

HB 1299 - AS AMENDED BY THE HOUSE

11Mar2026... 0854h

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. Nottter, 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

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.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 also finds that, notwithstanding New Hampshire's*
20 *fundamental commitment to treat all persons without discrimination and with equal*
21 *dignity and respect, which commitment the legislature fully accepts and strongly endorses,*
22 *there are certain limited circumstances in which classification of persons based on*
23 *biological sex is proper because such classification serves the compelling state interests of*
24 *protecting the privacy rights and physical safety of such persons and others. The*
25 *legislature finds that permitting classification of persons based upon biological sex serves*
26 *this compelling state interest in the 3 circumstances described in RSA 354-A:25-a.*

27 2 New Sections; Law Against Discrimination; Classification of Persons Based Upon Biological
28 Sex. Amend RSA 354-A by adding after section 25 the following new sections:

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1 354-A:25-a Classification of Persons Based Upon Biological Sex. Notwithstanding RSA 354-A:2,
2 XIV-e or any other provision of this chapter or any other law or regulation, it shall not constitute
3 unlawful discrimination based on sexual or gender identity for any person or organization, public or
4 private, to classify based on biological sex with respect to the following matters:

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

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

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

14 354-A:25-b Provision of Alternative Facilities. No instrumentality of state or local government
15 or subdivision thereof, including public schools and public institutions of higher education, shall
16 implement the provisions of RSA 354-A:25-a, I with respect to lavatory facilities unless such
17 instrumentality or subdivision thereof provides in the same building to which the statute is applied
18 at least one single occupancy bathroom available for use by all persons without regard to gender or
19 sexual identity.

20 3 Effective Date. This shall take effect 60 days after its passage.

HB 1299- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT # 2026-0854h)

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.

FISCAL IMPACT: This bill does not provide funding.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund(s)</i>	None			
Expenditures*	\$0	Indeterminable Increase (\$100k to \$500k per lavatory facility)		
<i>Funding Source(s)</i>	General Fund and Various Agency Funds			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

Estimated Political Subdivision Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
County Revenue	\$0	\$0	\$0	\$0
County Expenditures	\$0	Indeterminable Increase (\$100k to \$500k per lavatory facility)		
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	\$0	Indeterminable Increase (\$100k to \$500k per lavatory facility)		

The Office of Legislative Budget Assistant is unable to provide a complete fiscal note for this bill, as amended, as it is awaiting information from the Department of Education. The Department was originally contacted on 03/18/26 and again on 04/03/26 for a fiscal note worksheet. When completed, a revised fiscal note will be forwarded to the Clerk's Office.

METHODOLOGY:

This bill permits the classification of individuals based on biological sex in certain limited circumstances, including multi-user facilities, athletic competitions, and correctional and treatment facilities, and establishes that such classifications do not constitute unlawful discrimination. The bill also requires state and local government entities that classify lavatory

facilities based on biological sex to provide at least one single occupancy bathroom available for use by all individuals.

The Department of Administrative Services states this bill would result in an indeterminable increase in state expenditures. The Department indicates the bill would require modifications to certain state-owned buildings to provide single occupancy bathrooms where such facilities do not currently exist and that costs will vary by building. Based on available information, costs to construct a single occupancy bathroom could range from more than \$100,000 to \$500,000 or less per building; therefore, the total fiscal impact is indeterminable.

The Legislative Branch states this bill would result in a one-time increase in state expenditures of approximately \$150,000 to \$200,000 in FY 2027 to construct a single occupancy bathroom in the Legislative Office Building, which currently does not have such a facility. The Branch indicates this cost would be funded through existing appropriations by reallocating funds within its current budget.

The bill may also result in indeterminable increases in expenditures for counties, municipalities, and school districts required to provide single occupancy bathrooms in facilities where classification based on biological sex is implemented.

AGENCIES CONTACTED:

Department of Administrative Services, Legislative Branch, and Department of Education