

HOUSE BILL No. 2238

By Committee on Education

1-31

1 AN ACT concerning education; relating to student athletes; creating the
2 fairness in women's sports act; restricting participation on women's
3 teams to female students; providing a cause of action for violations of
4 the act.

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6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. The provisions of sections 1 through 6, and amendments
8 thereto, shall be known and may be cited as the fairness in women's sports
9 act.

10 Sec. 2. As used in sections 1 through 6, and amendments thereto:

11 (a) "Biological sex" means the biological indication of male and
12 female in the context of reproductive potential or capacity, such as sex
13 chromosomes, naturally occurring sex hormones, gonads and
14 nonambiguous internal and external genitalia present at birth, without
15 regard to an individual's psychological, chosen or subjective experience of
16 gender;

17 (b) "postsecondary educational institution" means the same as defined
18 in K.S.A. 74-3201b, and amendments thereto;

19 (c) "private postsecondary educational institution" means any private
20 postsecondary educational institution as defined in K.S.A. 74-32,163, and
21 amendments thereto, or any accredited independent institution as defined
22 in K.S.A. 72-3222, and amendments thereto;

23 (d) "public educational entity" means any public school or
24 postsecondary educational institution;

25 (e) "public school" means any elementary or secondary school
26 maintained and operated by a school district; and

27 (f) "school" means any nonpublic school offering any of the grades
28 kindergarten through 12.

29 Sec. 3. (a) Interscholastic, intercollegiate, intramural or club athletic
30 teams or sports that are sponsored by a public educational entity or any
31 school or private postsecondary educational institution whose students or
32 teams compete against a public educational entity shall be expressly
33 designated as one of the following based on biological sex:

34 (1) Males, men or boys;

35 (2) females, women or girls; or

36 (3) coed or mixed.

1 (b) Athletic teams or sports designated for females, women or girls
2 shall not be open to students of the male sex.

3 (c) (1) The Kansas state high school activities association shall adopt
4 rules and regulations for its member schools to implement the provisions
5 of this section.

6 (2) The state board of regents and the governing body for each
7 municipal university, community college and technical college shall adopt
8 rules and regulations for the postsecondary educational institutions
9 governed by each such entity, respectively, to implement the provisions of
10 this section.

11 Sec. 4. No governmental entity, licensing or accrediting organization
12 or athletic association or organization shall entertain a complaint, open an
13 investigation or take any other adverse action against a public educational
14 entity for maintaining separate interscholastic, intercollegiate, intramural
15 or club athletic teams or sports for students of the female sex.

16 Sec. 5. (a) Any student who is deprived of an athletic opportunity or
17 suffers any direct or indirect harm as a result of a violation of section 3,
18 and amendments thereto, shall have a private cause of action for injunctive
19 relief, damages and any other relief available under law against the public
20 educational entity in which the student is enrolled.

21 (b) Any student who is subject to retaliation or other adverse action
22 by a public educational entity or athletic association or organization as
23 a result of reporting a violation of section 3, and amendments thereto, to an
24 employee or representative of such public educational entity or athletic
25 association or organization, or to any state or federal agency with oversight
26 of public educational entities in this state, shall have a private cause of
27 action for injunctive relief, damages and any other relief available under
28 law against such public educational entity or athletic association or
29 organization.

30 (c) Any public educational entity that suffers any direct or indirect
31 harm as a result of a violation of section 3 or 4, and amendments thereto,
32 shall have a private cause of action for injunctive relief, damages and any
33 other relief available under law against the governmental entity, licensing
34 or accrediting organization or athletic association or organization.

35 (d) All civil actions must be initiated within two years after the harm
36 occurred. Persons or organizations who prevail on a claim brought
37 pursuant to this section shall be entitled to monetary damages, including
38 for any psychological, emotional and physical harm suffered, reasonable
39 attorney fees and costs and any other appropriate relief.

40 Sec. 6. The provisions of sections 1 through 5, and amendments
41 thereto, are hereby declared to be severable. If any provision of sections 1
42 through 5, and amendments thereto, or the application thereof to any
43 person or circumstance is held invalid, the invalidity shall not affect other

1 provisions or applications of sections 1 through 5, and amendments
2 thereto, that can be given effect without the invalid provision or
3 application.

4 Sec. 7. This act shall take effect and be in force from and after its
5 publication in the statute book.