

SENATE BILL REPORT

SB 5123

As of February 20, 2025

Title: An act relating to expanding protections for certain students to promote inclusivity in public schools.

Brief Description: Expanding protections for certain students to promote inclusivity in public schools.

Sponsors: Senators Nobles, Wilson, C., Hasegawa, Lias, Lovelett, Saldaña, Slatter, Stanford and Valdez.

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/21/25, 2/05/25 [DPS-WM, DNP, w/oRec].

Ways & Means: 2/24/25.

Brief Summary of First Substitute Bill

- Adds protected classes to the nondiscrimination provisions that apply to Washington public schools: ethnicity, homelessness, immigration or citizenship status, and neurodivergence.
- Separates sexual orientation, gender expression, and gender identity into three separate protected classes.
- Provides definitions for these protected classes that apply to public schools.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: That Substitute Senate Bill No. 5123 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Wellman, Chair; Nobles, Vice Chair, K-12; Wilson, C., Vice Chair, Early Learning; Cortes, Hansen and Krishnadasan.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.

Minority Report: Do not pass.

Signed by Senators Dozier and McCune.

Minority Report: That it be referred without recommendation.

Signed by Senator Harris, Ranking Member.

Staff: Ailey Kato (786-7434)

SENATE COMMITTEE ON WAYS & MEANS

Staff: Trevor Press (786-7446)

Background: State law prohibits discrimination in Washington public schools on the basis of:

- sex;
- race;
- creed;
- religion;
- color;
- national origin;
- honorably discharged veteran or military status;
- sexual orientation including gender expression or identity;
- the presence of any sensory, mental, or physical disability; or
- the use of a trained dog guide or service animal by a person with a disability.

This prohibition is supplementary to, and does not supersede existing law and procedures, and future amendments thereto relating to unlawful discrimination.

The definitions in the Washington Law Against Discrimination apply to these nondiscrimination provisions, which include definitions for sex, sexual orientation, and disability.

The Superintendent of Public Instruction must develop regulations and guidelines to eliminate discrimination as it applies to public school employment; counseling and guidance services to students; recreational and athletic activities for students; access to course offerings; and in textbooks, instructional materials, and supplemental instructional materials and student access to those materials.

The superintendent must monitor and enforce and obtain compliance with these nondiscrimination provisions and adopted rules.

Any person aggrieved by a violation of these provisions, or aggrieved by the violation of any regulation or guideline, has a right of action in superior court for civil damages and such equitable relief as the court determines.

Summary of Bill (First Substitute): The following protected classes are added to the nondiscrimination provisions that apply to Washington public schools:

- ethnicity;
- homelessness;
- immigration or citizenship status; and
- neurodivergence.

The protected class of sexual orientation including gender expression or identity is separated into three classes.

Definitions are provided for these protected classes that apply to public schools:

- "ethnicity" means a connection to a population group that shares a common cultural heritage or ancestry;
- "gender expression" means the external appearance of one's gender identity, usually expressed through behavior, clothing, body characteristics, or voice, and which may or may not conform to socially defined behaviors and characteristics typically associated with being either masculine or feminine;
- "gender identity" means a person's internal sense of being male, female, both, neither, or in-between, independent of how it is expressed or perceived by others;
- "homelessness" means without a fixed, regular, and adequate nighttime residence, including circumstances such as sharing the housing of other persons due to loss of housing, economic hardship, fleeing domestic violence, or a similar reason as set forth in the federal McKinney-Vento Homeless Assistance Act;
- "immigration or citizenship status" means such status has been established to such individual under the immigration and nationality act;
- "neurodivergence" means neurological differences including, but not limited to, autism spectrum disorder, dyslexia, and attention deficit hyperactivity disorder. Neurodivergent individuals may or may not identify as disabled; and
- "sexual orientation" means an individual's enduring pattern of romantic, emotional, or sexual attraction to people of the same gender, a different gender, or multiple genders.

EFFECT OF CHANGES MADE BY EARLY LEARNING & K-12 EDUCATION COMMITTEE (First Substitute):

- Revises the protected class of "immigration status" to "immigration or citizenship status."
- Changes the definition for "immigration or citizenship status" to cross-reference an existing definition.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony on Original Bill (Early Learning & K-12 Education): *The committee recommended a different version of the bill than what was heard.* PRO: Laws need to evolve to reflect our growing understanding of identity and discrimination. Discrimination has serious consequences for students. Marginalized students experience higher rates of mental health challenges and lower academic performance when they face harassment and bias. The definitions in this bill better express students' identities. Lack of inclusivity creates barriers in the education system. This bill will make students feel valued, seen, and safe. Every human has the right to live free of oppression. Children should be able to be themselves among their peers at school without judgment or discrimination. Kids should not suffer because of adults' fears and misunderstanding. Ensuring that trans and gender diverse youth have safety at school is life-saving. More protections for some does not mean fewer protections for others.

CON: Girls have the right to privacy, dignity, and safety when they are in restrooms and locker rooms, and when they are playing sports. Protecting girls does not mean sacrificing the safety of boys who are transgender. Civil rights needs to concern both parties equally and must be honest about the reality of biology to avoid this clash of rights. This bill creates barriers and divisions in the community and puts perceptions and internal beliefs before reality. The definitions in the bill are not accurate and are contrary to federal regulation and law. This bill jeopardizes federal funding. This bill will lead to the mass exodus of families from public education, which impacts school funding. This bill puts strains on limited instructional time, and schools should focus on academics and not ideology. The state constitution requires education to be free from sectarian influence, which includes gender and religion.

Persons Testifying (Early Learning & K-12 Education): PRO: Senator T'wina Nobles, Prime Sponsor; Felicia Walker; Jaanvi Ganapathy, Legislative Youth Advisory Council (LYAC); Amy Cannava, Washington State Association of School Psychologists; Emily Carmichael; Carrie Suchy, NCSP, Washington State Association of School Psychologists.

CON: Jennifer Heine-Withee; Khushdip Brar, School board director; Tonya Hickman, Lynden School Board; Agata Bergstrom; Dawn Land, Reject 5599; Sarah Garriott.

Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education): PRO: Samantha Fogg, Seattle Council PTSA Co-President; Megan Roseman; Alexis Janson.