

---

The original instrument was prepared by Carla S. Roberts. The following digest, which does not constitute a part of the legislative instrument, was prepared by Cheryl Serrett.

---

SB 156 Engrossed

DIGEST  
2021 Regular Session

Mizell

Proposed law provides for the "Fairness in Women's Sports Act".

Proposed law requires that an athletic team or sporting event sponsored by a school will be designated, based upon the biological sex of team members, as one of the following:

- (1) A team for males, boys, or men, which means that it is only for students who are biological males.
- (2) A team for females, girls, or women, which means that it is only for students who are biological females.
- (3) A team that is coeducational or mixed, which means that is for both students who are biological males or biological females.

Proposed law prohibits a team designated for females, girls, or women from being open to students who are not biologically female.

Proposed law provides that, nothing in proposed law will be construed to restrict the eligibility of any student to participate in any intercollegiate, interscholastic, or intramural athletic teams or sports designated as "males", "men", or "boys" or designated as "coed" or "mixed".

Proposed law provides that nothing in proposed law is intended to prevent any school from implementing or maintaining a coed athletic team or sporting event which is open to both biological males and biological females so long as a female athletic team or sporting event is not disbanded for the purpose of creating a coed team or event which would thereby result to the detriment of biological female students.

Proposed law prohibits any governmental entity, licensing, or accrediting organization, or athletic association from entertaining a complaint, opening an investigation, or taking any other adverse action against a school, school board, or postsecondary education management board for maintaining separate teams for females and males as provided by proposed law.

Proposed law provides that no cause of action may be maintained against any coach, school, school board, school employee, school board member, postsecondary education management board, or postsecondary education board member that prohibits a biological male from participating in a female, girls', or women's athletic team or sporting event pursuant to the requirements of proposed law.

Proposed law provides that certain persons are entitled to legal causes of action and legal remedies under proposed law as follows:

- (1) A biological female student who is deprived of an athletic opportunity or suffers or is likely to suffer from any direct or indirect harm as a result of a violation of proposed law. Proposed law provides that requiring a biological woman to compete against a biological male on a team that is designated as a "female", "girls", or "women's" team is inherently discriminatory to biological women and is a cognizable harm under proposed law.
- (2) Any biological female student who is subjected to retaliation or other adverse action by a school, athletic association, or other organization as a result of reporting a violation of proposed law to an employee or representative of the school, athletic association, or to any local, state, or federal agency with oversight of schools.
- (3) Any school coach, school, school board, employee of a school or school board, school board member, or post secondary education board member that suffers any direct or indirect harm for prohibiting a biological male from participating in a female, girls', or women's athletic team or sporting event.

Proposed law provides that any person who is entitled to bring a cause of action pursuant to proposed law may obtain the following relief:

- (1) A court ordered injunction, a protective order, a writ of mandamus or prohibition, or a declaratory judgment to prevent any violation of proposed law.
- (2) Actual damages suffered, reasonable attorney fees, and costs.

Proposed law provides that any civil action pursuant to proposed law must be initiated within two years from the date that the harm occurred.

Proposed law provides for the following definitions:

- (1) "Postsecondary education board member" means a person who serves as a board member or officer of a postsecondary education management board.
- (2) "Postsecondary education management board" means a board that governs postsecondary educational institutions.
- (3) "School" means a public elementary or secondary school, a nonpublic elementary or secondary school that receives state funds, a public postsecondary educational institution, or a nonpublic postsecondary educational institution that receives state funds.
- (4) "School coach" means a person who is a coach or assistant coach, whether paid or on a volunteer basis, of a school intercollegiate, interscholastic, or intramural athletic team or sporting event.

- (5) "School board" means a school board or school governing authority subject to the provisions of present law or any nonpublic school governing authority.
- (6) "School employee" means a person who is employed by a school or by a school board.
- (7) "School board member" means a person who serves as a board member or officer for a school board or school governing authority subject to the provisions of present law or for any nonpublic school governing authority.

Proposed law provides that the legislature finds and declares all of the following:

- (1) Federal law, enacted in 1972, was designed to ensure that women are free from discrimination on the basis of sex in both education and athletics so that women would be afforded the opportunity to compete for athletic scholarships and to potentially launch their own athletic careers after they have completed their education.
- (2) The U.S. Supreme Court has recognized that there are inherent differences between men and women and that these differences remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity.
- (3) Inherent differences between men and women range from chromosomal and hormonal differences to physiological differences resulting in men generally having denser and stronger bones, tendons, and ligaments, larger hearts, greater lung volume per body mass, a higher red blood cell count, and higher hemoglobin as well as higher natural levels of testosterone, which affects traits such as hemoglobin levels, body fat content, the storage and use of carbohydrates, and the development of Type II muscle fibers, all of which result in men being able to generate higher speed and power during physical activity.
- (4) The biological differences between females and males, especially as it relates to natural levels of testosterone, explain the male and female secondary sex characteristics which develop during puberty and have lifelong effects, including those most important for success in sports; categorically, they are strength, speed, and endurance generally found in greater degrees in biological males than biological females.
- (5) While classifications based on sex are generally disfavored, the U.S. Supreme Court has recognized that sex classifications may be used to compensate women for particular economic disabilities suffered, to promote equal employment opportunity, and to advance full development of the talent and capacities of our nation's people.
- (6) One place where sex classifications allow for the full development of the talent and capacities of our nation's people is in the context of sports and athletics.
- (7) A recent study of female and male Olympic performances found that, although athletes from both sexes improved over the time span, the gender gap between female and male performances remained stable. These studies suggest that women's performances at the high

level will never match those of men. The evidence is unequivocal that starting in puberty, in every sport except sailing, shooting, and riding, there will always be significant numbers of boys and men who will prevail over the best girls and women in head-to-head competition. Claims to the contrary are simply a denial of science.

- (8) The benefits that natural testosterone provided to male athletes is not diminished through the use of testosterone suppression drugs and therapies. A recent study on the impact of such testosterone suppression found that even after 12 months of testosterone suppression, males still possess a considerable advantage over females in terms of muscle mass and strength parameters. The significantly increased muscle mass and strength parameters that males achieved at puberty continues long after testosterone suppression is undertaken.
- (9) Having separate sex-specific teams furthers efforts to promote sex equality. Sex-specific teams accomplish this by providing opportunities for female athletes to demonstrate their skill, strength, and athletic abilities while also providing them with opportunities to obtain recognition, accolades, scholarships, better physical and mental health, and the numerous other long-term benefits that flow from success in athletic endeavors.

Effective August 1, 2021.

(Adds R.S. 4:441-446)

#### Summary of Amendments Adopted by Senate

##### Committee Amendments Proposed by Senate Committee on Education to the original bill

1. Makes technical changes.