

SENATE RESOLUTION No. 1798

A RESOLUTION supporting student privacy and safety.

WHEREAS, The State of Kansas has a compelling interest in protecting the privacy, safety, health and welfare of all students in public schools, colleges and universities in this state; and

WHEREAS, Public schools, colleges and universities have a duty to respect and protect the privacy rights of their students. Courts have recognized a constitutional right to privacy that includes a right not to be compelled by the government to undress or be unclothed in the presence of members of the opposite sex; and

WHEREAS, Children and young adults have a reasonable expectation that public schools, colleges and universities in this state will not allow their students to be viewed in various states of undress by members of the opposite sex while using student restrooms, locker rooms and showers; and

WHEREAS, Parents have a reasonable expectation that public schools in this state will not allow their minor children to be viewed in various states of undress by members of the opposite sex, nor allow their minor children to view members of the opposite sex in various states of undress; and

WHEREAS, The U.S. Departments of Justice and Education under the Obama Administration unilaterally determined that Title IX applies to prohibitions on discrimination based on "gender identity," as well as to students' biological sex, despite the lack of legislative history, textual or direct judicial support for this conclusion in issuing Title IX "guidance" to all public schools on May 13, 2016 (Obama Administration Title IX guidance); and

WHEREAS, The U.S. Departments of Justice and Education are threatening to condition every school district's ability to receive federal education funding upon compliance with the Obama Administration Title IX guidance; and

WHEREAS, The action of the U.S. Departments of Justice and Education threatens the ability of public schools in this state to protect the privacy, safety, health and welfare of their students, should schools comply with the Obama Administration Title IX guidance, or else threatens the ability of schools to continue to provide high-quality educational activities, should schools lose federal funding in order to protect their students; and

WHEREAS, Education policy decisions should be made by local school leaders and communities, not the federal government, because local school leaders and communities, along with parents, know best how to respond to specific situations involving student privacy and safety: Now, therefore,

*Be it resolved by the Senate of the State of Kansas:* That the Senate of the State of Kansas supports the right of states and local school boards, not the federal government, to direct education policy; and

*Be it further resolved:* That the Senate of the State of Kansas stands steadfast in its support for the privacy and safety rights of all students in public schools, colleges and universities in this state; and

*Be it further resolved:* That the Senate of the State of Kansas stands steadfast in its support for parents who send their minor children to school, expecting that public schools will not allow their children to be viewed in various states of undress by members of the opposite sex, or to view members of the opposite sex in various states of undress; and

*Be it further resolved:* That the Senate of the State of Kansas encourages public schools, colleges and universities in this state to uphold their primary responsibility to protect the privacy and safety of all students, and to therefore disregard the Obama Administration Title IX guidance; and

*Be it further resolved:* That the Senate of the State of Kansas strongly opposes the Obama Administration Title IX guidance as an act of executive overreach that threatens the rights to privacy, safety and education of students in this state; and

*Be it further resolved:* That the Senate of the State of Kansas strongly encourages the Congress of the United States to curtail the Obama Administration Title IX guidance by using every legislative tool in their power, including passing legislation to protect students' privacy rights; reassuring states, schools and other educational institutions that they will not lose federal education funding by disregarding the Obama Administration Title IX guidance; withholding funding for the U.S. Departments of Justice and Education that would otherwise be used to implement the Obama Administration Title IX guidance so as to ensure agency enforcement of the law is based on the clear statutory text as passed by Congress and signed into law; and holding hearings to investigate the process by which the U.S. Departments of Justice and Education developed the Obama Administration Title IX guidance and holding those responsible for the decision accountable for their overreach; and

*Be it further resolved:* That the Senate of the State of Kansas expresses deep gratitude and steadfast support for the Attorney General of the State of Kansas for joining a brief of amicus curiae in the case of Grimm v. Gloucester County School Board asking the U.S. Court of Appeals for the Fourth Circuit to rehear the case en banc in order to correct the misinterpretation of Title IX by a panel of that court and the U.S. Departments of Justice and Education; and

*Be it further resolved:* That the Senate of the State of Kansas expresses deep gratitude and steadfast support for the Attorney General of the State of Kansas for joining litigation against the U.S. Departments of Justice and Education challenging the Obama Administration Title IX guidance or filing a separate similar lawsuit; and

*Be it further resolved:* That the Secretary of the Senate shall send enrolled copies of this resolution to the Governor of the State of Kansas, the Attorney General of the State of Kansas, the President of the United States, the President of the United States Senate and the Speaker of the United States House of Representatives.

Senate Resolution No. 1798 was sponsored by Senators Wagle, Abrams, Arpke, Baumgardner, Bowers, Bruce, Denning, Donovan, Fitzgerald, Holmes, Kerschen, King, Knox, LaTurner, Longbine, Love, Lynn, Masterson, McGinn, Melcher, O'Donnell, Olson, Ostmeyer, Petersen, Pilcher-Cook, Powell, Pyle, V. Schmidt, Tyson, Wilborn and Wolf.

I hereby certify that the above RESOLUTION originated in the SENATE, and was adopted by that body

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*President of the Senate.*

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*Secretary of the Senate.*