

SB 263 - AS AMENDED BY THE HOUSE

03/28/2019 1141s
 03/28/2019 1290s
 8May2019... 1690h

2019 SESSION

19-0995
 08/05

SENATE BILL 263

AN ACT relative to anti-discrimination protection for students in public schools.

SPONSORS: Sen. Sherman, Dist 24; Sen. Fuller Clark, Dist 21; Sen. Hennessey, Dist 5; Sen. Levesque, Dist 12; Sen. Rosenwald, Dist 13; Sen. D'Allesandro, Dist 20; Sen. Watters, Dist 4; Rep. Cannon, Straf. 18; Rep. M. Smith, Straf. 6; Rep. Altschiller, Rock. 19; Rep. Janvrin, Rock. 37; Rep. Ley, Ches. 9

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill creates a cause of action for persons injured by discrimination in public schools.

This bill also creates a cause of action for the attorney general in cases of discrimination in public schools.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Nineteen

AN ACT relative to anti-discrimination protection for students in public schools.

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

1 New Subdivision; Discrimination in Public Schools. Amend RSA 193 by inserting after section 37 the following new subdivision:

Discrimination in Public Schools

193:38 Discrimination in Public Schools. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, or national origin, all as defined in RSA 354-A. Any person claiming to be aggrieved by a discriminatory practice prohibited under this section, including the attorney general, may initiate a civil action against a school or school district in superior court for legal or equitable relief, or with the New Hampshire commission for human rights, as provided in RSA 354-A:27-28.

193:39 Discrimination Prevention Policy Required. Each school district and chartered public school shall develop a policy that guides the development and implementation of a coordinated plan to prevent, assess the presence of, intervene in, and respond to incidents of discrimination on the basis of age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, national origin, or any other classes protected under RSA 354-A.

2 New Subdivision; Opportunity for Public Education Without Discrimination a Civil Right. Amend RSA 354-A by inserting after section 26 the following new subdivision:

Opportunity for Public Education Without Discrimination a Civil Right

354-A:27 Opportunity for Public Education Without Discrimination a Civil Right. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion or national origin, all as defined in this chapter.

354-A:28 Procedure on Public School Complaints.

I. Any person claiming to be aggrieved by a discriminatory practice prohibited under RSA 354-A:27 may initiate a civil action in superior court against a school or school district for legal or equitable relief, or file a complaint with the commission as provided in RSA 354-A:21. The attorney general may also initiate such a civil action in superior court or by complaint with the commission.

II. Any complaint filed with the commission pursuant to paragraph I shall comply with and be subject to the procedures outlined in this chapter, with the exception that such complaints may be removed to superior court at any time in compliance with RSA 508:4

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

LBAO

19-0995

Amended 5/22/19

SB 263- FISCAL NOTE

AS AMENDED BY THE HOUSE (AMENDMENT #2019-1690h)

AN ACT relative to anti-discrimination protection for students in public schools.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill creates a cause of action for persons injured by discrimination in public schools. Injured parties may seek relief by utilizing the Human Rights Commission and the Attorney General may initiate legal action.

The Human Rights Commission currently does not investigate instances of non-employment based discrimination in schools.

Therefore, the number of additional cases added to the Commission's caseload as a result of this bill is indeterminable. The Commission reports that a small number of cases, such as under 5 new cases a year, would likely be absorbed within the Commission's existing resources. However, these new cases would be added to the existing backlog of approximately 360 cases that are addressed in chronological order. If this bill resulted in a more substantial increase in yearly cases for the Commission to include 30 to 50 additional cases, then the Commission reports additional investigative and support resources would be necessary to process these cases. Under the current structure and scope of work within the Commission, an investigator typically keeps a caseload of 50 cases and utilizes the assistance of additional support staff. Therefore, a substantial increase in education related cases would likely result in the need for the Commission to hire a full-time investigator at Labor Grade 23, thereby increasing Commission salary and benefit expenditures by \$76,000 in FY 2020, \$79,000 in FY 2021, \$83,000 in FY 2021, and \$87,000 in FY 2022. Other additional expenditures necessary for the Commission to implement this bill are unknown and would depend on the complexity of the cases brought to the Commission.

The Department of Education reports not having information to determine the impact of this bill.

The Department of Justice reports being able to implement this bill within their existing budget.

AGENCIES CONTACTED:

Human Rights Commission, Department of Education, and Department of Justice