

Opponent, Written Only Testimony, HB 2238

Stephanie Byers

Greetings Chair Thomas (Congratulations) and members of the House Education Committee.

Recently you held a hearing on bullying that included the following definition:

Bullying Means:

- 1) Any Intentional gesture or any intentional written, verbal, electronic or physical act or threat by any student, staff member or parent towards a student or by any student, staff member, or parent towards a staff member that is sufficiently severe, persistent or pervasive that such gesture, act or threat creates an intimidating, threatening or abusive educational environment that a reasonable person, under the circumstances, knows or should know will have the effect of:
 - A) Harming a student or staff member, whether physically or mentally;

I won't write out the remaining, you have it in your bill notes. I would like to point out that stopbullying.gov has this as a definition of bullying:

“Bullying is unwanted, aggressive behavior among school aged children that involves a real or perceived power imbalance. The behavior is repeated or has the potential to be repeated, over time. Both kids who are bullied and who bully others may have serious, lasting problems... Kids who are bullied can experience negative physical, social, emotional, academic, and mental health issues...Kids who are bullied are more likely to experience depression and anxiety, increased feelings of sadness and loneliness, changes in sleep and eating patterns, and loss of interest in activities they used to enjoy. These issues may persist into adulthood.”

So what does this have to do with HB 2238? No one on this committee is a school aged child. While some of you have a background of being an educator, to my knowledge none of you are currently in that vocation. This is what bullying has to do with the so-called Fairness in Women's Sports Act.

This is the fourth attempt to pass this bill. The primary language of this bill was introduced in the 2020 session, and, thankfully, did not even receive a committee hearing. Similar language was introduced in a bill in 2021, a bill that was never heard in a house committee but rather inserted into a “Gut and Go” bill during conference committees, vetoed by the Governor and then the veto sustained by the Senate. Again, the bill, with some changed language was introduced in 2022 and again inserted into a “Gut and Go”, vetoed by the Governor and her vetoed sustained, this last time by the House. Do you see the repeated, aggressive behavior in this? Do you see the persistent behavior?

Studies show that just the introduction of legislation like this causes mental distress on trans youth, (trevorproject.org) with more than 2/3rds of trans youth saying that efforts by states to limit the rights of transgender and nonbinary people have negatively impacted their

mental health. It seems clear that this bill is sufficiently severe to cause such distress. Since this legislation keeps returning, not just to Kansas but multiple states, it is also pervasive.

Both the Kansas High School Activities Association and the NCAA have developed policies to govern the inclusion of trans athletes in athletics, and these policies have been in place and functioning for some time, even through revisions and adaptations by the NCAA, why is the Kansas Legislature trying to create more government rather than let the respective entities continue to govern themselves? While this bill purports to create “Fairness in Women’s Sports”, it does nothing more than create a solution to a nonexistent problem. Where in the bill is the provision that ensures that women’s athletics receive the same quality of practice facility? The same time allowances to practice? That the coaches of women’s sports are paid equitably? Things that would work to ensure women’s athletics were treated fairly? The focus on this bill is to target a small, marginalized group. For a trans girl athlete, would this not generate a loss of interest in an activity they enjoyed?

In conclusion – this is legislative overreach, it meets the definitions I’ve found for bullying and is a solution for a nonexistent problem. With Kansas never experiencing a reason to create this bill, the only conclusion that can be drawn is this bill is to erase trans youth, to bully them back into the closet. No other conclusion can be drawn. I also am confused as to why committee would consider a bill to help prevent bullying and then turn around and hear a bill that meets the very definition in the previous bill.

I leave you with this quote from researcher Joanna Harper:

“For those who suggest trans women have advantages: we allow advantages in sport, but what we don’t allow is overwhelming advantages. Trans women also have disadvantages in sport. Our larger bodies are being powered by reduced muscle mass and reduced aerobic capacity, and can lead to disadvantages in quickness, recovery and a number of other factors. The bottom line is, we can have meaningful competition between trans women and cis women. From my point of view, the data looks favorable toward trans women being allowed to compete in women’s sports’.

(Joanna Harper is one of the researchers, whose research you’ve undoubtedly heard in this hearing. You just weren’t told the entirety of her research. Just the cherry picked parts.)

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