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May 12, 2026

ATTORNEY GENERAL OPINION NO. 2026-8

Justin H. Whitten
Chief Counsel, Governor Laura Kelly
Capitol Building
Room 241, South
Topeka, Kansas 66612

Re: State Institutions and Agencies—Public Buildings—Multiple-Occupancy Private Spaces

Statutes; Administrative Rules and Regulations and Procedure—Statutory Construction—Biological Sex

Synopsis: Residents' rooms in Kansas Office of Veterans Services' skilled nursing facilities do not constitute a "facility" as defined by SB 244 and therefore are not subject to the law's multiple-occupancy private space provisions.

Kansas Department of Wildlife and Parks' cabins are not "facilities" and, as a result, are not multiple-occupancy private spaces.

Kansas Department of Corrections' prison cells are a "facility" for purposes of SB 244 when they contain a toilet within the cell. These cells cannot be shared by inmates of different biological sexes. However, various exceptions in SB 244 allow prison staff to enter the cells as necessary, even if they are of the opposite biological sex. Dormitory style housing, which has dedicated bathrooms and showers separate from the living unit, do not constitute a "facility" and are not subject to the law's multiple-occupancy private space provisions.

Cited herein: 2026 H. Sub. for Senate Bill 244.

* * *

Dear Mr. Whitten:

On behalf of Governor Laura Kelly, you ask several questions about the application of 2026 H. Sub. for Senate Bill 244 (SB 244) to various state buildings.

Among other things, SB 244 requires that “multiple-occupancy private space[s]” in public buildings be designated for use only by individuals of one sex and generally prohibits individuals from entering a multiple-occupancy private space that is designated for use only by individuals of the opposite sex.¹ A “multiple-occupancy private space” is defined as “a facility designed or designated for simultaneous use by more than one individual and in which another individual may be in a state of undress in the presence of another individual, regardless of whether the facility provides curtains or partial walls for privacy.”² “Multiple-occupancy private space” includes, but is not limited to, a restroom, locker room, changing room or shower room.”³

You ask whether certain multiple-occupancy rooms in Kansas Office of Veterans Services’ (KOV) skilled nursing facilities, Kansas Department of Wildlife and Parks’ (KDWP) cabins, and Kansas Department of Corrections’ (KDOC) facilities fall within the definition of “multiple-occupancy private space.” We will address these questions in turn.

KOV Skilled Nursing Facility Rooms

The first rooms you ask about are residents’ rooms in KOV skilled nursing facilities. 73 percent of these rooms are multiple occupancy, and some are shared by married couples of the opposite sex. Historically, visitors of the opposite sex have been allowed in these rooms.

Whether these rooms fall within the definition of “multiple-occupancy private space” turns on whether the rooms constitute a “facility.”⁴ One dictionary defines “facility” as “a building, special room, etc. that is built or designed for some activity.”⁵ “Facility” also can have the same meaning as lavatory, “a room equipped with a washbowl and flush toilet.”⁶

¹ SB 244, § 1(b)(1), (g)(1).

² SB 244, § 1(a)(4).

³ *Id.*

⁴ As you note, the proper inquiry under SB 244 is whether an individual room, and not the overall building, is a “facility.”

⁵ Webster’s New World College Dictionary (5th ed. 2014).

⁶ *Id.*

In the absence of a contrary definition, words in a statute should be given their “ordinary, contemporary, common meaning.”⁷ We do not believe the common meaning of “facility” includes *any* room built for a particular purpose, as you suggest. For instance, an ordinary person would not commonly call a bedroom in their house a “facility,” despite the fact that it is a room designed for a particular purpose. The common meaning of “facility” is narrower than a room with a purpose, which would essentially be any room.

The *noscitur a sociis* canon provides guidance in interpreting the meaning of “facility.” This canon, which literally means “it is known from its associates,” provides that “the meaning of a word [or] phrase which may be obscure or doubtful when considered in isolation may be clarified or ascertained by reference to those words or phrases with which it is associated.”⁸ “In other words, the [canon] recognizes that, taken in context, a word may have a broader or narrower meaning than it might have if used alone.”⁹ It “is often wisely applied where a word is capable of many meanings in order to avoid the giving of unintended breadth.”¹⁰

Our recent application of the *noscitur a sociis* canon in Attorney General Opinion 2025-13 is illustrative. There, K.S.A. 12-187(b)(21) authorized Johnson County to levy a sales tax “for the purpose of financing the construction and operation costs of public safety projects, including, but not limited to, a jail, detention center, sheriff’s resource center, crime lab or other county administrative or operational facility dedicated to public safety.”¹¹ Johnson County had proposed using this statute to levy a tax to finance mental health intervention and emergency medical services.

Although those services might fall under a broad reading of “public safety projects” in isolation, the opinion concluded that under the *noscitur a sociis* canon, the term “public safety projects” must be read in light of the listed examples to mean facilities related to law enforcement. Johnson County disagreed with that conclusion and filed a declaratory judgment action. The district court agreed with the analysis in Attorney General Opinion 2025-13 and granted summary judgment for the State.¹²

Similarly, the term “facility” here must be read in context. SB 244 provides that “[m]ultiple-occupancy private space’ includes, but is not limited to, a restroom,

⁷ *Midwest Crane & Rigging, LLC v. Kansas Corp. Comm’n*, 306 Kan. 845, 851, 397 P.3d 1205 (2017) (quoting *Walters v. Metro. Educ. Enters., Inc.*, 519 U.S. 202, 207 (1997)).

⁸ *Young Partners, LLC v. Bd. of Educ.*, 284 Kan. 397, 408, 160 P.3d 830 (2007).

⁹ *Id.*

¹⁰ *Jarecki v. G. D. Searle & Co.*, 367 U.S. 303, 307 (1961).

¹¹ K.S.A. 12-187(b)(21).

¹² Memorandum Decision and Order, *Bd. of Cnty. Comm’rs v. Kobach*, SN-2025-CV-000743 (Shawnee Cnty. D. Ct., Dec. 9, 2025).

locker room, changing room or shower room.”¹³ Although this list (like the list of public safety projects in K.S.A. 12-187(b)(21)) is non-exhaustive, these examples illustrate the types of rooms that the Legislature understood to be facilities. The word “facility” should therefore be interpreted in light of these examples. A resident’s room in a KOVS skilled nursing facility is very different than the listed examples.¹⁴ It is more similar to a bedroom, which would not ordinarily be considered a facility as a matter of common definition. Accordingly, these rooms are not facilities and therefore are not multiple-occupancy private spaces as defined by SB 244.

Kansas courts also would likely consider SB 244’s legislative history, which reinforces this conclusion, in the event any ambiguity remains. The debate surrounding SB 244 focused on the types of rooms listed in the statute—restrooms, locker rooms, changing rooms, and shower rooms—and the risks to safety and privacy when individuals of one biological sex use facilities designated for individuals of the opposite biological sex. We are aware of no indication that the Legislature intended to prohibit a married couple from sharing a room in a nursing home or assisted living facility or to prohibit a resident in such a multiple-occupancy room from receiving guests of the opposite sex.

KDWP Cabins

Our analysis of KOVS nursing facilities also resolves your question about KDWP cabins. The majority of these for rent cabins contain a single bedroom with a closeable door and a separate bathroom with a closeable door. Others contain studio-style rooms where the sleeping quarters transition to the kitchen and living spaces in the same open-concept room, but they also contain a separate bathroom with a closeable door. Still other cabins are “sleeper cabins” that lack running water and have no bathroom in the cabin. Instead, separate bathroom houses that are clearly marked for use by a single sex are located nearby.

All three types of cabins are more akin to a house or apartment, which would not be considered “facilities” in ordinary and commonly understood parlance. They also are not similar to the examples of facilities given in SB 244. We are also unaware of any evidence of legislative intent to exclude individuals of the opposite sex, such as a married couple, from sharing these cabins. Accordingly, we conclude that KDWP cabins are not multiple-occupancy private spaces.

¹³ *Id.*

¹⁴ We are unpersuaded by your claim that these rooms are similar to changing rooms. The ordinary meaning of changing room contemplates a room specifically designed for individuals to change their clothes in, not a room where a person lives. Although people may often change their clothes in the bedrooms of their houses, that does not make a residential bedroom a changing room as commonly understood. The same is true of residents’ rooms in KOVS skilled nursing facilities.

KDOC Prison Cells

Finally, you ask about SB 244's application to KDOC facilities, which offer three different housing options: dormitory style housing, multiple occupancy prison cells, and single occupancy cells. Dormitory style housing has dedicated bathrooms and showers that are separated from the living unit. Multiple and single occupancy cells have toilets and sinks inside the cell, with shower rooms that are outside of the cell.

Although there are obvious differences between typical public restrooms and prison cells, the presence of toilets and sinks in the prison cells makes them more similar to the facilities listed in SB 244 than to a typical bedroom or similar living area. The cells serve as restrooms for the inmates in the cells, and SB 244 specifically provides that "[m]ultiple-occupancy private space' includes . . . a restroom."¹⁵ Also, as noted above, "facility" can sometimes have the same meaning as a "lavatory," i.e., a "room equipped with a washbowl and flush toilet." While a "facility" in SB 244 is not strictly limited to this definition,¹⁶ prison cells with toilets and sinks inside the cell would fall under this definition of "facility." For these reasons, we conclude that these cells are facilities and constitute multiple-occupancy private spaces when they house more than one individual.

Accordingly, multiple-occupancy prison cells may not be shared by inmates of the opposite biological sex. This does not mean, however, that prison staff of the opposite sex are prohibiting from entering the cells when necessary. SB 244 provides a number of exceptions, including allowing individuals to enter multiple-occupancy private spaces designated for use of the opposite sex "[f]or custodial purposes," "for maintenance or inspection purposes," "to render medical or other emergency assistance," "for law enforcement purposes," and "to render assistance necessary in preventing a serious threat to proper order or safety."¹⁷

We reach a different conclusion as to dormitory style housing. Because these units have dedicated bathrooms and showers separated from the living area, the living units do not function as restrooms. They are more residential in character, like a bedroom, and therefore we do not believe that they constitute a "facility" or a "multi-occupancy private space" for purposes of SB 244.¹⁸

¹⁵ SB 244, § 1(a)(4).

¹⁶ For instance, "facility" includes a changing room with no toilets.

¹⁷ SB 244, § 1(c)(1).

¹⁸ The separate bathrooms and showers, however, would constitute multiple-occupancy private spaces provided they are designed for simultaneous use by more than one individual.

Sincerely,

/s/ Kris W. Kobach

Kris W. Kobach
Attorney General

/s/ Dwight R. Carswell

Dwight R. Carswell
Deputy Solicitor General