

CHAPTER 176  
HB 1319 - FINAL VERSION

2018 SESSION

18-2009  
05/04

HOUSE BILL        **1319**

AN ACT            prohibiting discrimination based on gender identity.

SPONSORS:       Rep. Butler, Carr. 7; Rep. Stone, Rock. 1; Rep. Fothergill, Coos 1; Rep. Dean-Bailey, Rock. 32; Rep. Hennessey, Graf. 1; Rep. Crawford, Carr. 4; Rep. Bean, Rock. 21; Rep. Gargas, Hills. 27; Rep. McMahon, Rock. 7; Rep. Darrow, Graf. 17; Sen. Bradley, Dist 3; Sen. Innis, Dist 24; Sen. Reagan, Dist 17; Sen. Woodburn, Dist 1; Sen. Fuller Clark, Dist 21

COMMITTEE:      Judiciary

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ANALYSIS

This bill prohibits discrimination based on gender identity. The bill also defines gender identity.

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Explanation:     Matter added to current law appears in ***bold italics***.  
                         Matter removed from current law appears ~~[in brackets and struck through.]~~  
                         Matter which is either (a) all new or (b) repealed and reenacted appears in  
regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eighteen*

AN ACT                   prohibiting discrimination based on gender identity.

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

1           176:1 Title and Purposes of This Chapter; Gender Identity. Amend RSA 354-A:1 to  
2 read as follows:

3           354-A:1 Title and Purposes of Chapter. This chapter shall be known as the "Law  
4 Against Discrimination." It shall be deemed an exercise of the police power of the state  
5 for the protection of the public welfare, health and peace of the people of this state, and  
6 in fulfillment of the provisions of the constitution of this state concerning civil rights.  
7 The general court hereby finds and declares that practices of discrimination against any  
8 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  
10 concern, that such discrimination not only threatens the rights and proper privileges of  
11 its inhabitants but menaces the institutions and foundation of a free democratic state  
12 and threatens the peace, order, health, safety and general welfare of the state and its  
13 inhabitants. A state agency is hereby created with power to eliminate and prevent  
14 discrimination in employment, in places of public accommodation and in housing  
15 accommodations because of age, sex, ***gender identity***, race, creed, color, marital status,  
16 familial status, physical or mental disability or national origin as herein provided; and  
17 the commission established hereunder is hereby given general jurisdiction and power  
18 for such purposes. In addition, the agencies and councils so created shall exercise their  
19 authority to assure that no person be discriminated against on account of sexual  
20 orientation.

21           176:2 New Paragraph; Gender Identity; Definition. Amend RSA 354-A:2 by inserting  
22 after paragraph XIV-d the following new paragraph.

23           XIV-e. "Gender identity" means a person's gender-related identity, appearance, or  
24 behavior, whether or not that gender-related identity, appearance, or behavior is  
25 different from that traditionally associated with the person's physiology or assigned sex  
26 at birth. Gender-related identity may be shown by providing evidence including, but  
27 not limited to, medical history, care or treatment of the gender-related identity,  
28 consistent and uniform assertion of the gender-related identity, or any other evidence  
29 that the gender-related identity is sincerely held as part of a person's core identity  
30 provided, however, that gender-related identity shall not be asserted for any improper

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1 purpose.

2 176:3 General Powers and Duties of the Commission; Gender Identity. Amend RSA  
3 354-A:5, VIII-IX to read as follows:

4 VIII. To create such advisory agencies and conciliation councils, local, regional  
5 or statewide, as in its judgment will aid in effectuating the purpose of this chapter, and  
6 the commission may empower them to study the problems of discrimination in all or  
7 specific fields of human relationships or in specific instances of discrimination, because  
8 of age, sex, *gender identity*, race, color, sexual orientation, marital status, familial  
9 status, or physical or mental disability, religious creed or national origin, in order to  
10 foster, through community effort or otherwise, good will, cooperation and conciliation  
11 among the groups and elements of the population of the state, and make  
12 recommendations to the commission for the development of policies and procedures in  
13 general and in specific instances, and for programs of formal and informal education  
14 which the commission may recommend to the appropriate state agency. Such advisory  
15 agencies and conciliation councils shall be composed of representative citizens, serving  
16 without pay, but with reimbursement for actual and necessary traveling expenses; and  
17 the commission may make provision for technical clerical assistance to such agencies  
18 and councils and for the expenses of such assistance.

19 IX. To issue such publications and such results of investigations and research as  
20 in its judgment will tend to promote good will and minimize or eliminate discrimination  
21 because of age, sex, *gender identity*, race, color, marital status, familial status, physical  
22 or mental disability, religious creed or national origin, and on account of sexual  
23 orientation.

24 176:4 Opportunity for Employment Without Discrimination a Civil Right; Gender  
25 Identity Added. Amend RSA 354-A:6 to read as follows:

26 354-A:6 Opportunity for Employment Without Discrimination a Civil Right. The  
27 opportunity to obtain employment without discrimination because of age, sex, *gender*  
28 *identity*, race, creed, color, marital status, physical or mental disability or national  
29 origin is hereby recognized and declared to be a civil right. In addition, no person shall  
30 be denied the benefits of the rights afforded by this section on account of that person's  
31 sexual orientation.

32 176:5 Unlawful Discriminatory Practices; Gender Identity Added. Amend RSA 354-  
33 A:7, I-III to read as follows:

34 I. For an employer, because of the age, sex, *gender identity*, race, color, marital  
35 status, physical or mental disability, religious creed, or national origin of any  
36 individual, to refuse to hire or employ or to bar or to discharge from employment such  
37 individual or to discriminate against such individual in compensation or in terms,

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1 conditions or privileges of employment, unless based upon a bona fide occupational  
2 qualification. In addition, no person shall be denied the benefit of the rights afforded by  
3 this paragraph on account of that person's sexual orientation.

4 II. For a labor organization, because of the age, sex, *gender identity*, race, color,  
5 marital status, physical or mental disability, creed, or national origin of any individual,  
6 to exclude from full membership rights or to expel from its membership such individual  
7 or to discriminate in any way against any of its members or against any employer or any  
8 individual employed by an employer, unless based upon a bona fide occupational  
9 qualification. In addition, no person shall be denied the benefit of the rights afforded by  
10 this paragraph on account of that person's sexual orientation.

11 III. For any employer or employment agency to print or circulate or to cause to  
12 be printed or circulated any statement, advertisement or publication, or to use any form  
13 of application for employment or to make any inquiry or record in connection with  
14 employment, which expresses, directly or indirectly, any limitation, specification or  
15 discrimination as to age, sex, *gender identity*, race, color, marital status, physical or  
16 mental disability, religious creed or national origin or any intent to make any such  
17 limitation, specification or discrimination in any way on the ground of age, sex, race,  
18 color, marital status, physical or mental disability, religious creed or national origin,  
19 unless based upon a bona fide occupational qualification; provided, however, that  
20 nothing in this chapter shall limit an employer after the offer of hire of an individual  
21 from inquiring into and keeping records of any existing or pre-existing physical or  
22 mental conditions. In addition, no person shall be denied the benefit of the rights  
23 afforded by this paragraph on account of that person's sexual orientation.

24 176:6 Equal Housing Opportunity Without Discrimination a Civil Right; Gender  
25 Identity Added. Amend RSA 354-A:8 to read as follows:

26 354-A:8 Equal Housing Opportunity Without Discrimination a Civil Right. The  
27 opportunity to obtain housing without discrimination because of age, sex, *gender*  
28 *identity*, race, creed, color, marital status, familial status, physical or mental disability  
29 or national origin is hereby recognized and declared a civil right. In addition, no person  
30 shall be denied the benefit of the rights afforded by this section on account of that  
31 person's sexual orientation.

32 176:7 Unlawful Discriminatory Practices; Gender Identity. Amend RSA 354-A:10 to  
33 read as follows:

34 354-A:10 Unlawful Discriminatory Practices. It shall be an unlawful discriminatory  
35 practice for any person, being the owner, lessee, sublessee, assignee, managing agent or  
36 other person having the right to rent or lease a dwelling or commercial structure or  
37 being in the business of selling or renting dwellings or commercial structures:

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1           I. To refuse to sell or rent after the receipt of a bona fide offer, or to refuse to  
2 negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling or  
3 commercial structure to any person because of age, sex, *gender identity*, race, color,  
4 marital status, familial status, physical or mental disability, religion or national origin.  
5 In addition, no person shall be denied the benefit of the rights afforded by this  
6 paragraph on account of that person's sexual orientation.

7           II. Discriminate against any person in the terms, conditions, or privilege of sale  
8 or rental of a dwelling or commercial structure, or in the provision of services or  
9 facilities in connection therewith, because of age, sex, *gender identity*, race, color,  
10 marital status, familial status, physical or mental disability, religion or national origin.  
11 In addition, no person shall be denied the benefit of the rights afforded by this  
12 paragraph on account of that person's sexual orientation.

13           III. To make, print or publish, or cause to be made, printed or published, any  
14 notice, statement or advertisement, with respect to the sale or rental of a dwelling or  
15 commercial structure that indicates any preference, limitation, or discrimination based  
16 on age, sex, *gender identity*, race, color, marital status, familial status, physical or  
17 mental disability, religion or national origin, or an intention to make any such  
18 preference, limitation or discrimination. In addition, no person shall be denied the  
19 benefit of the rights afforded by this paragraph on account of that person's sexual  
20 orientation.

21           IV. To represent to any person because of age, sex, *gender identity*, race, color,  
22 marital status, familial status, physical or mental disability, religion or national origin  
23 that any dwelling or commercial structure is not available for inspection, sale, or rental  
24 when such dwelling is in fact so available. In addition, no person shall be denied the  
25 benefit of the rights afforded by this paragraph on account of that person's sexual  
26 orientation.

27           V. For profit, to induce or attempt to induce any person to sell or rent any  
28 dwelling by representations regarding the entry or prospective entry into the  
29 neighborhood of a person or persons of a particular age, sex, *gender identity*, race, color,  
30 marital status, familial status, physical or mental disability, religion or national origin.  
31 In addition, no person shall be denied the benefit of the rights afforded by this  
32 paragraph on account of that person's sexual orientation.

33           VI. To evict a tenant solely on the grounds that the person has acquired immune  
34 deficiency syndrome (AIDS) or is regarded to have acquired immune deficiency  
35 syndrome.

36           VII. For any person or other entity whose business includes engaging in  
37 residential real estate-related transactions to discriminate against any person in making

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1 available such a transaction, or in the terms or conditions of such a transaction, because  
2 of age, race, color, religion, sex, *gender identity*, disability, familial status, marital  
3 status, or national origin. In addition, no person shall be denied the benefit of the rights  
4 afforded by this paragraph on account of that person's sexual orientation.

5 VIII. To deny any person access to, or membership or participation in, any  
6 multiple-listing service, real estate brokers' organization or other service, organization,  
7 or facility relating to the business of selling or renting dwellings, or to discriminate  
8 against that person in the terms or conditions of such access, membership, or  
9 participation, on account of age, familial status, sex, *gender identity*, race, color, creed,  
10 disability, national origin, marital status, or sexual orientation.

11 176:8 Equal Access to Public Accommodations a Civil Right; Gender Identity. Amend  
12 RSA 354-A:16 to read as follows:

13 354-A:16 Equal Access to Public Accommodations a Civil Right. The opportunity for  
14 every individual to have equal access to places of public accommodation without  
15 discrimination because of age, sex, *gender identity*, race, creed, color, marital status,  
16 physical or mental disability or national origin is hereby recognized and declared to be  
17 a civil right. In addition, no person shall be denied the benefit of the rights afforded by  
18 this section on account of that person's sexual orientation.

19 176:9 Unlawful Discriminatory Practices in Public Accommodations; Gender  
20 Identity. Amend RSA 354-A:17 to read as follows:

21 354-A:17 Unlawful Discriminatory Practices in Public Accommodations. It shall be  
22 an unlawful discriminatory practice for any person, being the owner, lessee, proprietor,  
23 manager, superintendent, agent or employee of any place of public accommodation,  
24 because of the age, sex, *gender identity*, race, creed, color, marital status, physical or  
25 mental disability or national origin of any person, directly or indirectly, to refuse,  
26 withhold from or deny to such person any of the accommodations, advantages, facilities  
27 or privileges thereof; or, directly or indirectly, to publish, circulate, issue, display, post  
28 or mail any written or printed communication, notice or advertisement to the effect that  
29 any of the accommodations, advantages, facilities and privileges of any such place shall  
30 be refused, withheld from or denied to any person on account of age, sex, race, creed,  
31 color, marital status, physical or mental disability or national origin; or that the  
32 patronage or custom thereof of any person belonging to or purporting to be of any  
33 particular age, sex, race, creed, color, marital status, physical or mental disability or  
34 national origin is unwelcome, objectionable or acceptable, desired or solicited. In  
35 addition, no person shall be denied the benefit of the rights afforded by this section on  
36 account of that person's sexual orientation.

37 176:10 Construction; Gender Identity. Amend RSA 354-A:25 to read as follows:

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1        354-A:25 Construction. No provision of this chapter shall be deemed to supersede  
2 any other provision of law for the protection of minors or for the regulation of the  
3 employment of minors. The provisions of this chapter shall be construed liberally for  
4 the accomplishment of the purposes thereof. Nothing contained in this chapter shall be  
5 deemed to repeal any of the provisions of the civil rights law or any other law of this  
6 state relating to discrimination because of age, sex, *gender identity*, race, creed, color,  
7 marital status, physical or mental disability or national origin; but, as to acts declared  
8 unlawful by this chapter the procedure provided in this chapter shall, while pending, be  
9 exclusive and the final determination therein shall exclude any other action, civil or  
10 criminal, based on the same grievance of the individual concerned. If such individual  
11 institutes any action based on such grievance without resorting to the procedure  
12 provided in this chapter, such person may not subsequently resort to the procedure in  
13 this chapter, provided, however, that nothing in this section shall prevent any  
14 individual from applying for or receiving unemployment compensation while the  
15 procedure provided for in this chapter is pending or after the procedure provided in this  
16 chapter has been concluded. This section shall not prevent the commission for human  
17 rights from investigating and acting upon a complaint of discrimination when the  
18 complainant has also filed a claim for unemployment compensation in which the issue of  
19 illegal discrimination is raised.

176:11 Effective Date. This act shall take effect 30 days after its passage.

Approved: June 08, 2018  
Effective Date: July 08, 2018