

HB 1442-FN - AS INTRODUCED

2026 SESSION

26-2729

12/06

HOUSE BILL

1442-FN

AN ACT limiting the use of certain facilities on the basis of sex and redefining the term "gender identity."

SPONSORS: Rep. Layon, Rock. 13; Rep. Barbour, Hills. 35; Rep. Reinfurt, Hills. 29; Rep. Peternel, Carr. 6; Rep. McGrath, Rock. 40; Rep. Popovici-Muller, Rock. 17; Rep. Sabourin dit Choiniere, Rock. 30; Rep. Mazur, Hills. 44; Rep. DeVito, Rock. 8; Rep. Love, Rock. 13; Sen. Birdsell, Dist 19; Sen. Avard, Dist 12; Sen. Gannon, Dist 23

COMMITTEE: Judiciary

ANALYSIS

This bill:

I. Modifies statutory construction of the term "gender identity".

II. Requires bathrooms and locker rooms in public schools and municipally owned buildings to be used on the basis of sex.

III. Permits owners and operators of places of public accommodation to restrict the use of bathrooms and locker rooms on the basis of sex, as well as designate facilities specifically for "women" or "girls".

IV. Requires that inmates in New Hampshire correctional facilities be housed separately on the basis of their sex.

V. Modifies the enforcement of civil rights to provide protections on the basis of gender identity only for certain purposes.

VI. Establishes that a man entering an area or accessing services designated for females shall constitute willful trespass, with certain exceptions.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 limiting the use of certain facilities on the basis of sex and redefining the term "gender identity."

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

1 1 Statement of Findings. The general court finds that:

2 I. Historically, society has protected females by reserving certain spaces for their exclusive
3 use and offering certain services only to women and children.

4 II. The inclusion of gender identity in the Civil Rights Act and the New Hampshire law
5 against discrimination was not intended to remove protections for females.

6 III. The following statutory changes are to be undertaken by the general court:

7 (a) Include "female" and "male" in the definitions section of New Hampshire state law,
8 using biology to determine the legal categories of female and male. To address intersex persons, the
9 language references the SRY gene which is required during fetal development to develop male
10 anatomy. To remove the need for genetic testing, those persons who do not meet the legal definition
11 of female will be considered male.

12 (b) Amend the definition of "gender-identity" to provide clarification on what is
13 considered "improper purpose" for assertion of gender identity. Accessing spaces or services offered
14 only to females on the basis of gender identity shall be defined as an improper purpose.

15 (c) School and municipal bathrooms and locker rooms shall be designated as male
16 facilities and female facilities, with the option of providing all-gender facilities:

17 (1) In excess of code requirements; or

18 (2) For up to 20 percent of code required fixtures with a 3/5 affirmative vote of the
19 registered voters in the political subdivision.

20 (d) Other places of public accommodation may provide bathrooms and locker rooms for
21 exclusive use by sex, and facilities not restricted for use by sex shall be designated as all-gender.

22 (e) All inmates shall be housed based upon sex.

23 (f) To provide the potential for enforcement, a new category of willful trespass shall be
24 created for males accessing female spaces or services except for certain circumstances. Those
25 circumstances are emergency response, maintenance and cleaning or a male in need of direct
26 supervision or care such as a male child or a man with dementia who is unable to safely use the male
27 facilities. The general court finds that simple trespass for violation of female spaces is similar to
28 simple trespass for violation of a "no weapons" sign on private property, and both provide a way to
29 protect the general public while respecting civil liberties.

30 2 Statutory Construction; Number; Gender; Sex Added. Amend RSA 21:3 to read as follows:

21:3 Number; Gender. Words importing the singular number may extend and be applied to several persons or things; words importing the plural number may include the singular; and words importing the masculine gender may extend and be applied to females. ***"Sex," "biologic sex," and "biological sex" shall mean male or female.***

I. "Female" is generally defined as an individual with a reproductive system of the type which in normal function produce ova, and specifically defined as an individual who lacks a functional Y chromosome. A functional Y chromosome is a Y chromosome which expressed the SRY gene during fetal development. A person with 46,XX/46,XY and functional ovarian tissue is a female.

II. "Male" is generally defined as an individual with a reproductive system of the type which in normal function produce sperm. Male shall include any person who does not meet the definition of female.

III. The terms "woman" and "girl" shall mean "female" and the terms "man" and "boy" shall mean "male":

(a) For the purposes of separating people by sex or gender for reasons of modesty and safety;

(b) When referring to "women of childbearing age" or similar;

(c) For female inspectors as designated in RSA 277:33;

(d) For programs and services intended at the time of formation to serve females to the exclusion of males including but not limited to:

(1) Women's health care as described RSA 417-D;

(2) For women housed in the department of corrections established in RSA 21-H;

(3) Women, infants and children assistance;

(4) Women's or girl's sports; and

(5) Bathrooms, locker rooms, and changing rooms.

IV. In common use, an individual's sex is described by the sex listed on an individual's official birth certificate issued at or near the time of the individual's birth unless there is medical reason to support the claim that a person who is male or female as described above was not identified as the correct sex on his or her birth certificate.

***V. Except as otherwise provided in this section, gender-specific* [Gender-specific] terms relating to the marital relationship or familial relationships, including without limitation, "spouse," "family," "marriage," "immediate family," "dependent," "next of kin," "man," "woman," "groom," "bride," "husband," "wife," "widow," or "widower," shall be construed to be gender-neutral for all purposes throughout New Hampshire law, whether in statute, state administrative or court rule, policy, common law, or any other source of civil state law.**

3 Statutory Construction; Gender Identity Modified. Amend RSA 21:54 to read as follows:

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21:54 Gender Identity. "Gender identity" means a person's gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person's physiology or ~~[assigned]~~ sex ~~[at birth]~~. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity provided, however, that gender-related identity shall not be asserted for any improper purpose. ***Notwithstanding any other laws including but not limited to RSA 193, sections 38 through 40, RSA 354-A, and RSA 354-B, it shall be considered improper purpose to assert that gender identity provides access to any place or service provided or offered specifically to females or males.***

4 State Commission for Human Rights; Definitions; Gender Identity Modified. Amend RSA 354-A:2, XIV-e to read as follows:

XIV-e. "Gender identity" means a person's gender-related identity, appearance, or behavior, whether or not that gender-related identity, appearance, or behavior is different from that traditionally associated with the person's physiology or ~~[assigned]~~ sex ~~[at birth]~~. Gender-related identity may be shown by providing evidence including, but not limited to, medical history, care or treatment of the gender-related identity, consistent and uniform assertion of the gender-related identity, or any other evidence that the gender-related identity is sincerely held as part of a person's core identity provided, however, that gender-related identity shall not be asserted for any improper purpose. ***Notwithstanding any other laws including but not limited to RSA 193, sections 38 through 40, RSA 354-A, and RSA 354-B, it shall be considered improper purpose to assert that gender identity provides access to any place or service provided or offered specifically to females or males.***

5 New Section; School Bathrooms and Locker Rooms; Use by Designated Biological Sex. Amend RSA 189 by inserting after section 16-a the following new section:

189:16-b School Bathrooms and Locker Rooms; Use by Designated Biological Sex. Notwithstanding any other provision of law, with the exception of RSA 21:3, RSA 21:54, and paragraph II below, all multi-user facilities, including bathrooms, restrooms, and locker rooms located in any public school, chartered public school, public academy, or other school building governed by this chapter shall be used based on the individual's biological sex.

I. For the purposes of this section:

(a) "Sex" shall mean either female or male as defined by RSA 21:3 and as described by the sex listed on an individual's official birth certificate issued at or near the time of the individual's birth.

(b) "Multi-user facility" shall mean any bathroom, restroom, or locker room that is accessible to multiple individuals for use at the same time.

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1 (c) "All-gender" shall mean any facility with access not restricted by sex.

2 II. All-gender multi-user facilities may be provided as a supplement to the code-required
3 fixtures. Alternatively, up to 20 percent of the code-required fixtures may be designated all-gender
4 upon an affirmative vote of 3/5 of the registered school district voters.

5 III. Adoption or enforcement of a policy pursuant to this section shall not be deemed
6 discrimination under RSA 354-A or any other state law.

7 6 New Section; Municipal Bathrooms and Locker Rooms; Use by Designated Biological Sex.
8 Amend RSA 31 by inserting after section 103-b the following new section:

9 31:103-c Municipal Bathrooms and Locker Rooms; Use by Designated Biological Sex.
10 Notwithstanding any other provision of law, with the exception of RSA 21:3, RSA 21:54, and
11 paragraph II below, all multi-user facilities, including bathrooms, restrooms, and locker rooms
12 located in buildings owned, leased, or operated by any municipality shall be used based on the
13 individual's biological sex.

14 I. For the purposes of this section:

15 (a) "Sex" shall mean either female or male as defined by RSA 21:3 and as described by
16 the sex listed on an individual's official birth certificate issued at or near the time of the individual's
17 birth.

18 (b) "Multi-user facility" shall mean any bathroom, restroom, or locker room that is
19 accessible to multiple individuals for use at the same time.

20 (c) "All-gender" shall mean any facility with access not restricted by sex.

21 II. All-gender multi-user facilities may be provided as a supplement to the code-required
22 fixtures. Alternatively, up to 20 percent of the code-required fixtures may be designated all-gender
23 upon an affirmative vote of 3/5 of the registered municipal voters.

24 III. Adoption or enforcement of a policy pursuant to this section shall not be deemed
25 discrimination under RSA 354-A or any other state law.

26 7 New Section; Places of Public Accommodation; Bathrooms and Locker Rooms; Use by
27 Designated Biological Sex. Amend RSA 354 by inserting after section 17-a the following new section:

28 354-A:17-b Bathrooms and Locker Rooms; Use by Designated Biological Sex. Notwithstanding
29 any other provision of law with the exception of RSA 21:3 and RSA 21:54, the owner or operator of
30 any place of public accommodation, as defined in RSA 354-A:2, XIV, may require that all multi-user
31 bathrooms, restrooms, and locker rooms under their control be used based on the individual's
32 biological sex.

33 I. For the purposes of this section:

34 (a) "Sex" shall mean either female or male as defined by RSA 21:3 and as described by
35 the sex listed on an individual's official birth certificate issued at or near the time of the individual's
36 birth.

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1 (b) "Multi-user facility" shall mean any bathroom, restroom, or locker room that is
2 accessible to multiple individuals for use at the same time.

3 (c) "All-gender" shall mean any facility with access not restricted by sex.

4 II. Facilities labeled "women" or "girls" shall be considered sex separated areas for the
5 purposes of wilful trespass, pursuant to RSA 539:10.

6 III. Adoption or enforcement of a policy pursuant to this section shall not be deemed
7 discrimination under RSA 354-A or any other state law.

8 8 New Section; Inmates Designated By Biological Sex. Amend RSA 622 by inserting after
9 section 10 the following new section:

10 622:10-a Inmates Designated by Biological Sex. Notwithstanding any other provision of law,
11 inmates shall be housed based on the individual inmate's biological sex.

12 I. For the purposes of this section:

13 (a) "Inmate" shall mean a person committed by law to the custody of the commissioner of
14 the department of corrections, a person in pretrial confinement, any person incarcerated in a local
15 detention facility operated by a county department of corrections, or a person in detention at a police
16 department.

17 (b) "Sex" shall mean either female or male as defined by RSA 21:3 and as described by
18 the sex listed on the inmate's official birth certificate issued at or near the time of the inmate's birth.

19 II. This section shall apply to all correctional and detention facilities established and
20 operated pursuant to RSA 21-H and RSA 30-B.

21 9 Civil Rights Act; Enforcement; Gender Identity Restriction. Amend RSA 354-B:1 to read as
22 follows:

23 354-B:1 Civil Rights Enforcement.

24 I. All persons have the right to engage in lawful activities and to exercise and enjoy the
25 rights secured by the United States and New Hampshire Constitutions and the laws of the United
26 States and New Hampshire without being subject to actual or threatened physical force or violence
27 against them or any other person or by actual or threatened damage to or trespass on property when
28 such actual or threatened conduct is motivated by race, color, religion, national origin, ancestry,
29 sexual orientation, sex, gender identity ***asserted with proper purpose***, or disability. "Threatened
30 physical force" and "threatened damage to or trespass on property" is a communication, by physical
31 conduct or by declaration, of an intent to inflict harm on a person or a person's property by some
32 unlawful act with a purpose to terrorize or coerce.

33 II. ***It shall be unlawful for any person to assert that their gender identity is a sex***
34 ***other than that defined in RSA 21:3 for the purposes of accessing places or services***
35 ***restricted on the basis of sex.***

36 III. It shall be unlawful for any person to interfere or attempt to interfere with the rights
37 secured by this chapter.

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1 10 New Section; Wilful Trespass; Areas and Services Designated by Sex. Amend RSA 539 by
2 inserting after section 9 the following new section:

3 539:10 Areas and Services Designated by Sex. Recognizing that it is an improper purpose to
4 assert that gender identity provides access to any area or service provided or offered specifically to
5 females or males, any man who shall willfully enter an area or access a service restricted to females
6 shall be guilty of a violation.

7 I. Nothing in this section shall require a person providing emergency assistance,
8 maintenance or cleaning a space restricted to females to be female.

9 II. Nothing in this section shall prohibit a male in need of direct care or direct supervision
10 from entering a female space under the direct supervision of his female caregiver.

11 11 Effective Date. This act shall take effect upon its passage.

**HB 1442-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT limiting the use of certain facilities on the basis of sex and redefining the term
"gender identity."

FISCAL IMPACT:

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
<i>Revenue Fund</i>	None			
Expenditures*	Indeterminable			
<i>Funding Source</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source</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	Indeterminable			
Local Revenue	\$0	\$0	\$0	\$0
Local Expenditures	Indeterminable			

METHODOLOGY:

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at: https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, New Hampshire Association of Counties, and New Hampshire Municipal Association