



**Re: Support for New Hampshire House Bill 1180, Relative to state recognition of biological sex**

To the Members of the House Health, Human Services, and Elderly Affairs Committee:

My name is Lauren Adams and I am the Legal Director of Women's Liberation Front (WoLF), a national feminist non-profit organization whose mission it is to advance, restore, and defend the rights of women and girls.

I am writing today to express our enthusiastic support for House Bill 1180 (HB1180), which would clarify that public entities are not prohibited from using biological sex to separate men and women in sports, jails and prisons, intimate spaces, and anywhere else it is relevant and appropriate for public entities to recognize a person's sex.

Men and women have specific innate physiological differences with social implications, including: the unique ability of females (but not males) to become pregnant and birth children, including by rape; the increased vulnerability of females to numerous forms of sexual assault and other assault by males; and advantages associated with male physiology in athletics and other physical activities, including musculoskeletal advantages that cannot be equalized via pharmaceuticals or any other medical treatment.

There are other differences between men and women, including a greatly increased rate of violent crime and sexual crime committed against females by males, significantly increased rate of sexual exploitation of females by males,

and certain disparities in employment and education. These population-level sex differences are consistent regardless of other characteristics, including race, religion, and sexual orientation; they are not modified by a person's self-identity as something other than their actual sex.<sup>1</sup>

Sex-specific facilities and services are often necessary for privacy, modesty, religious observance, safety, and redress of historical discrimination and exclusion. Lack of access to such facilities and services limits the ability of women and girls to participate in public life, especially those with religious beliefs about modesty and the opposite sex, as well as female survivors of male violence. As such, outright prohibition on legal recognition of biological sex fails to consider the unique needs of women and girls, which can serve to unduly disadvantage them.

The existing law as written also risks the collection of high-quality vital statistics including data on sex for the purposes of public health, crime statistics, and other necessary purposes. There is no clear purpose to even collecting such statistics if there is no objective basis by which the criteria (in this case, sex) is measured or defined. This bill will ensure that such data collection remains fit for purpose.

While some courts have found that "sex" for the purpose of anti-discrimination laws includes characteristics such as "sexual orientation" and "gender identity," these are distinct and separate concepts. Sex - the distinction between men and women - is not the same thing as who you are attracted to, how you perceive yourself, or whether you enjoy things that are traditionally "feminine" or "masculine." It is

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<sup>1</sup> There is significant evidence that the sex differentiation in violent crime rates is not mitigated if a male person identifies as a woman. See [Long-Term Follow-Up of Transsexual Persons Undergoing Sex Reassignment Surgery: Cohort Study in Sweden \(nih.gov\)](#). All available evidence in public records in the national and state prison systems show that trans-identified men commit sex offenses at dramatically higher rates than both women and the general male incarcerated population, thus bolstering the already-established need for sex-separation in correctional facilities. See *also* [CDCR-Response-on-Data-of-Offenders-Seeking-Transfer-to-Female-Facilities.pdf \(kpssinfo.org\)](#), [Transgender Inmate Report from BOP 12/04/2021 | Keep Prisons Single Sex USA \(kpssinfo.org\)](#)

rarely appropriate for the law to recognize differences on these grounds, but conversely it is often appropriate for the law to recognize sex differences. Conflation of these concepts risks protections for each of these groups.

Inconsistency in definitions and in court rulings applying these concepts have led to endangerment and in some cases legal prohibitions against single-sex spaces, which was never the intent of Congress or of the state of New Hampshire in elucidating protections for women and girls in sex discrimination laws. As such, explicit statutory provisions such as those provided in HB 1180 are needed to clarify the terms of prohibitions against discrimination based on sex.

This is a good bill, and a step in the right direction for protecting women and girls in the state of New Hampshire. WoLF urges the Committee to give it a favorable vote. Thank you for this opportunity to testify.

Sincerely,

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