

1 STATE OF OKLAHOMA

2 2nd Session of the 56th Legislature (2018)

3 SENATE BILL 1223

By: Brecheen

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5  
6 AS INTRODUCED

7 An Act relating to schools; creating the Oklahoma  
8 Privacy Accommodation Act; providing definitions;  
9 requiring public school districts to provide  
10 reasonable accommodations to certain students;  
11 providing certain construction; requiring certain  
12 facilities and sleeping quarters to be designated in  
13 certain manner; creating a private right of action  
14 for certain violations; authorizing the Attorney  
15 General to represent certain persons under certain  
16 circumstances; requiring certain notice; providing  
17 for certain claims to be brought in certain court;  
18 providing time limit for bringing certain actions;  
19 allowing recovery of certain monetary damages;  
20 providing for recovery of attorney fees and costs;  
21 providing certain construction; providing for  
22 codification; providing an effective date; and  
23 declaring an emergency.  
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BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified  
in the Oklahoma Statutes as Section 1-125 of Title 70, unless there  
is created a duplication in numbering, reads as follows:

This act shall be known and may be cited as the "Oklahoma  
Privacy Accommodation Act".

1           SECTION 2.           NEW LAW           A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-126 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4           As used in this act:

5           1. "Changing facility" means a facility in which a person may  
6 be in a state of undress in the presence of others, including a  
7 locker room, changing room or shower room;

8           2. "Restroom" means a facility that includes one or more  
9 toilets or urinals;

10          3. "Sex" means a person's immutable biological sex as  
11 determined by anatomy and genetics existing at the time of birth.  
12 Evidence of a person's biological sex includes but is not limited to  
13 any government-issued identification document that accurately  
14 reflects a person's sex listed on the person's original birth  
15 certificate;

16          4. "Distinctly private facilities" means restrooms, shower  
17 rooms, bath houses and similar facilities which are, in their  
18 nature, distinctly private, including overnight accommodations; and

19          5. "Undue hardship" means construction of new facilities,  
20 significant modifications of current facilities or any expenditure  
21 other than de minimis or incidental costs.

22           SECTION 3.           NEW LAW           A new section of law to be codified  
23 in the Oklahoma Statutes as Section 1-127 of Title 70, unless there  
24 is created a duplication in numbering, reads as follows:

1 A. Public school districts shall provide a reasonable  
2 accommodation to any student who:

3 1. For any reason is unwilling or unable to use a multi-  
4 occupancy restroom or changing facility designated for the student's  
5 sex and located within a public school building or multi-occupancy  
6 quarters while attending a public school-sponsored activity; and

7 2. Submits a request for a reasonable accommodation to the  
8 public school district.

9 B. Reasonable accommodations may include but are not limited to  
10 access to a single-occupancy restroom or changing facility or use of  
11 a school employee restroom or changing facility. A reasonable  
12 accommodation shall not include access to a restroom or changing  
13 facility that is designated for use by members of the opposite sex  
14 while persons of the opposite sex are present or could be present.

15 C. Nothing in this section shall be construed to prohibit  
16 public school district boards of education from adopting policies  
17 necessary to accommodate persons protected under the Americans with  
18 Disabilities Act or young children in need of physical assistance  
19 when using restrooms or changing facilities located in public  
20 schools.

21 D. Distinctly private facilities within a public school  
22 building and multi-occupancy sleeping quarters used by students  
23 while participating in school-sponsored activities shall be clearly  
24 designated by sex and used only by persons of the designated sex.

1 SECTION 4. NEW LAW A new section of law to be codified  
2 in the Oklahoma Statutes as Section 1-128 of Title 70, unless there  
3 is created a duplication in numbering, reads as follows:

4 A. Any student whose written request for a reasonable  
5 accommodation is denied by the public school district shall have a  
6 private right of action against the public school district unless  
7 the public school district can demonstrate that the accommodation  
8 would cause an undue hardship.

9 B. Any student who:

10 1. Encounters a member of the opposite sex in a multi-occupancy  
11 restroom or changing facility designated for the person's sex and  
12 located in a public school building; or

13 2. Is required by the public school district to share sleeping  
14 quarters with a member of the opposite sex, unless such persons are  
15 members of the same family  
16 has a private right of action against the public school district if  
17 the public school district gave the member of the opposite sex  
18 permission to use the restroom, changing facility or sleeping  
19 quarters.

20 C. The Attorney General of the State of Oklahoma is hereby  
21 authorized to intervene in any legal proceeding to enforce the  
22 provisions of this act and shall represent any school district or  
23 employee named as a defendant therein. Any school district or  
24 employee named as a defendant in any proceeding to enforce the

1 provisions of this act shall within five (5) days of receiving  
2 service of summons notify the Attorney General of the State of  
3 Oklahoma of the pendency of the action.

4 D. Any claims arising pursuant to this section shall be brought  
5 in the state or federal trial court in whose jurisdiction either the  
6 person or the public school district resides at the time of filing.

7 E. All civil actions brought pursuant to this section shall be  
8 initiated within two (2) years after the violation occurred.

9 F. Persons aggrieved under this section who prevail in court  
10 may recover monetary damages for all psychological, emotional and  
11 physical harm suffered.

12 G. Persons who prevail on a claim brought pursuant to this  
13 section shall be entitled to recover reasonable attorney fees and  
14 costs.

15 H. Nothing in this section shall limit other remedies by law or  
16 equity available to the aggrieved person against the public school  
17 district.

18 SECTION 5. This act shall become effective July 1, 2018.

19 SECTION 6. It being immediately necessary for the preservation  
20 of the public peace, health or safety, an emergency is hereby  
21 declared to exist, by reason whereof this act shall take effect and  
22 be in full force from and after its passage and approval.

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