

Amendment to HB 396

1 Amend the title of the bill by replacing it with the following:

2

3 AN ACT permitting classification of individuals based on biological sex under certain limited
4 circumstances.

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

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8 1 State Commission for Human Rights; Law Against Discrimination; Purpose and Scope.

9 Amend RSA 354-A:1 to read as follows:

10 354-A:1 Title and Purposes of Chapter.

11 ***I.*** This chapter shall be known as the "Law Against Discrimination." It shall be deemed an
12 exercise of the police power of the state for the protection of the public welfare, health and peace of
13 the people of this state, and in fulfillment of the provisions of the constitution of this state
14 concerning civil rights. The general court hereby finds and declares that practices of discrimination
15 against any of its inhabitants because of age, sex, gender identity, race, creed, color, marital status,
16 familial status, physical or mental disability or national origin are a matter of state concern, that
17 such discrimination not only threatens the rights and proper privileges of its inhabitants, but
18 menaces the institutions and foundation of a free democratic state and threatens the peace, order,
19 health, safety and general welfare of the state and its inhabitants. A state agency is hereby created
20 with power to eliminate and prevent discrimination in employment, in places of public
21 accommodation and in housing accommodations because of age, sex, gender identity, race, creed,
22 color, marital status, familial status, physical or mental disability or national origin as herein
23 provided; and the commission established hereunder is hereby given general jurisdiction and power
24 for such purposes. In addition, the agencies and councils so created shall exercise their authority to
25 assure that no person be discriminated against on account of sexual orientation.

26 ***II.*** *The general court also finds that, notwithstanding New Hampshire's*
27 *fundamental commitment to treat all persons without discrimination and with equal*
28 *dignity and respect, which commitment the legislature fully accepts and strongly endorses,*
29 *there are certain limited circumstances in which classification of persons based on*
30 *biological sex is proper because such classification serves the compelling state interests of*
31 *protecting the privacy rights and physical safety of such persons and others. The*

1 *legislature finds that permitting classification of persons based upon biological sex serves*
2 *this compelling state interest in the 3 circumstances described in RSA 354-A:25-a.*

3 2 New Section; Law Against Discrimination; Classification of Persons Based Upon Biological
4 Sex. Amend RSA 354-A by adding after section 25 the following new section:

5 354-A:25-a Classification of Persons Based Upon Biological Sex. Notwithstanding RSA 354-A:2,
6 XIV-e or any other provision of this chapter or any other law or regulation, it shall not constitute
7 unlawful discrimination based on sexual or gender identity for any person or organization, public or
8 private, to classify based on biological sex with respect to the following matters:

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

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

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

18 3 Effective Date. This act shall take effect 60 days after its passage.

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AMENDED ANALYSIS

This bill permits classification of individuals based on biological sex in lavatory facilities and locker rooms, sporting competitions, and detention facilities.