

Amendment No. 1 to HB1233

Hurt
Signature of Sponsor

AMEND Senate Bill No. 1367

House Bill No. 1233*

by deleting all language after the enacting clause and substituting:

SECTION 1. Tennessee Code Annotated, Title 49, Chapter 2, is amended by adding Sections 2–6 as a new part.

SECTION 2. This part is known and may be cited as the "Tennessee Accommodations for All Children Act."

SECTION 3. As used in this part:

(1) "Changing facility" means an area in which a person may be in a state of undress in the presence of others, including a locker room, changing room, or shower room;

(2) "Reasonable accommodation" includes, but is not limited to, access to a single-occupancy restroom or changing facility or use of an employee restroom or changing facility. "Reasonable accommodation" does not include the following:

(A) Access to a restroom or changing facility that is designated for use by members of the opposite sex while members of the opposite sex are present or could be present;

(B) Requesting that a school construct, remodel, or in any way perform physical or structural changes to a school facility; or

(C) Requesting that a school limit access to a restroom or changing facility that is designated for use by members of the opposite sex, if limiting access results in a violation of state or local building codes or standards;

(3) "Restroom" means a facility that includes one (1) or more toilets or urinals;
and

(4) "Sex" means a person's immutable biological sex as determined by anatomy and genetics existing at the time of birth. Evidence of a person's biological sex includes, but is not limited to, a government-issued identification document that accurately reflects a person's sex listed on the person's original birth certificate.

SECTION 4.

(a) A public school shall, to the extent practicable, provide a reasonable accommodation to a person who:

(1) Desires greater privacy when using a multi-occupancy restroom or changing facility designated for the person's sex and located within a public school building or when using multi-occupancy sleeping quarters designated for the person's sex while attending a public school-sponsored activity; and

(2) Provides a written request for a reasonable accommodation to the principal of the school. If the person requesting the reasonable accommodation is under eighteen (18) years of age, then the parent or legal guardian of the person must provide the written request on that person's behalf.

(b) The principal shall evaluate a request and, to the extent practicable, provide a reasonable accommodation to the person.

(c) This section does not prohibit public schools from adopting policies necessary to accommodate persons protected under the Americans with Disabilities Act, (42 U.S.C. § 12101 et seq.), or persons in need of physical assistance when using restrooms or changing facilities located in public schools.

SECTION 5.

(a) If a written request for a reasonable accommodation for a person is denied by the principal, then the person or the person's parent or guardian, as applicable, may appeal the decision to the director of schools, or the director's designee, by submitting a

written request for an appeal to the director within fifteen (15) calendar days from the receipt of the principal's decision denying the request for accommodation. The director of schools, or the director's designee, shall investigate and attempt to resolve the complaint within fifteen (15) calendar days from receipt of the written request for an appeal.

(b) If a written request for a reasonable accommodation for a person is denied by the director of schools, or the director's designee, then the person or the person's parent or guardian, as applicable, may appeal the decision by requesting a hearing on the matter before an impartial hearing officer selected by the local board of education.

To appeal the director of schools', or the director's designee's, decision:

(1) The person requesting a hearing must give written notice to the director of schools, or to the director's designee, of a request for a hearing within fifteen (15) calendar days from the person's receipt of the director of schools', or the director's designee's, decision denying the request for accommodation;

(2) The director of schools, or the director's designee, shall name an impartial hearing officer within five (5) days following the director's, or the director's designee's, receipt of a request for a hearing. The impartial hearing officer shall notify all parties of the hearing officer's assignment, and schedule a hearing no later than thirty (30) days following the director's, or the director's designee's, receipt of the request for a hearing. The impartial hearing officer may conduct all or part of the hearing by telephone if each participant has an opportunity to participate by telephone;

(3) The hearing must be conducted privately; and

(4) The impartial hearing officer shall, within ten (10) days of the hearing's conclusion, provide a written decision to all parties.

(c) As used in this section, "impartial" means that the selected hearing officer has no history of employment with the local board of education or the director of schools,

and has no relationship with any local board member or with the person requesting the hearing.

SECTION 6.

(a) A person has a private right of action if:

(1)

(A) The person encounters a member of the opposite sex in a multi-occupancy restroom or changing facility located in a public school building;

(B) The person is in a multi-occupancy restroom or changing facility designated for the person's sex; and

(C) The LEA or public school intentionally allowed the member of the opposite sex to enter the multi-occupancy restroom or changing facility while other persons were present; or

(2) The person is required by the public school to share sleeping quarters with persons of the opposite sex, unless the persons are members of the same family.

(b) A person claiming right of action pursuant to this section may bring suit in the chancery court in the county where the claim arose.

(c) A person aggrieved under this section who prevails in court may recover monetary damages for all psychological, emotional, and physical harm suffered. A person who prevails on a claim brought pursuant to this section is entitled to recover reasonable attorney fees and costs.

(d) A person aggrieved under this section who prevails in court may recover monetary damages. This section does not limit other remedies at law or equity available to the aggrieved person against the public school.

(e) A civil action brought pursuant to this section must be initiated within one (1) year from when the date on which the claim arose.

SECTION 7. This act takes effect July 1, 2021, the public welfare requiring it.