

RÉSUMÉ DIGEST

SB 156

2021 Regular Session

Mizell

Would enact the "Fairness in Women's Sports Act", require an athletic team or sporting event sponsored by an elementary, secondary, or postsecondary educational institution to be designated, based upon the biological sex of team members, as only one of the following:

- (1) A males', boys', or men's team or event only for students who are biological males.
- (2) A females', girls', or women's team or event only for students who are biological females.
- (3) A coeducational or mixed team or event for students who are biological males or biological females.

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

Would provide that nothing in proposed law would 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".

Would provide 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 in the detriment of biological female students.

Would prohibit 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.

Would provide 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.

Would provide 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. 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.

Would provide 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.

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

Would provide for legislative findings and definitions.

Would have become effective August 1, 2021.

(Proposed to add R.S. 4:441-446)

VETO MESSAGE: "Please be advised that I have vetoed Senate Bill 156 of the 2021 Regular Session.

I have vetoed this bill for three important reasons, any of which should be sufficient to prevent this bill from becoming the law of Louisiana. However, the first reason prevails over the others. This bill will not be signed into law because it is targeted, unfairly, at children. This legislation will make life more difficult for children who are going through unique challenges gaining acceptance into their schools, communities, and sometimes even their own families. It should be our role, as leaders in this state, to reach out to and lift up these children, rather than to ostracize them. Moreover, the effect of this bill is not so much about how it would affect athletic events, because it will not (as discussed below). Instead, the real harm of this bill is that it would set as the policy of the State of Louisiana that there is something wrong with these children and that they should be treated differently from whom they really are. All of us are sons and daughters of this great state, and we should do and be better than that.

Secondly, this bill is not a real solution nor is there a real problem. When presented to the legislative committees, there was universal agreement that this issue is not, nor has it ever been, experienced in Louisiana. Indeed, the author of the bill repeatedly admitted as much. Instead, this was a bill that came forth from other states that were attempting to pass, sometimes successfully, similar legislation. In committee testimony, it was made clear that the Louisiana High School Athletics Association (LHSAA) already has policies in place that prevent any unfair advantages in athletic competition.

Lastly, it is clear that if this bill were to become law, it would have a major effect on the economy of Louisiana. Many national conventions and conferences have made it clear that they may not select Louisiana as a destination if this bill were to be signed. Further, the National Collegiate Athletic Association (NCAA) has suggested that championship events which are scheduled to take place in Louisiana (first up, the 2022 Men's Final Four) could be at risk if this bill becomes law. As Louisiana emerges from the COVID-19 pandemic, which has had such a negative effect on the tourism industry, we must be mindful of the crushing blow this legislation could pose to our economy.

I have said many times, and believe in my heart, that discrimination is not a Louisiana value. That remains true and is the basis for my decision to veto this bill. However, I also believe that there are many people who may have supported this bill who are good and decent Louisianans trying to do their best to address a complicated issue. Nevertheless, this bill is not the right approach nor is it the right thing to do."