

HB 1299 - AS INTRODUCED

2026 SESSION

26-2833

12/08

HOUSE BILL **1299**

AN ACT permitting classification of individuals based on biological sex under certain limited circumstances and establishing that certain biological sex distinctions do not qualify as discrimination.

SPONSORS: Rep. Kofalt, Hills. 32; Rep. Alexander Jr., Hills. 29; Rep. DeVito, Rock. 8; Rep. Noble, Hills. 2; Rep. Notter, Hills. 12; Rep. Sheehan, Hills. 43; Rep. Sirois, Hills. 32; Sen. Avard, Dist 12; Sen. Innis, Dist 7; Sen. Sullivan, Dist 18; Sen. Ward, Dist 8

COMMITTEE: Judiciary

ANALYSIS

This bill permits the public and private classification of individuals based on biological sex in multi-user facilities, athletic and sporting competitions, and correctional and treatment facilities. The bill also establishes that these forms of separation based on biological sex do not qualify as discrimination.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 permitting classification of individuals based on biological sex under certain limited circumstances and establishing that certain biological sex distinctions do not qualify as discrimination.

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

1 1 Title and Purposes of Chapter; Biological Sex Discrimination Limited. Amend RSA 354-A:1 to
2 read as follows:

3 354-A:1 Title and Purposes of Chapter.

4 ***I.*** This chapter shall be known as the "Law Against Discrimination." It shall be deemed an
5 exercise of the police power of the state for the protection of the public welfare, health and peace of
6 the people of this state, and in fulfillment of the provisions of the constitution of this state
7 concerning civil rights. The general court hereby finds and declares that practices of discrimination
8 against any of its inhabitants because of age, sex, gender identity, race, creed, color, marital status,
9 familial status, physical or mental disability or national origin are a matter of state concern, that
10 such discrimination not only threatens the rights and proper privileges of its inhabitants but
11 menaces the institutions and foundation of a free democratic state and threatens the peace, order,
12 health, safety and general welfare of the state and its inhabitants. A state agency is hereby created
13 with power to eliminate and prevent discrimination in employment, in places of public
14 accommodation and in housing accommodations because of age, sex, gender identity, race, creed,
15 color, marital status, familial status, physical or mental disability or national origin as herein
16 provided; and the commission established hereunder is hereby given general jurisdiction and power
17 for such purposes. In addition, the agencies and councils so created shall exercise their authority to
18 assure that no person be discriminated against on account of sexual orientation.

19 ***II.*** *The general court reaffirms New Hampshire's commitment to treating all people*
20 *with dignity and without discrimination. However, the general court also finds that there*
21 *are limited circumstances where separating individuals based on biological sex is*
22 *appropriate to protect privacy and physical safety. These circumstances are specifically*
23 *listed in RSA 354-A:25-a.*

24 2 New Section; Classification by Biological Sex Permitted. Amend RSA 354 by inserting after
25 section 25 the following new section:

26 354-A:25-a Classification by Biological Sex Permitted.

27 It shall not be unlawful discrimination under this chapter or any other law for a public or private
28 entity to separate individuals based by biological sex in multi-user facilities, athletic and sporting

HB 1299 - AS INTRODUCED

- Page 2 -

1 competitions, and correctional and treatment facilities, as defined in this section. For the purposes
2 of this section:

3 I. "Biological sex" shall mean either female or male as described by the sex listed on an
4 individual's official birth certificate issued at or near the time of the individual's birth.

5 II. "Multi-user facility" shall mean the design, operation, or use of a bathroom, restroom, or
6 locker room that is accessible to multiple individuals for use at the same time, even if such facility
7 has individual urinals, stalls, or similar apparatuses.

8 III. "Athletic and sporting competitions" shall mean a sport or activity that involves physical
9 strength, speed, or endurance where biological males are generally recognized to have a competitive
10 advantage.

11 IV. "Correctional and treatment facilities" shall mean the operation or use of prisons, jails,
12 houses of correction, juvenile detention centers, or mental health treatment facilities where
13 individuals may be held involuntarily.

14 3 Effective Date. This at shall take effect 60 days after its passage.