**South Carolina General Assembly**

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**STATUS INFORMATION**

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Summary: Safety in Private Spaces Act

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 11/16/2023 House Prefiled

 11/16/2023 House Referred to Committee on **Judiciary**

 12/20/2023 Scrivener's error corrected

 1/9/2024 House Introduced and read first time (House Journal‑page 75)

 1/9/2024 House Referred to Committee on **Judiciary** (House Journal‑page 75)

 1/9/2024 House Member(s) request name added as sponsor: Haddon,
 Burns, Chumley, Nutt

 1/18/2024 House Member(s) request name added as sponsor: McCravy

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**VERSIONS OF THIS BILL**

[11/16/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4535_20231116.docx)

[12/20/2023](https://www.scstatehouse.gov/sess125_2023-2024/prever/4535_20231220.docx)

A bill

TO AMEND THE SOUTH CAROLINA CODE OF LAWS BY ENACTING THE “SAFETY IN PRIVATE SPACES ACT” BY ADDING CHAPTER 79 TO TITLE 39 SO AS TO PROVIDE THAT A COVERED ENTITY THAT MAINTAINS A WATER CLOSET OR CHANGING FACILITY MUST HAVE FACILITIES FOR THE EXCLUSIVE USE OF MALES AND FACILITIES FOR THE EXCLUSIVE USE OF FEMALES OR A UNISEX FACILITY, TO PROVIDE EXCEPTIONS, AND TO PROVIDE REPORTING REQUIREMENTS.

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

SECTION 1. This act may be cited as the “Safety in Private Spaces Act”.

SECTION 2. Title 39 of the S.C. Code is amended by adding:

 CHAPTER 79

 Safety in Private Spaces Act

 Section 39‑79‑10. The General Assembly finds that females and males should be provided restrooms and changing facilities for their exclusive use in order to maintain public safety, decency, and decorum.

 Section 39‑79‑20. As used in this chapter:

 (1) “Changing facility” means a room in which two or more persons may be in a state of undress in the presence of others including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room.

 (2) “Correctional institution” means any state correctional institution, private correctional facility, or any other facility used for the detention of adults charged with or convicted of a crime.

 (3) “Covered entity” means any:

 (a) correctional institution;

 (b) educational institution;

 (c) juvenile correctional facility, juvenile prison, or detention center or facility designated to provide secure detention; or

 (d) public building.

 (4) “Educational institution” means a K‑12 educational institution or facility or a postsecondary educational institution or facility.

 (5) “Female” means a person belonging, at birth, to the biological sex which has the specific reproductive role of producing eggs.

 (6) “K‑12 educational institution or facility” means:

 (a) a school operated under the control of a district school board;

 (b) the South Carolina School for the Deaf and the Blind;

 (c) a developmental research laboratory school;

 (d) a charter school; or

 (e) a private school.

 (7) “Male” means a person belonging, at birth, to the biological sex which has the specific reproductive role of producing sperm.

 (8) “Postsecondary educational institution or facility” means:

 (a) a state university;

 (b) a private university;

 (c) a school district career center; or

 (d) a technical college.

 (9) “Public building” means a comfort‑conditioned building for occupancy which is owned or leased by the State, a state agency, or a political subdivision. The term does not include a correctional institution, an educational institution, a juvenile correctional facility or juvenile prison, a detention center to provide secure detention, or any facility used for a residential program.

 (10) “Restroom” means a room that includes one or more water closets. This term does not include a unisex restroom.

 (11) “Sex” means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.

 (12) “Unisex changing facility” means a room intended for a single occupant or a family in which one or more persons may be in a state of undress including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room that is enclosed by floor‑to‑ceiling walls and accessed by a full door with a secure lock that prevents another individual from entering while the changing facility is in use.

 (13) “Unisex restroom” means a room that includes one or more water closets and that is intended for a single occupant or a family, is enclosed by floor‑to‑ceiling walls, and is accessed by a full door with a secure lock that prevents another individual from entering while the room is in use.

 (14) “Water closet” means a toilet or urinal.

 Section 39‑79‑30. A covered entity that maintains a water closet must, at a minimum, have:

 (1) a restroom designated for exclusive use by females and a restroom designated for exclusive use by males; or

 (2) a unisex restroom.

 Section 39‑79‑40. A covered entity that maintains a changing facility must, at a minimum, have:

 (1) a changing facility designated for exclusive use by females and a changing facility designated for exclusive use by males; or

 (2) a unisex changing facility.

 Section 39‑79‑50. For purposes of this chapter, a person may only enter a restroom or changing facility designated for the opposite sex under the following circumstances:

 (1) to accompany a person of the opposite sex for the purpose of assisting or chaperoning a child under the age of twelve, an elderly person, or a person with a disability or a developmental disability;

 (2) for law enforcement or governmental regulatory purposes;

 (3) for the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk;

 (4) for custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use; or

 (5) if the appropriate designated restroom or changing facility is out of order or under repair and the restroom or changing facility designated for the opposite sex contains no person of the opposite sex.

 Section 39‑79‑60. (A) Each correctional institution shall establish disciplinary procedures for any prisoner who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of a correctional institution and refuses to depart when asked to do so by any employee of the Department of Corrections or an employee of the correctional institution.

 (B) Any Department of Corrections employee or correctional institution employee who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of a correctional institution and refuses to depart when asked to do so by another Department of Corrections employee or correctional institution employee is subject to disciplinary action by the Department of Corrections.

 (C) A person who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of a correctional institution and refuses to depart when asked to do so by an employee of the Department of Corrections or an employee of the correctional institution commits the offense of trespass. This subsection does not apply to prisoners, Department of Corrections employees, or correctional institution employees.

 Section 39‑79‑70. (A) Each educational institution shall, within its code of student conduct, establish disciplinary procedures for any student who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of the educational institution and refuses to depart when asked to do so by:

 (1) for a K‑12 educational institution or facility, any instructional personnel, administrative personnel, or a safe‑school officer or, if the institution is a private school, any equivalent of such personnel or officer; or

 (2) for a postsecondary educational institution or facility, any administrative personnel, faculty member, security personnel, or law enforcement personnel.

 (B) Instructional personnel or administrative personnel, respectively, for an educational institution, or the equivalent of such personnel for a private school, who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of the educational institution and refuse to depart when asked to do so by a person specified in subsection (A) commit a violation of the Principles of Professional Conduct for the Education Profession and are subject to discipline.

 (C) Instructional personnel or administrative personnel at a South Carolina institution of higher learning who wilfully enter, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of the educational institution and refuse to depart when asked to do so by a person listed in subsection (A) are subject to disciplinary actions established by the State Board of Education.

 (D) Each institution of higher learning shall establish a disciplinary policy for administrative personnel and instructional personnel who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of the educational institution and refuse to depart when asked to do so by a person specified in subsection (A).

 (E) Any person who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of an educational institution and refuses to depart when asked to do so by a person specified in subsection (A) commits the offense of trespass. This subsection does not apply to a student of the educational institution or to administrative personnel or instructional personnel of the educational institution.

 Section 39‑79‑80. (A) Each juvenile correctional facility or juvenile prison, each detention center or facility designated by the Department of Juvenile Justice to provide secure detention, and each facility used for a residential program shall establish disciplinary procedures for any juvenile who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex in such juvenile correctional facility, juvenile prison, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by delinquency program staff, detention staff, or residential program staff.

 (B) Any delinquency program staff member, detention staff member, or residential program staff member who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex in a juvenile correctional facility, juvenile prison, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by another delinquency program staff member, detention staff member, or residential program staff member is subject to disciplinary action by the Department of Juvenile Justice.

 (C) A person who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex on the premises of a juvenile correctional facility, juvenile prison, secure detention center or facility, or residential program facility and refuses to depart when asked to do so by delinquency program staff, detention staff, or residential program staff commits the offense of trespass. This subsection does not apply to juveniles, delinquency program staff, detention staff, or residential program staff.

 Section 39‑79‑90. (A) The applicable governmental entity shall, for each public building under its jurisdiction, establish disciplinary procedures for any employee of the governmental entity who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex at such public building and refuses to depart when asked to do so by any other employee of the governmental entity.

 (B) A person who wilfully enters, for a purpose other than those listed in Section 39‑79‑50, a restroom or changing facility designated for the opposite sex at a public building and refuses to depart when asked to do so by an employee of the governmental entity for the public building that is within the governmental entity’s jurisdiction commits the offense of trespass. This subsection does not apply to employees of governmental entities for such public building.

 Section 39‑79‑100. A covered entity that is:

 (1) a correctional institution shall submit documentation to the Department of Corrections regarding compliance with this chapter, as applicable, within one year after being established or, if such institution was established before July 1, 2024, no later than April 1, 2025.

 (2) a K‑12 educational institution or facility, institution of higher education, or a school district career center shall submit documentation to the State Board of Education regarding compliance with this chapter, as applicable, within one year after being established or, if such institution, facility, or center was established before July 1, 2024, no later than April 1, 2025.

 (3) an institution of higher learning shall submit documentation to the State Board of Higher Education regarding compliance with this chapter, as applicable, within one year after being established or, if such institution was established before July 1, 2024, no later than April 1, 2025.

 (4) A juvenile correctional facility or juvenile prison, a detention center or facility designated by the Department of Juvenile Justice to provide secure detention, or a facility used for a residential program shall submit documentation to the Department of Juvenile Justice regarding compliance with this chapter, as applicable, within one year after being established or, if such institution or facility was established before July 1, 2024, no later than April 1, 2025.

 Section 39‑79‑110. Beginning July 1, 2024, a person may submit a complaint to the Attorney General alleging that a covered entity failed to meet the minimum requirements for restrooms and changing facilities.

 Section 39‑79‑120. (A) A covered entity that fails to comply with this chapter is subject to penalties under subsection (B) and to licensure or regulatory disciplinary action, as applicable.

 (B) Beginning July 1, 2024, the Attorney General may bring a civil action to enforce this section against any covered entity. The Attorney General may seek injunctive relief, and, for any covered entity found to have wilfully violated this section, the Attorney General may seek to impose a fine of up to ten thousand dollars.

 (C) Fines collected pursuant to subsection (B) must be deposited in the General Fund.

 Section 39‑79‑130. This section does not apply to an individual who is or has been under treatment by a physician who, in his good faith clinical judgment, performs procedures upon or provides therapies to a minor born with a medically verifiable genetic disorder of sexual development, including any of the following:

 (1) external biological sex characteristics that are unresolvably ambiguous; or

 (2) a disorder of sexual development in which the physician has determined through genetic or biochemical testing that the patient does not have a normal sex chromosome structure, sex steroid hormone production, or sex steroid hormone action for a male or female, as applicable.

 Section 39‑79‑140. By January 1, 2024, the Department of Corrections, the Department of Juvenile Justice, and the State Board of Education shall each adopt rules establishing procedures to carry out this section and to ensure compliance with and enforcement of this chapter including, but not limited to, the type, format, and method of delivery of the documentation required.

SECTION 3. 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 4. This act takes effect upon approval by the Governor.

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