



State of Wisconsin
2023 - 2024 LEGISLATURE

LRB-4195/1
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2023 ASSEMBLY BILL 526

October 18, 2023 - Introduced by Representatives SHELTON, J. ANDERSON, HONG, C. ANDERSON, CLANCY, JACOBSON, CONSIDINE, MYERS, VINING, SHANKLAND, BARE, MADISON, BALDEH, CABRERA, CONLEY, HAYWOOD, JOERS, NEUBAUER, OHNSTAD, PALMERI, RATCLIFF, SINICKI, SNODGRASS and STUBBS, cosponsored by Senators SPREITZER, LARSON, L. JOHNSON, SMITH, AGARD, ROYS, HESSELBEIN, CARPENTER and PFAFF. Referred to Committee on Education.

AN ACT *to amend* 118.019 (2d), 118.13 (1), 118.13 (2) (a), 118.13 (3) (a) 3., 118.13 (3) (b) 1. and 2., 118.13 (4), 118.20 (1) and 118.40 (4) (b) 2.; and *to create* 118.13 (1m) of the statutes; **relating to:** pupil discrimination and private school participating in a parental choice program or the Special Needs Scholarship Program, discrimination based on gender identity or gender expression, and providing a penalty.

Analysis by the Legislative Reference Bureau

Under current law, an individual may not be denied admission to a public school or be denied participation in, denied the benefits of, or discriminated against in curricular or extracurricular programs, services, or activities because of the individual's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, or physical, mental, emotional, or learning disability. This bill extends this pupil anti-discrimination law to also apply to private schools participating in the Milwaukee Parental Choice Program, the Racine Parental Choice Program, the Wisconsin Parental Choice Program, or the Special Needs Scholarship Program. Additionally, the bill extends the pupil anti-discrimination law, a similar pupil anti-discrimination law that explicitly applies to

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charter schools, a similar anti-discrimination law that applies to teachers and school personnel in public schools, and the anti-discrimination provision that applies to human growth and development instruction to prohibit discrimination on the basis of gender identity or gender expression.

Current law requires each school board to develop written policies and procedures to implement the pupil anti-discrimination law, which must include a complaint process for violations of the law. Under the bill, the governing body of a private school participating in a parental choice program or the SNSP must develop similar policies and procedures. Under current law, if a public school official, employee, or teacher intentionally engages in conduct which discriminates against a pupil or causes a pupil to be denied rights, benefits, or privileges, in violation of the law, the Department of Public Instruction may assess a forfeiture of up to \$1,000. Under the bill, DPI may also assess a forfeiture against a private school official, employee, or teacher who engages in such conduct.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 118.019 (2d) of the statutes is amended to read:

118.019 (2d) NONDISCRIMINATION. An instructional program under this section shall use instructional methods and materials that, consistent with s. 118.13 (1), do not discriminate against a pupil based upon the pupil's race, gender, religion, sexual orientation, gender identity, gender expression, or ethnic or cultural background or against sexually active pupils or children with disabilities. Nothing in this subsection shall be construed to prohibit a school board from approving an instructional program under this section that includes instruction on abstinence from sexual activity or that is abstinence-centered.

SECTION 2. 118.13 (1) of the statutes is amended to read:

118.13 (1) Except as provided in s. 120.13 (37m) and sub. (1m), no person may be denied admission to any public school or a private school participating in a program under s. 115.7915, 118.60, or 119.23 or be denied participation in, be

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denied the benefits of, or be discriminated against in any curricular, extracurricular, pupil services, recreational or other program or activity because of the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital or parental status, sexual orientation, gender identity, gender expression, or physical, mental, emotional, or learning disability.

SECTION 3. 118.13 (1m) of the statutes is created to read:

118.13 (1m) (a) 1. With respect to being denied admission to, being denied participation in, being denied the benefits of, or being discriminated against on the basis of sex, sub. (1) does not apply to a private school participating in a program under s. 115.7915, 118.60, or 119.23 that limits admission to pupils of only one sex.

2. Notwithstanding subd. 1., a private school participating in a program under s. 115.7915, 118.60, or 119.23 that limits admission to pupils of only one sex may not deny admission to a pupil if the sex to which admissions are limited is the sex that is most consistent with the pupil's gender identity.

(b) With respect to discrimination on the basis of religion, sub. (1) does not apply to a sectarian private school participating in a program under s. 115.7915, 118.60, or 119.23 declining to provide instruction in the tenets of a religion that is different from the religion with which the private school is affiliated.

SECTION 4. 118.13 (2) (a) of the statutes is amended to read:

118.13 (2) (a) Each school board and each governing body of a private school participating in a program under s. 115.7915, 118.60, or 119.23 shall develop written policies and procedures to implement this section ~~and submit them to the state superintendent as a part of its 1986 annual report under s. 120.18.~~ The

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policies and procedures shall provide for receiving and investigating complaints ~~by residents of the school district~~ regarding possible violations of this section, for making determinations as to whether this section has been violated and for ensuring compliance with this section.

SECTION 5. 118.13 (3) (a) 3. of the statutes is amended to read:

118.13 (3) (a) 3. Include in the department's biennial report under s. 15.04 (1) (d) information on the status of ~~school district~~ compliance with this section and ~~school district~~ progress toward providing reasonable equality of educational opportunity for all pupils in this state.

SECTION 6. 118.13 (3) (b) 1. and 2. of the statutes are amended to read:

118.13 (3) (b) 1. Periodically review ~~school district~~ programs, activities and services to determine whether the school boards and governing bodies of private schools participating in a program under s. 115.7915, 118.60, or 119.23 are complying with this section.

2. Assist school boards and governing bodies of private schools participating in a program under s. 115.7915, 118.60, or 119.23 to comply with this section by providing information and technical assistance upon request.

SECTION 7. 118.13 (4) of the statutes is amended to read:

118.13 (4) Any public school or private school official, employee, or teacher who intentionally engages in conduct which discriminates against a person or causes a person to be denied rights, benefits, or privileges, in violation of sub. (1), may be required to forfeit not more than \$1,000.

SECTION 8. 118.20 (1) of the statutes is amended to read:

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118.20 (1) No discrimination because of sex, except where sex is a bona fide occupational qualification as defined in s. 111.36 (2), race, nationality, gender identity, gender expression, or political or religious affiliation may be practiced in the employment of teachers or administrative personnel in public schools or in their assignment or reassignment. No questions of any nature or form relative to sex, except where sex is a bona fide occupational qualification as defined in s. 111.36 (2), race, nationality, gender identity, gender expression, or political or religious affiliation may be asked applicants for teaching or administrative positions in the public schools either by public school officials or employees or by teachers agencies or placement bureaus.

SECTION 9. 118.40 (4) (b) 2. of the statutes is amended to read:

118.40 (4) (b) 2. Except as provided in sub. (3) (h), discriminate in admission or deny participation in any program or activity on the basis of a person's sex, race, religion, national origin, ancestry, pregnancy, marital or parental status, sexual orientation, gender identity, gender expression, or physical, mental, emotional or learning disability.

(END)