

1 State of Arkansas As Engrossed: H1/24/23 H1/30/23

2 94th General Assembly

# A Bill

3 Regular Session, 2023

HOUSE BILL 1156

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5 By: Representatives Bentley, K. Brown, Crawford, D. Hodges, Ladyman, Long, Lundstrum, McAlindon,  
6 Miller, Rose, Tosh, *Barker*

7 By: Senator D. Sullivan

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## For An Act To Be Entitled

10 AN ACT CONCERNING A PUBLIC SCHOOL DISTRICT OR OPEN-  
11 ENROLLMENT PUBLIC CHARTER SCHOOL POLICY RELATING TO  
12 THE SEX OF A PUBLIC SCHOOL STUDENT WHO ATTENDS A  
13 PUBLIC SCHOOL SPONSORED OR SUPERVISED OVERNIGHT TRIP;  
14 CONCERNING THE DESIGNATION OF A MULTIPLE OCCUPANCY  
15 RESTROOM OR CHANGING AREA BASED ON AN INDIVIDUAL'S  
16 SEX; AND FOR OTHER PURPOSES.

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## Subtitle

20 CONCERNING A PUBLIC SCHOOL DISTRICT OR  
21 OPEN-ENROLLMENT PUBLIC CHARTER SCHOOL  
22 POLICY RELATING TO A PUBLIC SCHOOL  
23 STUDENT'S SEX.

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26 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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28 SECTION 1. Arkansas Code Title 6, Chapter 10, Subchapter 1, is amended  
29 to add an additional section to read as follows:

30 6-10-137. Overnight trips.

31 (a) Except as provided in subsection (b) of this section, a public  
32 school district or open-enrollment public charter school that sponsors or  
33 supervises an overnight trip involving a public school student shall ensure  
34 that a public school student attending the overnight trip is required to  
35 share sleeping quarters with a member of the same sex.

36 (b) A public school student attending an overnight trip may share



1 sleeping quarters with a member of the opposite sex if the member of the  
2 opposite sex is a member of the public school student's immediate family.

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4 SECTION 2. Arkansas Code Title 6, Chapter 21, Subchapter 1, is amended  
5 to add an additional section to read as follows:

6 6-21-120. Public school restrooms – Designation based on sex.

7 (a) As used in this section:

8 (1)(A) "Multiple occupancy restroom or changing area" means an  
9 area in a public school district or open-enrollment public charter school  
10 building that is designed or designated to be used by one (1) or more  
11 individuals at the same time and in which one (1) or more individuals may be  
12 in various stages of undress in the presence of other individuals.

13 (B) "Multiple occupancy restroom or changing area"  
14 includes without limitation the following:

15 (i) A restroom;

16 (ii) A locker room;

17 (iii) A changing room; and

18 (iv) A shower room; and

19 (2)(A) "Sex" means the physical condition of being male or  
20 female based on genetics and physiology.

21 (B) A public school district or open-enrollment public  
22 charter school may rely upon a public school student's sex as identified on  
23 his or her original birth certificate issued at or near the time of his or  
24 her birth.

25 (b) To ensure privacy and safety, each public school district and  
26 open-enrollment public charter school that serves students in prekindergarten  
27 through grade twelve (preK-12) in this state shall:

28 (1) Require each multiple occupancy restroom or changing area to  
29 be designated as follows:

30 (A) For the exclusive use by the male sex; or

31 (B) For the exclusive use by the female sex; and

32 (2)(A) Provide a reasonable accommodation to an individual who  
33 is unwilling or unable to use a multiple occupancy restroom or changing area  
34 designated for the individual's sex.

35 (B)(i) A reasonable accommodation under this subdivision  
36 (b)(2)(A) may include without limitation access to a single-occupancy

1 restroom or changing area.

2 (ii) A reasonable accommodation shall not include  
3 access to a restroom or changing area that is designated for use by members  
4 of the opposite sex to an individual while members of the opposite sex of the  
5 individual are present or may be present in the restroom or changing area.

6 (c) This section does not apply to an individual who enters a multiple  
7 occupancy restroom or changing area designated for use by the opposite sex  
8 when he or she enters for at least one (1) of the following circumstances:

9 (1) For custodial, maintenance, or inspection purposes;

10 (2) To render emergency medical assistance; or

11 (3) To address an ongoing emergency, including without  
12 limitation a physical altercation.

13 (d)(1) Nothing in this section shall be construed to prohibit a public  
14 school district or open-enrollment public charter school from adopting a  
15 policy that is necessary to accommodate individuals protected under the  
16 Americans with Disabilities Act of 1990, Pub. L. No. 101-336, as it existed  
17 on January 1, 2023, or young children who are in need of physical assistance  
18 when using a restroom or changing facility that is located in a public school  
19 district or open-enrollment public charter school.

20 (2) However, a public school district or open-enrollment public  
21 charter school that serves students in prekindergarten through grade twelve  
22 (preK-12) in this state shall not adopt a policy under subdivision (d)(1) of  
23 this section that is contrary to this section.

24 (e)(1) An allegation of noncompliance with this section shall be  
25 referred to the Professional Licensure Standards Board by filing a formal  
26 complaint.

27 (2) Upon the board finding noncompliance with this section, the  
28 following individuals, as applicable, shall be subject to a minimum fine of  
29 one thousand dollars (\$1,000), and may receive additional sanctions as  
30 determined by the board:

31 (A) The superintendent of a public school district where  
32 the noncompliance occurred, if the superintendent is found specifically to be  
33 noncompliant with this section;

34 (B) The principal of a public school where the  
35 noncompliance occurred, if the principal is found specifically to be  
36 noncompliant with this section;

