

Fairness in Women's Sports Act; HB 2238

HB 2238 creates the Fairness in Women's Sports Act (Act) and requires interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by public educational entities or any school or private postsecondary educational institution whose students or teams compete against a public educational entity to be expressly designated based on biological sex.

[*Note:* This bill appeared in the first publication as a vetoed bill (vetoed by Governor on March 17). On April 5, motions to override the veto on HB 2238 prevailed in the House and Senate. The bill summary is reprinted to reflect passage of the bill.]

Definitions

The bill establishes definitions for six terms, including:

- "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads, and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological or chosen, or subjective experience of gender;
- "Public educational entity" means any public school or postsecondary educational institution;
 - The bill defines a "public school" as any elementary or secondary school maintained and operated by a school district; and
- "School" means any nonpublic school offering any of the grades kindergarten through 12.

Athletic Team Criteria

The bill requires all interscholastic, intercollegiate, intramural, and club athletic teams that are sponsored by public educational entities or any school or private postsecondary institutions whose students compete against teams from other public educational institutions to be expressly designated as one of the following, based on the biological sex of the team members:

- Males, men, or boys;
- Females, women, or girls; or
- Coed or mixed.

The bill further specifies that athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex.

[*Note:* The bill does not exclude students of the female sex from participating on athletic teams designated for males, men, or boys.]

Rules and Regulations

The bill requires the Kansas State High School Activities Association (KSHSAA), the Kansas Board of Regents, and the governing bodies for municipal universities, community colleges, and technical colleges to adopt rules and regulations for the implementation of the designations of their athletic teams.

Prohibition of Complaints

The bill prohibits governmental entities, licensing organizations, accrediting organizations, or athletic associations or organizations from taking the following actions against public educational entities that maintain separate teams for students of the female sex:

- Entertaining a complaint;
- Opening an investigation; or
- Taking other adverse actions.

Resolving Violations

In the event of a violation of the Act, the bill allows the following individuals and organizations to file civil suit and seek relief in the form of monetary damages, reasonable attorney fees, and other appropriate relief:

- Any student deprived of an athletic opportunity or who suffers direct or indirect harm by a violation of the Act;
- Any student subjected to retaliation or other adverse action by a public educational entity or athletic association or organization for reporting a violation of the Act; or
- Any public educational entity that suffers direct or indirect harm as a result of a violation of the Act.

The bill requires all civil actions to be initiated no later than two years after the harm occurred.

Severability

The bill declares all sections of the Act to be severable in the event one or more sections are determined to be invalid.