



State of Wisconsin  
2023 - 2024 LEGISLATURE

LRB-4195/1  
FFK:cjs&amn

## 2023 BILL

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

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### ***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 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.

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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.

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

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

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

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

11           118.13 **(1)** Except as provided in s. 120.13 (37m) and sub. (1m), no person may  
12 be denied admission to any public school or a private school participating in a  
13 program under s. 115.7915, 118.60, or 119.23 or be denied participation in, be denied  
14 the benefits of, or be discriminated against in any curricular, extracurricular, pupil  
15 services, recreational or other program or activity because of the person's sex, race,  
16 religion, national origin, ancestry, creed, pregnancy, marital or parental status,

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1 sexual orientation, gender identity, gender expression, or physical, mental,  
2 emotional, or learning disability.

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

4 118.13 **(1m)** (a) 1. With respect to being denied admission to, being denied  
5 participation in, being denied the benefits of, or being discriminated against on the  
6 basis of sex, sub. (1) does not apply to a private school participating in a program  
7 under s. 115.7915, 118.60, or 119.23 that limits admission to pupils of only one sex.

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

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

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

17 118.13 **(2)** (a) Each school board and each governing body of a private school  
18 participating in a program under s. 115.7915, 118.60, or 119.23 shall develop written  
19 policies and procedures to implement this section ~~and submit them to the state~~  
20 ~~superintendent as a part of its 1986 annual report under s. 120.18.~~ The policies and  
21 procedures shall provide for receiving and investigating complaints ~~by residents of~~  
22 ~~the school district~~ regarding possible violations of this section, for making  
23 determinations as to whether this section has been violated and for ensuring  
24 compliance with this section.

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

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

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

6           118.13 (3) (b) 1. Periodically review ~~school district~~ programs, activities and  
7 services to determine whether the school boards and governing bodies of private  
8 schools participating in a program under s. 115.7915, 118.60, or 119.23 are complying  
9 with this section.

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

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

14           118.13 (4) Any public school or private school official, employee, or teacher who  
15 intentionally engages in conduct which discriminates against a person or causes a  
16 person to be denied rights, benefits, or privileges, in violation of sub. (1), may be  
17 required to forfeit not more than \$1,000.

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

19           118.20 (1) No discrimination because of sex, except where sex is a bona fide  
20 occupational qualification as defined in s. 111.36 (2), race, nationality, gender  
21 identity, gender expression, or political or religious affiliation may be practiced in the  
22 employment of teachers or administrative personnel in public schools or in their  
23 assignment or reassignment. No questions of any nature or form relative to sex,  
24 except where sex is a bona fide occupational qualification as defined in s. 111.36 (2),  
25 race, nationality, gender identity, gender expression, or political or religious

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1 affiliation may be asked applicants for teaching or administrative positions in the  
2 public schools either by public school officials or employees or by teachers agencies  
3 or placement bureaus.

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

5 118.40 (4) (b) 2. Except as provided in sub. (3) (h), discriminate in admission  
6 or deny participation in any program or activity on the basis of a person's sex, race,  
7 religion, national origin, ancestry, pregnancy, marital or parental status, sexual  
8 orientation, gender identity, gender expression, or physical, mental, emotional or  
9 learning disability.

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**(END)**