

SB 459 - AS AMENDED BY THE SENATE

03/26/2026 1217s

2026 SESSION

26-2222

12/09

SENATE BILL **459**

AN ACT exempting classification of individuals based on biological sex from the definition of an unlawful discriminatory practice in certain limited circumstances.

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

AMENDED ANALYSIS

This bill provides a definition for biological sex and exempts classification by biological sex in athletic competitions and in facilities where persons may be committed involuntarily from the definition of an unlawful discriminatory practice.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 exempting classification of individuals based on biological sex from the definition of an unlawful discriminatory practice in certain limited circumstances.

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

1 1 State Commission for Human Rights; Law Against Discrimination; Purpose and Scope.
2 Amend RSA 354-A:1 to 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 finds that there are circumstances in which classification of*
20 *persons based on biological sex serves the compelling state interests of protecting the*
21 *privacy rights and physical safety of others. The legislature finds that permitting the*
22 *narrowly tailored classification of persons based upon biological sex serves this compelling*
23 *state interest in the circumstances described in RSA 354-A:2, XV-a.*

24 2 State Commission for Human Rights; Definitions; Unlawful Discriminatory Practice;
25 Exclusions. Amend RSA 354-A:2, XV to read as follows:

26 XV.(a) "Unlawful discriminatory practice" includes:

27 ~~(a)~~ (1) Practices prohibited by RSA 354-A;

28 ~~(b)~~ (2) Practices prohibited by the federal Civil Rights Act of 1964, as amended (PL
29 88-352);

1 [~~(e)~~] **(3)** Practices prohibited by Title VIII of the Civil Rights Act of 1968, as amended
2 (42 U.S.C. §§ 3601-3619);

3 [~~(d)~~] **(4)** Aiding, abetting, inciting, compelling or coercing another or attempting to
4 aid, abet, incite, compel or coerce another to commit an unlawful discriminatory practice or
5 obstructing or preventing any person from complying with this chapter or any order issued under the
6 authority of this chapter.

7 **(b) “Unlawful discriminatory practice” shall not include classification of**
8 **persons based on biological sex:**

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

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

16 **XVI. “Biological sex” means the male and female biological sexes.**

17 3 Effective Date. This act shall take effect 60 days after its passage.