



North Dakota House of Representatives

STATE CAPITOL
600 EAST BOULEVARD
BISMARCK, ND 58505-0360



Representative Kathy Frelich

District 15
8827 54th St. NE
Devils Lake, ND 58301
kfrelich@ndlegis.gov

COMMITTEES:

Vice Chair Human Services
Transportation

Senator Beard and Members of the Education Committee,

My name is Kathy Frelich, and I have the privilege of representing District 15, which encompasses my hometown of Devils Lake and the area North, all the way to the Canadian border. I'm here to walk you through some proposed amendments and explain some of the amendments that were introduced in the House Committee.

First, the House Committee removed the Emergency Clause from the Bill. That had been Section 2 of the Bill. In speaking with the Bill sponsor, it was explained this Bill was first drafted for our 2023 Special Session, in response to claims made by certain administrative staff saying they would not comply with House Bill 1522 which passed in the Regular Session earlier that year. Since this specific situation has resolved itself, the Emergency clause seemed unnecessary.

The purpose of the Bill was Section 1 subsection 6, which included a penalty. And although the House Committee didn't feel the Emergency Clause was needed, we did agree with the need for recourse and consequence. However, during our House Committee meeting, we heard testimony from the Attorney General's office in opposition to this section of the Bill. As they read it, they believed it suggested a need to investigate all the schools in ND. In speaking with the Bill sponsor, and understanding this was not his intention, I asked Legislative Council to draft a clarifying amendment, and it was adopted.

I spoke to a representative from the AG's after the House passage, to see if they had any further concerns. They were happy with the amendment but suggested a further amendment to include a new subsection 6 which includes language stating a parent should first seek to address concerns within the school district, prior to taking the concern to the AG's office. This may have been understood, but I feel it certainly would be good to state this in Code.

Next is Subsection 4. First, I'll explain why the section was included and then I'll explain why the further amendments are before you today. In my hometown, we passed a bond referendum for a school renovation, to both accommodate student enrollment but also to meet some of the most serious building flaws and disrepair. The goal was to get our buildings up-to-date with current accessibility and safety requirements. The vote came in at 63.5% in favor, which

amounted to 1103 votes. I believe our Superintendent did an excellent job of meeting with the citizens and explaining his concerns. A subcommittee of sorts was brought together to discuss the plans. However, when plans were clarified, it was noticed by parents that we were looking at gender neutral bathrooms with communal sinks. A petition was started to bring forward community awareness and it was signed by 900 people by the time it was presented to the School Board. I am here today to represent the concern of these constituents. These are not just minor concerns; they are about the fundamental right to privacy and dignity.

Although school administration indicates the bathroom design is to prevent bullying, I think some believe it is directly due to accommodations of transgender students. Regardless of the intent, my purpose here today is to stand in strong support of the women and girls using these restrooms. I stand here today not to oppose the inclusion of accommodations for transgender students—House Bill 1522 already ensures those students are respected and provided for, in private spaces, as you can see in subsection 2. This Bill does not seek to undermine those protections. Instead, I stand to protect the privacy of girls. This isn't about excluding anyone—it's about maintaining the integrity of spaces that have historically been designated for women and girls; spaces where privacy should be paramount.

It seems to me; females are always the ones to pay the price when accommodations are made. I argue that restrooms, including the sink area, should be considered an intimate space. I would like to quote from our President's Executive order of January 20th. In Section 4 subsection d, it states "Agencies shall effectuate this policy by taking appropriate action to ensure that intimate spaces designated for women, girls, or females are designated by sex and not identity". I would just highlight that it states intimate space and not restroom.

Lastly, I am introducing a further amendment to "grandfather" in existing schools. This was a concern brought up on the House floor and one we hadn't completely vetted in our Committee. I don't believe any of us understood how many schools have adopted this new design. We cannot, in good conscience, force taxpayers to bear the financial burden of retrofitting schools that have already made significant investments in their facilities. The Bill should reflect a practical approach—one that respects existing facilities and doesn't impose unnecessary costs on taxpayers, but also seeks to create a clear plan going forward.

We need to take a step back, see if accommodations have gone too far, and err on the side of privacy and protection for all students. Keep in mind less than 4% of our students identify as transgender whereas 50% of our students are female. They also deserve privacy and respect.

Included in this amendment is an exclusion for young children, as this was never the purpose of the Bill, and one can clearly recognize the benefit of having communal sinks where teachers can instruct on proper hand washing and hygiene.

I would urge this Committee to really consider how we want bathrooms to look in our schools going forward. We make laws to protect our children, and we do not leave the protection of our children up to "local control." This is a Bill which guarantees personal privacy for girls, and I urge the committee to adopt the amendments and give HB 1144 a Do Pass recommendation.

Thank you and I'll stand for questions.

Sixty-ninth
Legislative Assembly
of North Dakota

**PROPOSED AMENDMENTS TO
FIRST ENGROSSMENT**

ENGROSSED HOUSE BILL NO. 1144

Introduced by

Representatives Tveit, D. Anderson, Frelich, Klemin, McLeod, S. Olson, Rohr, Schatz
Senators Weston, Clemens

1 A BILL for an Act to amend and reenact section 15.1-06-21 of the North Dakota Century Code,
2 relating to transgender student accommodations and restroom use in public schools; and to
3 provide a penalty.

4 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

5 **SECTION 1. AMENDMENT.** Section 15.1-06-21 of the North Dakota Century Code is
6 amended and reenacted as follows:

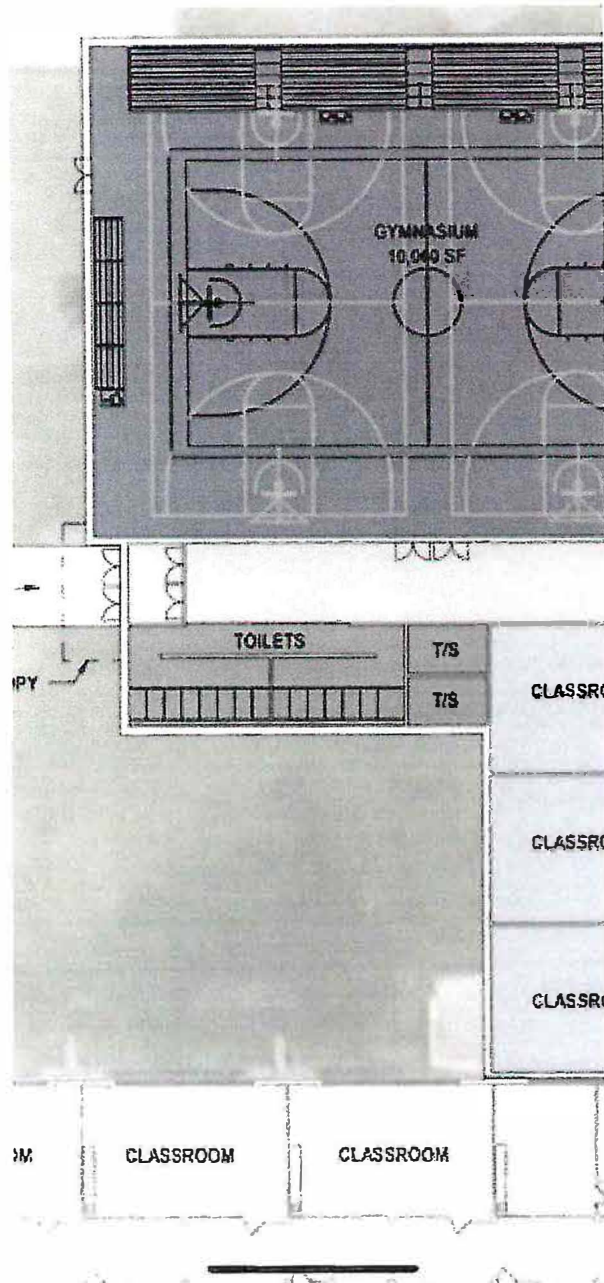
7 **15.1-06-21. Transgender student accommodations - Restroom use - Enforcement -**
8 **Penalty.**

- 9 1. A board of a school district, public school, or public school teacher may not adopt a
10 policy ~~that requires or prohibits any or guidelines, whether implicit or explicit, requiring~~
11 ~~or prohibiting an~~ individual from using a student's preferred gender pronoun.
- 12 2. A board of a school district shall establish, with the approval of the parent or legal
13 guardian, a plan for the use of a separate restroom accommodation for a transgender
14 student.
- 15 3. A board of a school district or a public school shall prohibit a student from using a
16 restroom that does not coincide with the student's biological sex.
- 17 4. A restroom or shower room on school grounds, which is accessible by multiple
18 individuals at one time, must be designated for use exclusively for males or exclusively
19 for females and may be used only by members of the designated sex. Multi-stall or
20 multi-room gender neutral restrooms and shower rooms are prohibited. A restroom for

- 1 males and a restroom for females may not be located together with a communal sink
2 or communal area where students enter and exit an individual stall or room. This
3 subsection does not apply to restrooms for students in preschool through grade four or
4 a restroom or shower room in existence on July 1, 2025.
- 5 5. Unless otherwise required by law, a school district, public school, or public school
6 teacher may not:
- 7 a. Adopt a policy or guidelines, whether implicit or explicit, concerning a particular
8 student's transgender status without approval from the student's parent or legal
9 guardian; or
- 10 b. Withhold or conceal information about a student's transgender status from the
11 student's parent or legal guardian.
- 12 6. The parent of a student in a school district may submit a complaint to the ~~attorney-~~
13 ~~generalschool district, in the manner prescribed by the attorney generalschool district~~
14 policy, if the school district appears to the parent to be violating this section.
- 15 7. After the parent has made a complaint under subsection 6, if it appears to the parent
16 the school district is violating this section, the parent may submit a complaint to the
17 attorney general, in the manner prescribed by the attorney general.
- 18 8. Upon receipt of a complaint under subsection ~~6~~7, the attorney general shall enforce
19 this section and may conduct investigations by:
- 20 a. Examining under oath any individual responsible for an alleged violation of this
21 section.
- 22 b. Issuing subpoenas.
- 23 c. Applying to a district court for an order enforcing the subpoena or other
24 investigation demand.
- 25 ~~8-9.~~ For a violation of this section, the attorney general may seek and obtain a declaratory
26 judgment or injunction in district court which prohibits the board of a school district, a
27 public school, or a public school teacher from continuing the unlawful practice.
- 28 ~~9-10.~~ The court may assess a civil penalty in an amount not to exceed two thousand five
29 hundred dollars for each violation of this section.
- 30 ~~10.~~ If a school had the number of toilets per students required by the state plumbing board
31 on January 1, 2025, and modifying the designation of a gender neutral restroom to an-

Sixty-ninth
Legislative Assembly

1 exclusively male or exclusively female restroom to comply with this section causes the
2 school to be out of compliance with the required toilet to student ratio of the state
3 plumbing board, the school is exempt from that requirement.



Here are a few pictures to explain the confusion we had in our District regarding the building plans for the bathrooms and why I think the concern was initially missed by parents.

This is the blueprint layout that was on the District website prior to the referendum vote. The top picture on the next page was a blueprint of the bathrooms provided to the working group.

The picture on the bottom of the second page is a rendering which was provided by the Superintendent after the petition was started.

I believe many people believed the bathrooms would be open to the hallway, but still divided into two sides; one side for males and one for females.

