

Amendment to HB 1299

1 Amend RSA 354-A:1, II as inserted by section 1 of the bill by replacing it with the following:

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3 ***II. The general court also finds that, notwithstanding New Hampshire's***
4 ***fundamental commitment to treat all persons without discrimination and with equal***
5 ***dignity and respect, which commitment the legislature fully accepts and strongly endorses,***
6 ***there are certain limited circumstances in which classification of persons based on***
7 ***biological sex is proper because such classification serves the compelling state interests of***
8 ***protecting the privacy rights and physical safety of such persons and others. The***
9 ***legislature finds that permitting classification of persons based upon biological sex serves***
10 ***this compelling state interest in the 3 circumstances described in RSA 354-A:25-a.***

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12 Amend the bill by replacing section 2 with the following:

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14 2 New Sections; Law Against Discrimination; Classification of Persons Based Upon Biological
15 Sex. Amend RSA 354-A by adding after section 25 the following new sections:

16 354-A:25-a Classification of Persons Based Upon Biological Sex. Notwithstanding RSA 354-A:2,
17 XIV-e or any other provision of this chapter or any other law or regulation, it shall not constitute
18 unlawful discrimination based on sexual or gender identity for any person or organization, public or
19 private, to classify based on biological sex with respect to the following matters:

20 I. In the construction, maintenance, operation, and use of lavatory facilities or locker rooms
21 designed for usage by multiple persons at the same time, even if such facilities have individual
22 urinals, stalls, or similar apparatus.

23 II. In athletic or sporting events or competitions in a sport or similar activity in which
24 physical strength, speed, or endurance is generally recognized to give an advantage to biological
25 males.

26 III. In the operation, maintenance, and use of facilities designed for usage as prisons, houses
27 of correction, juvenile detention or commitment centers, mental health hospitals or treatment
28 centers and like facilities to which persons may be committed involuntarily.

29 354-A:25-b Provision of Alternative Facilities. No instrumentality of state or local government
30 or subdivision thereof, including public schools and public institutions of higher education, shall
31 implement the provisions of RSA 354-A:25-a, I with respect to lavatory facilities unless such
32 instrumentality or subdivision thereof provides in the same building to which the statute is applied

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- Page 2 -

- 1 at least one single occupancy bathroom available for use by all persons without regard to gender or
- 2 sexual identity.

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AMENDED ANALYSIS

This bill:

I. Permits classification of individuals based on biological sex in lavatory facilities and locker rooms, sporting competitions, and detention facilities.

II. Establishes that such forms of separation based on biological sex do not qualify as discrimination.

III. Requires instrumentalities of state or local government that classify lavatory facilities based on biological sex also provide a single occupancy bathroom which may be used by all regardless of biological sex or gender identity.