GLAD Law
Testimony in Opposition to LD 2239, *An Act to Designate School Sports Participation and Facilities by Sex*
Joint Standing Committee on the Judiciary
132nd Maine Legislature, Second Regular Session
April 14, 2026

Good Morning Senator Carney and Representative Kuhn & Honorable Members of the Joint Standing Committee on the Judiciary,

My name is Mary Bonauto. I am an attorney at GLAD Law and live in Portland. I am also a parent of two daughters who played high school sports and graduated from the Portland Public Schools in 2020.

The proposed measure before you is no friend to schools, girls or any student. It is a vague and blunt instrument that is unworkable for schools and communities, has serious, unmentioned consequences, and harms students. It will create chaos, not clarity.

First, to "protect girls sports in Maine" – a goal we support, the measure asks the voters to override protections from discrimination in the Maine Human Rights Act as applied to transgender students. The new statutory language *allows the exclusion of* students from school programs, activities, and athletics – all hallmarks of discriminatory conduct. New, specific legislation inconsistent with an old law effectively repeals the earlier one. 5 Me. Rev. Stat. § 4602, § 1 (A) (forbidding discriminatory exclusion from educational programs and activities), (B) (forbidding denial of equal opportunity in school athletic programs).[1]

Once we roll back protections for some, it's a lot easier to do the next time and the next. Where would it stop?

We don't make Maine schools safer or more fair by telling some of our young people that they do not belong. It instantly renders those students more vulnerable to bullying and abuse. When schools are focused on identifying and separating transgender students from their peers, it opens the door to increased harassment and bullying for *any child* who

[1] The ballot measure makes a mockery of the State declarations that freedom from discrimination at school and in public accommodations (including schools) are "recognized as and declared to be a civil right." 5 MRS § 4601 (education declaration); *id.* at §§ 4591 (public accommodations declaration). Public schools are public accommodations required not to discriminate in advantages, facilities, and services. *Id.* at § 4592.

doesn't fit a particular mold – the girl who is taller than her classmates, the boy who is slight and quiet.

Second, this measure will cost schools and taxpayers. The fiscal note by the Office for Financial and Program Review attached to the petition noted school administrative units could face "significant costs to verify, monitor and enforce" the law's separation and exclusion requirements, increased "insurance premiums due to an increase in liability" for potential civil actions," and additional litigation costs.

What would drive these costs? For one, the measure creates a *private right of action*, meaning any student who believes the law has been violated to their detriment can sue a public school for *unlimited money damages*. Every school district in Maine would become a litigation target. That's not protecting students — that's a minefield that drains money from our classrooms and funnels it into courtrooms.

In addition, the measure spins out red tape that will burden and bollix up school administration. It requires every student to present an original birth certificate before they can play on a school team or even use a school bathroom.

How would that work in practice since schools don't keep birth certificates on file? Many families can't easily access the originals — especially families whose children were adopted, born in another state, born in another country, or who are experiencing homelessness. The measure doesn't say what happens with those students.

It is also unclear if or how schools can absorb the staff time or pay new staff to obtain original birth certificates for all students and those joining during the year. But the private right of action to enforce the sex verification and separation requirements forces their hands.

Third, the proponents say they want to talk about fairness in sports. But any serious policy on sports fairness would *at minimum* consider the age of the students, the level of competition, and the nature of the sport. Existing law allows for reasonable regulation of sports based on fairness and safety. A ban is extreme, the most extreme possible approach, not a reasonable regulation.

This measure ignores all of that and applies a single blunt rule to every situation: a fifth-grade recreational soccer team gets treated exactly the same as a high school varsity team. And students lose out as a result.

To the transgender students unfairly excluded by this new policy, the measure says, "no problem, just join a co-ed team." But the fact is that competitive co-ed sports teams don't

exist in Maine high schools, except for cheerleading, and there are none competing interscholastically.

Does the measure require schools to create – and bear the costs of - new co-ed teams? They don't say. But we know that perceived violations will lead to lawsuits.

Our State deserves better than an unworkable and expensive policy that will make school life more confusing and divisive, and less focused on learning and growth for our students and schools.

GLAD Law encourages you to vote ought not to pass on LD 2259. Thank you.

Respectfully,

s/ Mary Bonauto

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