

Amendment to HB 1205

1 Amend the bill by replacing all after the enacting clause with the following:

2
3 1 New Subdivision; School Athletics. Amend RSA 193 by inserting after section 40 the following
4 new subdivision:

5 School Athletics

6 193:41 School Athletics.

7 I. In this subdivision, "school" means a public high school in which any combination of
8 grades 9 through 12 are taught or a public middle school in which any combination of grades 5
9 through 8 are taught. This shall not apply to students in any grade kindergarten through fourth
10 grade.

11 II.(a) An interscholastic sport activity or club athletic team sponsored by a public school or a
12 private school whose students or teams compete against a public school must be expressly
13 designated as one of the following based on the biological sex at birth of intended participants:

14 (1) Males, men, or boys;

15 (2) Females, women, or girls; or

16 (3) Coed or mixed.

17 (b) Athletic teams or sports designated for females, women, or girls shall not be open to
18 students of the male sex.

19 III. For purposes of this subdivision, the sex of a student for the purpose of determining
20 eligibility to participate in an interscholastic sport activity or club athletic team shall be determined
21 by the student's biological sex on the student's official birth certificate or certificate issued upon
22 adoption, and is considered to have correctly stated the student's biological sex only if the certificate
23 was:

24 (a) Issued at or near the time of the student's birth; or

25 (b) Modified to correct any type of scrivener or clerical error in the student's biological
26 sex.

27 IV. If a birth certificate provided by a student pursuant to paragraph III does not appear to
28 be the student's original birth certificate or does not indicate the student's sex upon birth, then the
29 student must provide other evidence indicating the student's sex at the time of birth. The student or
30 the student's parent or guardian must pay any costs associated with providing the evidence
31 required.

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1 V. The state board of education, each local school board, and each governing body of a public
2 charter school shall adopt and enforce policies to ensure compliance with this subdivision in the
3 public schools governed by each respective entity.

4 VI. This subdivision shall not be construed to restrict the eligibility of a student to
5 participate in intramural activities designated as coed or mixed.

6 VII. A government entity, any licensing or accrediting organization, or an athletic
7 association or organization shall not entertain a complaint, open an investigation, or take any other
8 adverse action against a school for maintaining separate interscholastic sport activities or club
9 athletic teams for students of the female sex.

10 193:42 School Athletics; Causes of Action.

11 I. Any student who is deprived of an athletic opportunity or suffers any direct or indirect
12 harm as a result of a school knowingly violating RSA 193:41 shall have a private cause of action for
13 injunctive relief, damages, and any other relief available under law against the school.

14 II. Any student who is subject to retaliation or other adverse action by a school or athletic
15 association or organization as a result of reporting a violation of RSA 193:41 to an employee or
16 representative of the school or athletic association or organization, or to any state or federal agency
17 with oversight of schools in the state, shall have a private cause of action for injunctive relief,
18 damages, and any other relief available under law against the school or athletic association or
19 organization.

20 III. Any school that suffers any direct or indirect harm as a result of a violation of RSA
21 193:41 shall have a private cause of action for injunctive relief, damages, and any other relief
22 available under law against the government entity, licensing or accrediting organization, or athletic
23 association or organization.

24 IV. All civil actions must be initiated within 2 years after the harm occurred. Persons or
25 organizations who prevail on a claim brought pursuant to this subdivision shall be entitled to
26 monetary damages, including for any psychological, emotional, and physical harm suffered,
27 reasonable attorneys' fees and costs, and any other appropriate relief.

28 2 Severability. If any provision of this act or the application thereof to any person or
29 circumstances is held invalid, such invalidity shall not affect other provisions or applications of the
30 act which can be given effect without the invalid provision or application, and to this end the
31 provisions of this act are declared to be severable.

32 3 Effective Date. This act shall be effective 30 days after passage.