

SB 459 - AS INTRODUCED

2026 SESSION

26-2222

12/09

SENATE BILL **459**

AN ACT relative to biological sex in student athletics and prisons.

SPONSORS: Sen. Gannon, Dist 23; Sen. Sullivan, Dist 18; Sen. Pearl, Dist 17; Sen. Abbas, Dist 22; Sen. McGough, Dist 11; Sen. Murphy, Dist 16; Sen. Innis, Dist 7; Rep. Bernardy, Rock. 36; Rep. Litchfield, Rock. 32; Rep. M. Pearson, Rock. 34; Rep. L. Walsh, Rock. 15

COMMITTEE: Judiciary

ANALYSIS

This bill requires school athletics and the associated use of locker rooms be designated based on a participant's biological sex as assigned at birth. The bill also requires that inmates in New Hampshire state prisons be housed separately on the basis of inmates' biological sex.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struckthrough.~~]
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty-Six

AN ACT relative to biological sex in student athletics and prisons.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 New Chapter; School Athletics. Amend RSA by inserting after chapter 193-K the following
2 new chapter:

3 CHAPTER 193-L

4 SCHOOL ATHLETICS

5 193-L:1 School Athletics Designated by Biological Sex.

6 I. Any interscholastic, intercollegiate, athletic team, sport, or athletic event that is
7 sponsored or sanctioned by a school, school district, or organization under the control of the state
8 board of education, or an institution of higher education under either the university system or the
9 community college system shall be designated as one of the following, based on the biological sex at
10 birth of the participating athletes:

- 11 (a) Females, women, or girls;
- 12 (b) Males, men, or boys; or
- 13 (c) Coeducational, mixed, or unified.

14 II. This chapter shall not apply to grades K-5.

15 III. This chapter shall not apply to intramural or club sports.

16 IV. For purposes of this section, biological sex is either female or male as described by the
17 sex listed on the athlete's official birth certificate issued at or near the time of the athlete's birth.

18 V. Any team, sport, or athletic event designated for females, women, or girls shall only be
19 open to students of the female sex.

20 VI. Any team, sport, or athletic event designated for males, men, or boys shall be open to
21 students of either sex.

22 VII. Any school, school district, activities association, or organization under the control of
23 the state board of education, or an institution of higher education under either the university system
24 or the community college system that provides locker room facilities in connection with an athletic
25 event shall provide separate facilities for male and female participants based on the biological sex.

26 193-L:2 Use of Locker Rooms Designated by Biological Sex.

27 I. Notwithstanding any other provision of law, athletes participating in school athletics
28 pursuant to this chapter shall in the course of such participation only use locker rooms based on
29 their biological sex as defined by 193-L:1, IV.

30 II. Locker rooms shall include any area designed for usage by multiple athletes at the same
31 time including for the purpose of changing clothing relative to participation in school athletics.

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1 Locker rooms shall include facilities designed for usage by multiple athletes even if such facilities
2 have individual urinals, stalls, or similar apparatuses.

3 193-L:3 Cause of Action for Affected Athlete.

4 I. Any athlete who suffers direct or indirect harm as a result of a violation of RSA 193-L:1 or
5 RSA 193-L:2, shall have a private cause of action for injunctive relief and any other equitable relief
6 available under law, against the school, school district, activities association or organization, or
7 institution of higher education that caused the harm.

8 II. Any athlete who is subjected to retaliation or other adverse action by a school, school
9 district, activities association or organization, or institution of higher education as a result of
10 reporting a violation of RSA 193-L:1 or RSA 193-L:2 to an employee or representative of the school,
11 school district, activities association or organization, institution of higher education, or to a state or
12 federal governmental entity having oversight authority, shall have a private cause of action for
13 injunctive relief and any other equitable relief available under law, against the school, school
14 district, activities association or organization, or institution of higher education.

15 III. Any party prevailing on a claim brought under this section shall be entitled to
16 reasonable attorney's fees and costs.

17 193-L:4 Limitations Upon Actions; Attorney's Fees. No governmental entity, school, school
18 district, or institution of higher education shall be liable to any athlete for its compliance with RSA
19 193-L:1.

20 2 New Section; Inmates Designated by Biological Sex. Amend RSA 622 by inserting after
21 section 10 the following new section:

22 622:10-a Inmates Designated by Biological Sex. Notwithstanding any other provision of law,
23 inmates shall be housed based on the individual inmate's biological sex.

24 I. For the purposes of this section:

25 (a) "Inmate" shall mean a person committed by law to the custody of the commissioner of
26 the department of corrections, a person in pretrial confinement, any person incarcerated in a local
27 detention facility operated by a county department of corrections, or a person in detention at a police
28 department.

29 (b) "Biological sex" shall mean either female or male as described by the sex listed on the
30 inmate's official birth certificate issued at or near the time of the inmate's birth.

31 II. This section shall apply to all correctional and detention facilities established and
32 operated pursuant to RSA 21-H and RSA 30-B.

33 3 Effective Date. This act shall take effect January 1, 2027.