

Senate Judiciary Committee

Declan Donahue 271-3324

SB 459, relative to biological sex in student athletics and prisons.

Hearing Date: February 11, 2026

Time Opened: 3:06 p.m.

Time Closed: 4:06 p.m.

Members of the Committee Present: Senators Gannon, Abbas, Altschiller and Reardon

Members of the Committee Absent : Senator Carson

Bill 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.

Sponsors:

Sen. Gannon

Sen. Sullivan

Sen. Pearl

Sen. Abbas

Sen. McGough

Sen. Murphy

Sen. Innis

Rep. Bernardy

Rep. Litchfield

Rep. M. Pearson

Rep. L. Walsh

Who supports the bill: 16 people signed up in support of this bill. Please reach out to Brendan Bunnell (brendan.bunnell@gc.nh.gov) for a comprehensive list.

Who opposes the bill: 660 people signed up in opposition to this bill. Please reach out to Brendan Bunnell (brendan.bunnell@gc.nh.gov) for a comprehensive list.

Summary of testimony presented in support:

Senator Bill Gannon, Senate District 23

- Senator Gannon introduced the bill, describing it as a feminist measure that would address Governor Ayotte's concerns, particularly regarding sports and locker room policies.
- He acknowledged potential enforcement challenges and cited an example of a person who had played on a boys' soccer team, noting that the individual was stronger and faster, which he believed created a physical advantage.

- He pointed out that some athletic fields and leagues do not allow both sexes to compete together and shared that his daughter had developed physically before high school.
- Sen. Gannon shared a story about his daughter, saying he would not want his daughter excluded from a sports team, and emphasized her focus on identifying unintended consequences in sports-related issues.
- He said many people know one another's gender, expressed concern about discomfort in locker rooms, and indicated he would pursue the matter further if women continued to raise concerns, questioning why it could not be addressed as a matter of common sense.
- **Sen. Altschiller** asked if he believes trans girls are girls?
 - **Sen. Gannon** said he doesn't think it is relevant what he thinks. He said there is a difference between the sexes. He said he thinks it's a fundamental right. I see it more as a privacy issue.
- **Sen. Altschiller** asked about line 9 of the bill, she mentioned biological sex.
 - **Sen. Gannon** introduced amendment #2026-0003s.
- **Sen. Altschiller** said there are intersex people and asked why there is an insistence on a very strict binary standard.
 - **Sen. Gannon** answered that they would see this as a black and white issue and that is why he didn't put the bathroom portion in. When they are on a sports team, it would be in history. If we limit it to sports fields and locker rooms. I read the veto messages. This amendment would comply and would stand with the messages.
- **Sen. Altschiller** said she is not talking about bathrooms. The main subject of this bill is getting to sports. You talked about fairness with your daughters. A question of fairness to his daughters. To achieve fairness wouldn't it be based on physical ability rather than appearance. What about inherent unfairness to people who are gifted? There are reasons that people excel outside of gender identity or biological sex.
 - **Sen. Gannon** stated this is about fairness for women and girls.

- **Sen. Altschiller** asked if the goal is to achieve fairness in the way Senator Gannon described it, shouldn't it be based on physical ability? Is it unfair that someone got on a team? Is there inherent unfairness? Some people have a bigger heart. There are some reasons that some people excel that have nothing to do with their gender identity. If we are going to judge on fairness.
 - **Sen. Gannon** said that most men are 40-50 percent stronger on the top body. This is about scholarships and opportunities for young women. He asked what about a boy who would take that role? That was title 9 is about - it is about giving girls more opportunities to compete.

- **Sen. Altschiller** asked Senator Gannon again if trans girls are girls and if trans boys, boys? She clarified it is about fairness for everybody.
 - **Sen. Gannon** replied that if we did it based on someone's ability in the way she described, it would take away from cis females.

Rep. Katherine Prudhomme O'Brien, Rockingham 6th District

- Rep. Prudhomme O'Brien emphasized safety concerns, arguing that women are generally not as strong as men and are therefore more vulnerable.
- She shared a personal story and discussed her view of feminism, stating that women should only compete against other women.
- She shared what she described as a shocking case in which a girl competed against a transgender athlete.
- She said the girl later told her mother she had been sexually assaulted during the match.

Summary of testimony presented in opposition:

Aimee Terravechia, 603 Equality

- **Ms. Terravechia** spoke about her experience in sports.
- She argued that physical ability is not tied to someone's gender.
- **Sen. Altschiller** asked if there is a concern that trans women will take away scholarships and opportunities for furthering their athletic careers. Are you aware of any trans athletes that have gotten scholarships.

- **Ms. Terravechia** said she was not aware of any.
- **Sen. Altschiller** mentioned the previous bill. She asked if measured against other athletes, should that team approve?
 - **Ms. Terravechia** said no. A lot of different things can happen that affect a win or a loss. She said there are a lot of different variables. With being able to build those skills, these young athletes should not be deprived of those opportunities

Pasha Roberts 603 Equality

- Ms. Roberts explained that the governor had previously vetoed similar bills and raised concerns about how biological sex was being defined and enforced.
- Drawing on her experience working in the intersex community and her own history of undergoing two surgeries as a child, she said human biology varies widely and is not determined solely by X or Y chromosomes, noting that both men and women have elements of each.
- She warned that such legislation could worsen enforcement problems, citing an example of a soccer team accusing a player of being transgender, which she said created harm and division within the community.
- She argued that government should not intrude into individuals' private lives and cautioned that the bill could encourage invasive scrutiny and unjust outcomes.
- **Sen. Altschiller** asked with respect to the student, she was in contact with, does she think the effect of a bill like this would make it not welcoming to trans athletes?
 - **Ms. Roberts** agreed it would and mentioned that she's experienced bullying.

Nancy Brennan

- Ms. Brennan reiterated previous testimony offered to send the studies she has found alongside her provided testimony.
- She lamented that no one is talking to trans kids, including her trans child.
- Ms. Brennan gave statistics to further her argument: 14-29% of children experience sexual abuse, 18% face retaliation after the experienced, and 93% of those who experience misconduct will stay silent.

- She asserted this bill doesn't protect anyone, it just tells her child her participation is a threat.

Amanda Azad, ACLU New Hampshire

- Ms. Azad referenced vetoes for similar bills.
- She stated all women deserve protection and that trans women experience a lot of harassment.
- She asserted that there have been a plethora of discriminatory bills on this topic, and all of these bills are affecting vulnerable people in these situations.
- She stated gender dysphoria is a real thing and deserves compassion and kindness.
- She asked why we would invite assault, abuse, and discrimination at such high levels.
- She interviewed several trans women incarcerated with drug convictions, finding it had to do with their trauma.
- She stated that these are people, these are someone's children, and this is why we have federal laws.
- She urged the committee to vote that this bill is Inexpedient to Legislate.

Representative David Trumble

- Rep Trumble opposed this bill.
- He asserted that trans girls are girls, that intersex people are real, and that holding on to an idea that there are only two possibilities in gender is predicated in science fiction.
- He mentioned multiple scientific studies.
- He stated this bill would double punish people because they trans.

- **Sen. Gannon** asked about assault statistics.
 - **Rep. Trumble** said when we lock someone up and take away their liberty, we know that there are alternatives. He coached youth sports for many years, and thinks the decision should be the principle on the implementation of a solitary ban. That would allow for a child to transition before they get to puberty and then take puberty blockers to play, because she would never have gone through puberty and gain a size advantage. He then pointed to an Australian study in his literature review. He emphasized that we are talking about young children, and there has never been an example of someone losing a scholarship because of this.

- **Senator Abbas** asked if for a young athlete in the process of transitioning, after a year or more of hormonal therapy, if there's not an athletic difference, and if the scientific community agrees on those findings.
 - **Rep. Trumble** responded that trans athletes are afraid to participate in studies, so we need more research and need to make it safe for people to want to participate. It is just our consensus that we need more evidence, and that we're going too far with too little effort.

- **Senator Abbas** asked if without a consensus in the science community, Rep. Trumble asking us to wait first, if there is some degree of advantage.
 - **Rep. Trumble** stated they should let sports organizations work it out.

April Landry

- Ms. Landry stated this bill harms both transgender girls and cisgender girls.

Devan Quinn, New Hampshire Women's Foundation

- Ms. Quinn mentioned she was bullied and treated differently, forcing her out of sports.

- She highlighted suicide rates among trans folks, and that when in doubt, she always tries to air on the side of kindness.

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Date Hearing Report completed: February 13, 2026