**A** **BILL**

TO AMEND SECTION 45‑9‑10 OF THE 1976 CODE, RELATING TO THE RIGHT TO EQUAL ENJOYMENT OF AND PRIVILEGES TO PUBLIC ACCOMMODATIONS, TO ADD A SUBSECTION TO PROVIDE THAT UNITS OF LOCAL GOVERNMENT IN THIS STATE MAY NOT ENACT LOCAL LAWS, ORDINANCES, ORDERS, OR OTHER REGULATIONS THAT REQUIRE A PLACE OF PUBLIC ACCOMMODATION OR A PRIVATE CLUB OR OTHER ESTABLISHMENT NOT IN FACT OPEN TO THE GENERAL PUBLIC TO ALLOW A PERSON TO USE A MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY REGARDLESS OF THE PERSON’S BIOLOGICAL SEX; TO AMEND TITLE 10, CHAPTER 1 OF THE 1976 CODE, RELATING TO GENERAL PROVISIONS CONCERNING PUBLIC BUILDINGS AND PROPERTY, BY ADDING ARTICLE 3 TO PROVIDE THAT MULTIPLE OCCUPANCY BATHROOMS AND CHANGING FACILITIES LOCATED ON PUBLIC PROPERTY SHALL BE DESIGNATED FOR AND ONLY USED BY A PERSON BASED ON HIS BIOLOGICAL SEX; TO AMEND CHAPTER 23, TITLE 59 OF THE 1976 CODE, RELATING TO SCHOOL BUILDINGS AND OTHER SCHOOL PROPERTY, TO PROVIDE THAT LOCAL SCHOOL BOARDS SHALL REQUIRE EVERY MULTIPLE OCCUPANCY BATHROOM OR CHANGING FACILITY THAT IS DESIGNATED FOR STUDENT USE TO BE DESIGNATED FOR AND USED ONLY BY STUDENTS BASED ON THEIR BIOLOGICAL SEX, AND TO PROVIDE EXEMPTIONS AND DEFINITIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 45‑9‑10 of the 1976 Code is amended by adding:

“(D)(1) As used in this subsection:

(a) ‘Biological sex’ means the physical condition of being male or female, which is stated on a person’s birth certificate.

(b) ‘Multiple occupancy bathroom’ or ‘changing facility’ means a facility designed or designated to be used by more than one person at a time where persons may be in various states of undress in the presence of other persons. A multiple occupancy bathroom or changing facility may include, but is not limited to, a restroom, locker room, changing room, or shower room.

(c) ‘Single occupancy bathroom’ or ‘changing facility’ means a facility designed or designated to be used by only one person at a time where students may be in various states of undress. A single occupancy bathroom or changing facility may include, but is not limited to, a single stall restroom designated as unisex or for use based on biological sex.

(2) Units of local government in this State may not enact local laws, ordinances, orders, or other regulations that require a place of public accommodation or a private club or other establishment not in fact open to the general public to allow a person to use a multiple occupancy bathroom or changing facility regardless of the person’s biological sex. A local law, ordinance, order, or other regulation enacted by a unit of local government to require a person to use a multiple occupancy bathroom or changing facility designated for his biological sex is not a violation of this chapter and does not constitute discrimination based upon a protected category.

(3) This section does not apply to persons entering a multiple occupancy bathroom or changing facility designated for use by the opposite sex:

(a) for custodial purposes;

(b) for maintenance or inspection purposes;

(c) to render medical assistance;

(d) to accompany a person in need of medical assistance;

(e) for a minor under the age of seventeen who accompanies a person caring for that minor;

(f) that has been temporarily designated for use by that person’s biological sex.”

SECTION 2. Chapter 1, Title 10 of the 1976 Code is amended by adding:

“Article 3

Single Gender Facilities

Section 10‑1‑310. As used in this article:

(1) ‘Biological sex’ means the physical condition of being male or female, which is stated on a person’s birth certificate.

(2) ‘Multiple occupancy bathroom’ or ‘changing facility’ means a facility designed or designated to be used by more than one person at a time where persons may be in various states of undress in the presence of other persons. A multiple occupancy bathroom or changing facility includes, but is not limited to, a restroom, locker room, changing room, or shower room.

(3) ‘Single occupancy bathroom’ or ‘changing facility’ means a facility designed or designated to be used by only one person at a time where students may be in various states of undress. A single occupancy bathroom or changing facility includes, but is not limited to, a single stall restroom designated as unisex or for use based on biological sex.

Section 10‑1‑320. (A) Multiple occupancy bathrooms and changing facilities located on public property, including but not limited to property owned by the State, its authorities, commissions, departments, committees or agencies, or any political subdivision of the State, shall be designated for and only used by a person based on his biological sex.

(B) Nothing in this section prohibits public agencies from providing accommodations such as single occupancy bathrooms or changing facilities or controlled use of faculty facilities upon a person’s request due to special circumstances. In no event shall such accommodation result in the public agency’s allowing a person to use a multiple occupancy bathroom or changing facility as designated in subsection (A) for a sex other than the person’s biological sex.

(C) This section does not apply to persons entering a multiple occupancy bathroom or changing facility designated for use by the opposite sex:

(1) for custodial purposes;

(2) for maintenance or inspection purposes;

(3) to render medical assistance;

(4) to accompany a person in need of medical assistance;

(5) for a minor under the age of seventeen who accompanies a person caring for that minor;

(6) that has been temporarily designated for use by that person’s biological sex.”

SECTION 3. Chapter 23, Title 59 of the 1976 Code is amended by adding:

“Article 4

Single Gender Facilities

Section 59‑23‑410. As used in this article:

(1) ‘Biological sex’ means the physical condition of being male or female, which is stated on a person’s birth certificate.

(2) ‘Multiple occupancy bathroom’ or ‘changing facility’ means a facility designed or designated to be used by more than one person at a time where students may be in various states of undress in the presence of other persons. A multiple occupancy bathroom or changing facility includes, but is not limited to, a school restroom, locker room, changing room, or shower room.

(3) ‘Single occupancy bathroom’ or ‘changing facility’ means a facility designed or designated to be used by only one person at a time where students may be in various states of undress. A single occupancy bathroom or changing facility includes, but is not limited to, a single stall restroom designated as unisex or for use based on biological sex.

Section 59‑23‑420. (A) Local school boards shall require every multiple occupancy bathroom or changing facility that is designated for student use to be designated for and used only by students based on their biological sex.

(B) Nothing in this section prohibits a local school board from providing accommodations such as single occupancy bathrooms or changing facilities or controlled use of faculty facilities upon a request due to special circumstances. In no event shall such accommodation result in the local school board’s allowing a student to use a multiple occupancy bathroom or changing facility as designated in subsection (A) for a sex other than the student’s biological sex.

(C) This section does not apply to persons entering a multiple occupancy bathroom or changing facility designated for use by the opposite sex:

(1) for custodial purposes;

(2) for maintenance or inspection purposes;

(3) to render medical assistance;

(4) to accompany a student needing assistance when the assisting individual is an employee or authorized volunteer of the local school board or the student’s parent or authorized caregiver;

(5) to receive assistance in using the facility;

(6) to accompany a person other than a student needing assistance;

(7) that has been temporarily designated for use by that person’s biological sex.”

SECTION 4. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this Act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 5. This act takes effect upon approval by the Governor.

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