

LD 868: An Act to Ensure Equity and Safety in Athletics, Restrooms, Changing Rooms and Housing at Elementary, Secondary and Postsecondary Schools

Senator Carney, Representative Kuhn, Members of the Judiciary Committee, I am David Souers. living in Friendship, Maine. I am retired after a long career with my own firm practicing healthcare architecture designing clinics, hospitals, psychiatric facilities and specialty centers for women's health, maternity, surgery, cancer, dialysis and dentistry. My wife, Linda Souers joins me in this testimony. Linda is a retired art teacher, business manager and not-for-profit community board member. Linda and I are parents of three adult women, all of whom played sports from grade school through highschool. All three have careers in health and healthcare.

We are testifying in opposition to LD 868 for a number of reasons, which I will explain below. We are also in opposition to LD 233, LD 1002, LD 1337, LD 1432, LD 380, LD 1134 and LD 1704 for the same reasons and with additional testimony that we will provide under each of these proposed bills. But first, how do these proposed bills comply with the 2005 amendment to the MHRA which expanded the definition of "sexual orientation" to include "gender identity" and expression, which marked a significant step in ensuring equal treatment under the law?

1. This Bill would ban transgender girls from "school sports". This sounds like all sports? It goes further than other bills by also banning trans and non-binary students from using the bathrooms and locker rooms that align with their gender identity.
2. This Bill states: "This section may not be construed to restrict the eligibility of any student to participate in any interscholastic or intramural athletic teams or sports designated as "males," "men" or "boys" or designated as "coed" or "mixed." "
 - a. The above statement appears to allow "girls" and "women" to play on "males," "men" or "boys" teams or sports. If this is the case, how are the females protected? And if protection is the issue, can't "females" be harmed in the same way wherever "males" are present? And what about "males" being harmed in some way with "females" on their teams? This all seems arbitrary and discriminatory.
3. This bill raises more questions than answers:
 - a. What is the problem that this bill intends to address?
 - b. This bill appears to not allow for unisex facilities?
 - i. Many public facilities including schools and athletic facilities have single unisex toilet, changing or shower rooms. Are these not allowed?
 - c. If "males" are intended to be kept out of facilities, how can any "males" such as teachers, coaches or facility maintenance personnel be trusted or allowed in a "female" facility? Should male coaches be prohibited? Or males teaching "females".
 - d. How is equity accomplished and for whom? Equity implies for everyone. Yet this bill clearly discriminates against anyone who does not fit the binary male female

that this bill is limited to.

- i. This bill is reminiscent to historic laws discriminating on the basis of skin color or race where any degree of black heritage or genetics identified a person as black. Everyone considered genetically pure white would be classified as “white”. Therefore all facilities were for “white” only or “black” only.
- e. This bill identifies only two gender designations: male and female yet many scientific and medical sources document a range of gender genetics, identity and physiology.
- f. It would appear from this statement that any gender related concern from a student or parent can generate claim for violation: “An individual who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a knowing violation of subsection 2 has a private cause of action against the covered entity, private school or private postsecondary education institution.”
- g. What other gender distinction, separation and potentially discriminating issues may develop from here? Requirements to more effectively designate “male” and “female” to maintain clear identification of gender?
 - i. Appearance?
 - ii. Dress?
 - iii. Hair styles?
 - iv. Body weight?

Rather than write bills without any scientific, medical or psychological expertise to support them, we advocate that LD 233, 868, 1002, 1337, 1432, 380, 1134, and 1704 all ought not to pass. And, that the legislature establish a study involving representatives from the state’s public education groups including effective legal advice on gender law, administrators, classroom teachers, gym & sports coaches, school nurses along with professionals in the area of gender, adolescent and young adult medicine and psychology with experience in transgender study and care.

Thank you for your attention.

David & Linda Souers
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