

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

As Engrossed: H1/24/23

# A Bill

HOUSE BILL 1156

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

7 By: Senator D. Sullivan  
8

## For An Act To Be Entitled

9  
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

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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 public school district or open-enrollment public charter school that  
32 sponsors or supervises an overnight trip involving a public school student  
33 shall ensure that a public school student attending the overnight trip is not  
34 required to share sleeping quarters with a member of the opposite sex, unless  
35 the member of the opposite sex is a member of the public school student's  
36 family.



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

4 6-21-120. Public school restrooms – Designation based on sex.

5 (a) As used in this section:

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

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

13 (i) A restroom;

14 (ii) A locker room;

15 (iii) A changing room; and

16 (iv) A shower room; and

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

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

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

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

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

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

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

33 (B)(i) A reasonable accommodation under this subdivision  
34 (b)(2)(A) may include without limitation access to a single-occupancy  
35 restroom or changing area.

36 (ii) A reasonable accommodation shall not include

1 access to a restroom or changing area that is designated for use by members  
2 of the opposite sex to an individual while members of the opposite sex of the  
3 individual are present or may be present in the restroom or changing area.

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

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

8 (2) To render emergency medical assistance; or

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

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

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

22 (e) Upon the State Board of Education finding noncompliance with this  
23 section, the following individuals, as applicable, shall receive a fifteen  
24 percent (15%) reduction in salary for the fiscal year following the year the  
25 public school district or open-enrollment public charter school was found to  
26 be noncompliant with this section:

27 (1) The superintendent of a public school district found to be  
28 noncompliant with this section;

29 (2) The principal of the specific public school found to be  
30 noncompliant with this section; and

31 (3) The director or administrative head of an open-enrollment  
32 public charter school found to be noncompliant with this section.

33 (f) A parent, legal guardian, or person standing in loco parentis of a  
34 public school student shall have a cause of action against a public school  
35 district or an open-enrollment public charter school if:

36 (1) His or her public school student:

1 (A) Encounters a member of the opposite sex in a public  
2 school district or open-enrollment public charter school multiple occupancy  
3 restroom or changing area that is designated for the public school student's  
4 sex if the member of the opposite sex received permission from the public  
5 school district or open-enrollment public charter school to use the multiple  
6 occupancy restroom or changing area; or

7 (B) Is required by a public school district or open-  
8 enrollment public charter school to share sleeping quarters with a member of  
9 the opposite sex who is not a family member of the public school student; or

10 (2) The public school district or open-enrollment public charter  
11 school is found to be noncompliant under subsection (e) of this section.

12 (g) The Division of Elementary and Secondary Education shall  
13 promulgate rules to implement this section.

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15 /s/Bentley  
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