

Senate Judiciary Committee

Vivian Hall 271-3091

SB 552, permitting classification of individuals based on biological sex under certain limited circumstances.

Hearing Date: February 12, 2026

Time Opened: 1:06 p.m.

Time Closed: 3:05 p.m.

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

Members of the Committee Absent: Senator Carson

Bill Analysis: This bill provides a definition for "biological sex" and provides that certain designations by biological sex do not constitute unlawful discrimination.

Sponsors:

Sen. Avard

Sen. Lang

Sen. Birdsell

Who supports the bill: 51 individuals signed in support of this bill. For a complete list of those who signed please contact Brendan Bunnell (Brendan.Bunnell@gc.nh.gov).

Who opposes the bill: 702 individuals signed in opposition to this bill. For a complete list of those who signed please contact Brendan Bunnell (Brendan.Bunnell@gc.nh.gov).

Who is neutral on the bill: None.

Summary of testimony presented:

Senator Kevin Avard, District 12

- Senator Avard introduced himself and spoke about his experience as a father, grandfather, and husband. He said he is deeply concerned about the privacy and safety of his daughters and granddaughters.
- He said SB 552 is about protecting the rights of young girls and women in private settings like bathrooms, locker rooms, and athletics. He spoke about the biological differences between men and women and stated that this bill will ensure safety and fairness in school athletics. Biological males have more strength, speed, and size than biological females do. When biological males compete in women's sports, it increases the risk of injury and damages fairness.

- He stated that he has heard these concerns directly from parents, religious leaders, and business owners. These groups are concerned about their ability to keep spaces separated by biological sex without being sued. This bill would allow private businesses the discretion to limit shared private spaces (bathrooms, locker rooms, etc.) to biological sex, not gender identity. He clarified that SB 552 was enabling legislation and does not mandate that businesses or schools must separate shared private spaces on the basis of biological sex.
- He shared a personal story in which he asked members of his local gym what they thought about transgender women being allowed inside the women's locker room. He asked them if he entered the women's locker room wearing makeup and pink shorts, would they feel comfortable. Both women answered no. One of the women at the gym was a mental health professional. He asked her if she thought it would be acceptable for him to enter the women's locker room if he had a mental illness. He claimed that she considered this to be more acceptable than if he was not mentally ill. He then claimed that she said it was nearly impossible to tell who was mentally ill and who was not.
- He spoke about a national incident in which a biological male who identified as a trans woman was caught masturbating in a women's locker room. He reaffirmed that this bill was meant to address safety and privacy for women. He stated that people are afraid to speak out about this issue for fear of being labeled as transphobic. He briefly spoke about his trip to Israel and said that a biological woman entering a men's bathroom amounts to an attack on their conscience and morals.
- Senator Gannon asked how they would enforce biological-sex-specific bathroom usage and how one could tell who is trans and who is not.
 - Senator Avard said that when this goes into effect, he expects trans-identified people to follow the law and asked if he answered the question posed.
 - Senator Gannon said no and asked how school bathrooms would be involved.
 - Senator Avard said that it would be left up to the districts to decide that.
- Senator Altschiller asked about a situation in which someone is misidentified as transgender. She gave the example of the Liberty Hotel case, where a biological woman was attacked by security in a women's bathroom because of a false report that she was transgender.
 - Senator Avard asked what she meant by "attacked."

- Senator Altschiller clarified that the woman was physically removed from the location by security and re-asked how this situation can be addressed.
 - o Senator Avard said that we don't have situations like that right now. He asked about the case of the biological male masturbating.
 - Senator Altschiller argued that the situation he is referring to was already a criminal act and does not apply here.
 - o Senator Avard agreed that this was a different situation but asked how situations like that can be enforced. He stated that he expects people in the transgender community to follow this law if it is enacted. He said that in the case of misidentification, a lawsuit could be appropriate.
- Senator Altschiller stated that the proposed legislation, SB 552, is nearly identical to SB 268, a bill that was vetoed by the Governor last year. Similar bills have been vetoed three separate times by the Governor on the basis that the law was unenforceable. She asked Senator Avard what he thought had changed.
 - o Senator Avard stated that both the Senate and the House passed it all three times, and it was stopped by the actions of just one individual.
- Senator Reardon made the point that it is nearly impossible to tell the biological sex of an individual who does not present as such. She mentioned that Senator Avard alluded to criminal acts in his testimony and asked if he was presuming that transgender people are criminals.
 - o Senator Avard claimed that he had already made that distinction. He said that if this law goes into effect and there is a sign that says biological sex only, any violation of that would be a criminal act.
 - Senator Reardon asked if this legislation only targeted criminals and asked if the act of being a trans person and entering a bathroom would be criminal.
 - o Senator Avard said that if there is a sign designating it as biological sex only, yes, it would be a crime.
- Senator Reardon restated her concern about misidentification and enforcement.

- o Senator Avarð restated his example of Orthodox Jews in Israel. He claimed that it would be a violation of their conscience if a trans woman used the women's room and stated that this would be seen as an abomination.
 - Senator Reardon asked if it is an abomination if no one knows.
 - o Senator Avarð responded that God knows.
- Senator Altschiller asked if Senator Avarð was aware of the legal and medical support that the Israeli government gives to assist transgender people.
 - o Senator Avarð said he was aware of the LGBTQ community in Israel but was not aware of those policies.
 - Senator Altschiller stated that she was struck by Senator Avarð's assumptions about another culture. She asked if he would believe that Jewish people embrace transgender people into their community and asked if he was comfortable speaking for Jews.
 - o Senator Avarð said no one said anything about not embracing trans people and said that everyone is embraced in the eyes of God.

Representative Alice Wade, Strafford District 15

- Rep. Wade is in opposition to this bill. She asked the committee directly which bathroom they thought she should use. Rep. Wade identifies as a transgender woman and stated that she would not feel comfortable using the men's room. Trans women are four times more likely to be assaulted in men's rooms compared to women's rooms.
- She posed the question of determining who is trans and who is not. Her driver's license says that she is female. She asked if the committee thought that invasive genital checks are appropriate. This legislation would endanger the privacy of both cisgender and transgender women.
- She quoted former Governor Sununu's veto statement that said this legislation would hurt everyone. Governor Ayotte agreed with that assessment. She called out Senator Avarð's use of the word "abomination" when referring to transgender people. She countered his claims about religion and transgenderism and stated that legislation in the United States is not based on religious creed.
- She claimed that this law does not target people committing crimes but rather a whole group of people. She said that there is no evidence that this is a problem that needs to be solved by the state government.

Bronwyn Sims

- Ms. Sims supports the legislation. She is a girls' and women's gymnastics coach as well as the leader of the Southern New Hampshire chapter of the Independent Women's Network. She is here to represent herself as a concerned New Hampshire woman.
- She said that government officials have tried to ignore the biological differences between men and women at the behest of activists. She said that this has caused women and girls to give up their privacy, safety, and sense of security in places where this should be expected. She claimed that the needs of women and girls have been made secondary to the needs of biological men who invade women's spaces. She said this legislation would preserve women-only spaces.
- Senator Gannon asked how this can be enforced without causing legal problems for everyone.
- Bronwyn Sims spoke about her personal experience with a transgender woman in a gym locker room. She stated that this individual had entered her space when she was vulnerable. Ms. Sims said this experience left her afraid and trapped. The manager did not seem to take her seriously, and she has not been back since. She also spoke about her personal experience with violence perpetrated by men.
- Senator Reardon apologized for the trauma that she had gone through and asked if she thought that Rep. Wade should be forced to use the men's locker room.
- Bronwyn Sims said she does not believe that they should be sent to the men's locker room. She does not believe that Rep. Wade is a woman and suggested that this issue could be fixed by adding a third bathroom for trans people to use.

Beth Scaer

- In support of the legislation. She stated that she would not want Rep. Wade to use the women's room. She made the claim that this legislation would protect women's rights to safety and privacy.
- She made the claim that violence against women and transgender women is perpetrated mostly by men. She made the claim that a large percentage of trans women are often still attracted to women because they suffer from autogynephilia.
- She said that the opposition is unwilling to admit that this is a problem. She stated that women in prisons are made unsafe when put into prison with biological males.

Nancy Biederman

- Ms. Biederman supports the legislation. She is a teacher, mother, and wife and is here to testify on behalf of minors.
- She referenced federal law that explicitly allows the separation of bathrooms and locker rooms based on sex and said that she expected schools should already be following this law. She referred to the Supreme Court case *Ames v. Ohio Youth Services* and stated that this ruling opens the ability for the majority class to sue for discrimination.
- She claimed that schools that open their bathrooms to trans students experience increased sexual harassment. She referenced RSA 193:38, which states that schools cannot discriminate in school activities based on sex. She said that by allowing transgender students to enter the bathroom of the opposite biological sex, those students are subject to sexual harassment, which she claims violates RSA 193:38. She said that the power to protect minors lies with the legislature, not minors.

Hazel Kane

- Ms. Kane is opposed to the legislation. She brought up the point that trans women are sometimes described as indistinguishable from cisgender men and said that this is contradictory. She dismissed the claim made in previous testimony that trans women transition to pursue autogynephilia and said that this is an erroneous and baseless claim.
- She stated that trans women who are put in male prisons experience a 59% rate of sexual assault. Trans women are nine times more likely to experience sexual assault by other inmates than cis inmates, and five times more likely to be sexually assaulted by staff.
- She stated that in over four hundred sexual assault cases in prison from 1986 to 2014, not a single transgender woman was the perpetrator. She said that transgender women are about three times more likely to be victims of sexual assault on the street than cisgender women.
- Senator Altschiller asked Hazel when her article was coming out.
 - o Hazel Kane said her article would be published in the middle of March.

Michael Haley, GLAD Law

- Mr. Haley is opposed to the legislation. He made the point that similar bills have been vetoed three times by the current and former governors. He said that religious organizations are already protected from lawsuits under civil rights laws and are already able to make decisions about the use of bathrooms.
- He explained the Liberty Hotel case, where a cisgender woman was accused of being trans and was physically removed from the hotel by security staff. This incident left the woman humiliated, all because of false allegations. He claimed that this bill will impact the privacy and safety of anyone who tries to use the bathroom.
- Senator Abbas asked if there were any cases in the First Circuit that would be controlling in this district.
 - Michael Haley answered that there were no cases on bathrooms specifically, but there was a question about sports, and the court found that excluding transgender girls from sports violates Title IX.
 - Senator Abbas asked if there was an injunction in that case.
 - Michael Haley confirmed that there was an injunction.
- Senator Gannon asked if this legislation would have fewer objections if it were limited to just high school sports.
 - Michael Haley stated that college sports are a different issue.
- Senator Reardon asked if Mr. Haley could restate the statutes he cited.
 - Michael Haley restated the statutes.
- Senator Abbas asked how they balance safety for both sides of the argument.
 - Michael Haley said that safety in private spaces is extremely important but that claims about safety are being exacerbated by misinformation and fear of transgender people, and that this bill does not address the issue of sexual exposure in restrooms.
- Senator Gannon asked whether, if the state decides that it is a compelling state interest for women to have privacy in bathrooms and locker rooms, Mr. Haley would agree.
 - Michael Haley said that it could be a compelling state interest for women to feel safe in restrooms but that the solution needs to be specifically tailored to the problem at hand, and that this legislation does not do that.
- Senator Reardon asked if there would need to be evidence that there is widespread danger to women in bathrooms for it to be a compelling state interest.

- o Michael Haley said yes, that this is exactly what a court would look for when trying to prove a compelling state interest, and that courts have found that there is no right for people to have spaces free from transgender people.
- Senator Abbas asked if there is any clear distinction between biological males, biological females, trans males, and trans females in the cases that he has looked at.
 - o Michael Haley stated that determining the basis of biological sex is very complicated, that as science advances we learn more about biological sex, and that to fix the problem they seek to address with this legislation they need a more nuanced solution, not a categorical ban.
- Senator Abbas asked if this law does not pass, trans women could use either the men's or women's rooms and how bathrooms will be distinguished if not on biological sex.
 - o Michael Haley said there are no statutes that mandate the use of specific bathrooms and that he does not feel there is a need for the state to make laws on that topic.
- Senator Abbas asked about policy considerations regarding parents escorting their child to the opposite-gender restroom.
 - o Michael Haley stated that he is not aware of specific statutes that address that, that he sees Senator Abbas's point, but does not feel there is a need to create statutes to address this issue.
- Senator Altschiller stated there is a deep concern for privacy in the women's room but no concern about the men's room and that this is because men commit the bulk of sexual assaults. She asked if this concern for women's privacy is based on fear and misunderstanding of what it means to be a transgender woman or man.
 - o Michael Haley stated that a lot of this fear would be solved if people simply got to know a transgender person.
- Senator Gannon stated that he is more concerned with the privacy issue rather than the safety issue and believes that the privacy concerns of women are a compelling state interest. He asked if Mr. Haley believes that is still not tailored enough.
 - o Michael Haley said there is a compelling state interest in women's privacy but not a compelling state interest in having a transgender-free space.

Amy Terravechia, 603 Equality

- She stated that it is her opinion that this is a discriminatory policy that targets the transgender community. She is concerned about the enforcement of this policy, which was echoed in Governor Ayotte's veto address of SB 268.
- She spoke about her personal experience being misgendered as a cis woman and said that because of her height and broad shoulders she has been accused of being trans. She said this law would directly impact her life, as it would empower private citizens to question her gender and biology on the false premise that she is transgender.
- She stated that this legislation would cause additional privacy and safety concerns for her personally.

Sarah Smith

- She is a special education teacher and said that this has given her firsthand experience with discrimination in schools.
- She stated that she opposes this bill because it targets a group of people, not an action. It is already illegal to attack or harass someone, and she said this legislation would make it illegal to be a certain kind of person in a public space.
- She claimed that when security is sent into a women's room to investigate a claim that a transgender woman is there, they often send a man, and that the presence of the male security guard would be more intimidating than the presence of a transgender woman.
- She stated that forcing trans women into male prisons puts them at extreme risk of sexual assault. She believes that this bill will harm the reputation of New Hampshire as a pro-freedom state.

Pasha Roberts, 603 Equality

- They stated that there is no broad consensus on the definition of biological sex. They said this bill does not provide a way to prove biological sex for the purpose of enforcement.
- They stated that this bill has caused great pain to the transgender community and that they feel they are being cast aside. They brought up the point that similar bills have been vetoed by the current and previous Governors of New Hampshire on the basis that they were not enforceable policies.

- They said that if this law goes into effect, cisgender women will be impacted as much as transgender women will. They claimed that Governor Ayotte would veto this again if it passes.

Nancy Brennan

- Ms. Brennan claimed that the trans threat was a straw man unsupported by statistics and pointed out that transgender people were four times more likely to be harassed and harmed than cisgender people.
- She said that stories about trans women in bathrooms had been amplified on social media, creating widespread fear that is not supported by facts, and argued that the fear was misplaced. She noted that only about one in 100 people are transgender and that the probability of encountering a transgender person in a bathroom was slim.
- Ms. Brennan shared that major medical and psychological associations affirm that transgender people are real and noted that trans people have existed across cultures and throughout history.
- She argued that violence against women has overwhelmingly been perpetrated by cisgender men, not transgender women. She urged people to focus on holding predatory men accountable rather than blaming a small, vulnerable group seeking dignity and respect.
- Senator Gannon asked if she believed that women are entitled to privacy from men, including transgender women, in bathrooms and locker rooms, given that many women say their primary concern is privacy rather than physical safety.
 - o Ms. Brennan replied that everyone is entitled to privacy and gave an example of how she would educate her own daughter about people who transition. She spoke about her own experiences in the bathroom and in the locker room.
- Senator Abbas asked Ms. Brennan about her view regarding sports.
 - o Ms. Brennan answered that a recent study found that transgender women who have transitioned do not retain an athletic advantage and that hormone testing rules in college and professional sports help address fairness concerns. She also argued that prisons are inherently dangerous environments and that placing transgender women in men's prisons would be inappropriate.

Representative Allison Turcott

- She spoke about her experience transitioning. She explained that during her transition she lost much of her muscle mass and claimed this proves that there is no advantage to transgender people in sports.

Jane Hawkins

- Jane is nonbinary and has been kicked out of bathrooms before. They said that no matter where they go or what they do, people still accuse them of using the incorrect bathroom. They attended to show what a nonbinary person looks like and to urge the Senators not to pass the legislation.

Zoe Hill

- Ms. Hill said this bill is unnecessary. She said people are not as concerned about who is in the restroom as they are about property taxes.

Claire Abernathy

- Ms. Abernathy originally transitioned to being a man and has since detransitioned. She shared a personal story of her experience in the men's bathroom as a trans person.
- She argued that permitting males in female intimate spaces made women materially less safe, citing reported experiences from women incarcerated at MCI Framingham in Massachusetts who alleged abuse and retaliation after reporting assaults. She referenced additional reported incidents in other women's spaces, including a case in California involving a Planet Fitness restroom, and stated that the proposed bill would allow institutions to protect constituents from material harm.

Representative Katherine Prudhomme O'Brien

- Representative Prudhomme O'Brien shared her past experiences as the only female in a vocational school program and in male-dominated workplaces, where she chose not to use men's restrooms due to prior harassment and privacy concerns.
- She described her time in foster care in a female group home, where she said there was pressure to admit males. This caused her to feel unsafe and consider

homelessness, and she questioned why similar arrangements would be implemented in women's prisons.

- She cited a 2021 study commissioned by the UK Parliament that reported differing rates of sex offenders among men in prison, women in prison, and incarcerated individuals identifying as women, and argued that awareness of biological sex differences was important for women's safety.

Simon Amaya Price

- Mr. Price used to be trans. He said that the bill would permit, but not require, classification by sex for bathrooms, locker rooms, athletics, and prisons, and argued that it expanded freedom by allowing businesses and organizations to set their own policies while enabling consumers to take their business elsewhere if they disagreed.
- Mr. Price emphasized that the bill did not remove anyone's rights unless one considered access to women's spaces a right for men, and claimed that polling data showed majority public support, including among some Democrats who were reluctant to speak publicly.
- He rejected the argument that access to women's spaces was necessary for suicide prevention and claimed that males identifying as women committed sexual assault at higher rates than other groups, citing specific examples and statistics.
- He disputed comparisons of the bill to Jim Crow laws and argued that affirming gender identity was not equivalent to consent from others affected by such policies.

Shannon McGinley, Executive Director, Cornerstone

- Ms. McGinley stated that similar bills addressing sex-based distinctions had been passed by the legislature in recent years but were vetoed by two governors, and she said each veto increased public attention to the issue.
- She noted that polling showed strong public support for sex-based distinctions and suggested that limited media coverage and civic engagement had reduced political consequences for prior vetoes.
- She described SB 552 as a moderate, legally sound bill that would allow but not mandate the use of biological sex distinctions and argued that vetoing such measures effectively required integration of intimate spaces based on gender identity.

Amanda Azad, ACLU-NH

- Ms. Azad said that there are four other similar bills being heard and noted the previous vetoes from Governor Ayotte and former Governor Sununu on similar past bills.
- She argued that the bills repeatedly targeted one group in public spaces, characterized them as discriminatory and harmful, and questioned whether this approach reflected the values or reputation the state sought to uphold.

April Landry

- Ms. Landry spoke about women who shared their experiences of being afraid in the locker room and said that feeling afraid for safety is different from being in danger. She said that most of the testimony and discussion has been about trans women, not trans men. She noted that many places have a nongendered bathroom.

David Trumble

- Mr. Trumble argued that this bill frames trans women either as women or as presumed predators, emphasizing that respect and acceptance are key to addressing fear and mental health issues.
- He stated that forcing transgender women to be treated as men in mental health facilities would violate New Hampshire statutes, constitute mistreatment, and contradict principles of consent and least restrictive treatment.
- He argued that the bill could infringe on First Amendment rights, interfere with access to public spaces, and discriminate against transgender students in schools by restricting bathroom access. He recommended less restrictive alternatives, such as all-gender restrooms in public buildings.

VH

Date Hearing Report completed: February 13, 2026