
18 ATTESTING THAT THE BIOLOGICAL SEX REGISTERED ON THE BIRTH  
19 CERTIFICATE IS CONSISTENT WITH THE PERSON'S CHROMOSOMAL COUNT.

20           4. "SEX" MEANS A PERSON'S IMMUTABLE BIOLOGICAL SEX AS  
21 DETERMINED BY ANATOMY, PHYSIOLOGY, GENETICS AND HORMONES  
22 EXISTING AT THE TIME OF THE PERSON'S BIRTH.

23           Sec. 2. Title 15, chapter 5, article 1, Arizona Revised  
24 Statutes, is amended by adding section 15-509, to read:

25           15-509. Pronouns; biological sex; parental permission;  
26 prohibition; policies; definition

27           A. AN EMPLOYEE OR INDEPENDENT CONTRACTOR OF A SCHOOL  
28 DISTRICT OR CHARTER SCHOOL MAY NOT KNOWINGLY ADDRESS, IDENTIFY  
29 OR REFER TO A STUDENT WHO IS UNDER EIGHTEEN YEARS OF AGE BY  
30 EITHER OF THE FOLLOWING UNLESS THE SCHOOL DISTRICT OR CHARTER  
31 SCHOOL RECEIVES WRITTEN PERMISSION FROM THE STUDENT'S PARENT:

32           1. A PRONOUN THAT DIFFERS FROM THE PRONOUN THAT ALIGNS  
33 WITH THE STUDENT'S BIOLOGICAL SEX.

34           2. A FIRST NAME OTHER THAN THE FIRST OR MIDDLE NAME  
35 THAT IS LISTED ON THE STUDENT'S OFFICIAL SCHOOL RECORDS,  
36 EXCEPT THAT AN EMPLOYEE OR INDEPENDENT CONTRACTOR MAY ADDRESS,  
37 IDENTIFY OR REFER TO A STUDENT BY A NICKNAME THAT IS COMMONLY  
38 ASSOCIATED WITH THE STUDENT'S NAME OF RECORD.

39           B. A SCHOOL DISTRICT OR CHARTER SCHOOL MAY NOT REQUIRE  
40 AN EMPLOYEE OR INDEPENDENT CONTRACTOR TO ADDRESS, IDENTIFY OR  
41 REFER TO A PERSON BY A PRONOUN THAT DIFFERS FROM THE PRONOUN  
42 THAT ALIGNS WITH THE PERSON'S BIOLOGICAL SEX IF DOING SO IS  
43 CONTRARY TO THE EMPLOYEE'S OR INDEPENDENT CONTRACTOR'S  
44 RELIGIOUS OR MORAL CONVICTIONS.

1 C. EACH SCHOOL DISTRICT GOVERNING BOARD AND CHARTER  
2 SCHOOL GOVERNING BODY SHALL ADOPT POLICIES TO IMPLEMENT THIS  
3 SECTION.

4 D. THIS SECTION DOES NOT PROHIBIT ANY PERSON DESCRIBED  
5 IN SUBSECTION A OF THIS SECTION FROM DISCUSSING MATTERS OF  
6 PUBLIC CONCERN OUTSIDE THE CONTEXT OF THE PERSON'S OFFICIAL  
7 DUTIES.

8 E. FOR THE PURPOSES OF THIS SECTION, "BIOLOGICAL SEX"  
9 MEANS A PERSON'S IMMUTABLE BIOLOGICAL SEX AS DETERMINED BY  
10 ANATOMY, PHYSIOLOGY, GENETICS AND HORMONES EXISTING AT THE  
11 TIME OF THE PERSON'S BIRTH.

12 Sec. 3. Severability

13 If a provision of this act or its application to any  
14 person or circumstance is held invalid, the invalidity does  
15 not affect other provisions or applications of the act that  
16 can be given effect without the invalid provision or  
17 application, and to this end the provisions of this act are  
18 severable.

19 2. The Secretary of State shall submit this proposition to the  
20 voters at the next general election as provided by article IV, part 1,  
21 section 1, Constitution of Arizona.