



## 2015 SENATE BILL 582

January 15, 2016 - Introduced by Senators NASS, MOULTON and STROEBEL, cosponsored by Representatives KREMER, THIESFELDT, CRAIG, GANNON, HORLACHER, JACQUE, SKOWRONSKI, TITTL and HEATON. Referred to Committee on Education.

1     **AN ACT** *to create* 118.315 of the statutes; **relating to:** use of changing rooms by  
2           pupils.

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### *Analysis by the Legislative Reference Bureau*

This bill requires a school board to designate each pupil restroom and changing room (together, changing room) located in a public school building and accessible by multiple pupils as for the exclusive use of pupils of only one sex. The bill defines “sex” as the physical condition of being male or female, as determined by an individual’s reproductive organs and as designated on that individual’s birth certificate. With certain exceptions, the bill prohibits a member of the female sex from using a changing room that has been designated as a male changing room and prohibits a member of the male sex from using a changing room that has been designated as a female changing room. In addition, the bill permits a school board to temporarily redesignate a pupil restroom or changing room for special events.

The bill requires a school board to provide reasonable accommodations to a pupil to use a single-occupancy changing room or the regulated use of a faculty changing room if the parent or guardian of the pupil submits a written request to receive the accommodations. The bill requires the school to treat a written request for accommodations as a confidential pupil record.

The bill also permits a school board to provide a gender-neutral restroom in a school for use by pupils. The bill defines a gender-neutral restroom as a restroom that satisfies all of the following requirements: 1) the restroom has two or more stalls; 2) each stall in the restroom has a floor-to-ceiling door with a lock or latch so that the door may be locked or latched from the inside; 3) each stall in the restroom

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is separated from any other stall by either a wall or floor-to-ceiling partitions; 4) there are no spaces between the doors, walls, and partitions used in the construction of each stall so that a person standing outside a stall cannot see inside the stall and a person inside a stall cannot see into any other stall; 5) if the restroom has a urinal, the urinal is located in a stall that meets all the other requirements for a stall.

The bill permits the pupil's parent or guardian to file a written complaint regarding a violation of the requirements in the bill, and requires the school board to investigate and attempt to resolve the complaint.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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*The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:*

1           **SECTION 1.** 118.315 of the statutes is created to read:

2           **118.315 Pupil physical privacy. (1)** In this section:

3           (a) "Changing room" means a room or area, with or without stalls for individual  
4 use, designated for a person to change his or her clothes. "Changing room" includes  
5 a locker room, shower room, and dressing room, but does not include a  
6 gender-neutral restroom.

7           (b) "Gender-neutral restroom" means a restroom that satisfies all of the  
8 following requirements:

9           1. The restroom has 2 or more stalls.

10          2. Each stall in the restroom has a floor-to-ceiling door with a lock or latch so  
11 that the door may be locked or latched from the inside.

12          3. Each stall in the restroom is separated from any other stall by either a wall  
13 or floor-to-ceiling partitions.

14          4. There are no spaces between the doors, walls, and partitions used in the  
15 construction of each stall so that a person standing outside a stall cannot see inside  
16 the stall and a person inside a stall cannot see into any other stall.

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1           5. If the restroom has a urinal, the urinal is located in a stall that meets the  
2 requirements under subds. 2. to 4.

3           (c) "Sex" means the physical condition of being male or female, as determined  
4 by an individual's reproductive organs and as designated on that individual's birth  
5 certificate.

6           **(2)** (a) 1. A school board shall designate each pupil restroom and changing room  
7 located in a public school building in the school district and accessible by multiple  
8 pupils simultaneously as for the exclusive use of pupils of only one sex.

9           2. The school board may establish policies for special events, including athletic  
10 events, during which the school board may temporarily redesignate a pupil restroom  
11 and changing room. Upon the conclusion of the special event, the pupil restroom and  
12 changing room shall revert to the designation under subd. 1.

13           (b) 1. Except as provided in subd. 2., no member of the female sex may use a  
14 pupil restroom or changing room that has been designated by the school board for the  
15 exclusive use of the male sex, and no member of the male sex may use a pupil  
16 restroom or changing room that has been designated by the school board for the  
17 exclusive use of the female sex.

18           2. a. The prohibition under subd. 1. does not apply if the school board has set  
19 aside the designation under par. (a) 1. pursuant to a policy established under par. (a)  
20 2.

21           b. The prohibition under subd. 1. does not apply to a janitor or maintenance  
22 person when performing duties related to his or her employment; to a teacher, school  
23 administrator, police officer, or emergency medical services personnel when  
24 performing duties related to his or her employment; to a parent, other family

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1 member, or guardian assisting a child; or to a person providing assistance to a person  
2 with a disability.

3 (3) (a) A school board shall provide reasonable accommodations to a pupil to  
4 use a single-occupancy restroom or changing room or the regulated use of a faculty  
5 restroom or changing room if the parent or guardian of the pupil submits to the  
6 administrator of the school in which the pupil is enrolled a written request to receive  
7 accommodations under this paragraph. The school administrator shall treat a  
8 written request submitted under this paragraph as a pupil record subject to the  
9 protections under s. 118.125 (2).

10 (b) Subject to the requirements of s. 120.12 (12), a school board may provide a  
11 gender-neutral restroom in a school in the school district for use by pupils.

12 (4) (a) If a school board receives a written complaint from a pupil enrolled in  
13 the school district, or the parent or guardian of a pupil enrolled in the district,  
14 regarding a violation of this section, the school board shall, within 30 days,  
15 investigate and attempt to resolve the complaint.

16 (b) Subject to s. 118.26 or, for a school district operating under ch. 119, s. 119.68,  
17 the pupil, or the parent or guardian of the pupil, who submitted a written complaint  
18 under par. (a) may bring a claim for any of the following if the complaint is not  
19 resolved to the satisfaction of the pupil or the pupil's parent or guardian:

- 20 1. Declaratory relief.
- 21 2. Injunctive relief.
- 22 3. Damages, including the reimbursement of reasonable attorney fees.

23 (END)