

FIRST REGULAR SESSION
HOUSE COMMITTEE SUBSTITUTE FOR
HOUSE BILL NO. 183
102ND GENERAL ASSEMBLY

0423H.03C

DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 163 and 173, RSMo, by adding thereto two new sections relating to participation in athletic competitions, with a penalty provision.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 163 and 173, RSMo, are amended by adding thereto two new sections, to be known as sections 163.048 and 173.088, to read as follows:

163.048. 1. As used in this section, the following terms mean:

(1) "Athletics", any interscholastic athletic games, contests, programs, activities, exhibitions, or other similar competitions organized and provided for students in grades six to twelve;

(2) "Sex", the two main categories of male and female into which individuals are divided based on an individual's reproductive biology at birth and the individual's genome.

2. (1) The general assembly hereby finds the following:

(a) A noticeable disparity continues between the athletics participation rates of students who are male and students who are female;

(b) Courts have recognized a legitimate and important governmental interest in redressing past discrimination against females in athletics on the basis of sex and promoting equality of athletic opportunity between the sexes under Title IX of the federal Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.), as amended; and

(c) Courts have recognized that classification by sex is the only feasible classification to promote the governmental interest of providing opportunities for athletics for females.

EXPLANATION — Matter enclosed in bold-faced brackets ~~thus~~ in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

19 **(2) The general assembly hereby declares that it is the public policy of this state**
20 **to further the governmental interest of ensuring that sufficient opportunities for**
21 **athletics remain available for females to remedy past discrimination on the basis of sex.**

22 **3. (1) Except as provided under subdivision (3) of this subsection, no school**
23 **district or charter school shall allow any student to compete in an athletics competition**
24 **that is designated for the biological sex opposite to the student's biological sex as**
25 **correctly stated on the student's official birth certificate as described in subsection 4 of**
26 **this section or, if the student's official birth certificate is unobtainable, another**
27 **government record.**

28 **(2) Notwithstanding any other provision of law to the contrary, no public school**
29 **shall be a member of any statewide athletic organization that fails to comply with the**
30 **provisions of this subsection and shall not compete in athletic events with a private or**
31 **parochial school that does not have a policy that is substantially similar to subdivision**
32 **(1) of this subsection.**

33 **(3) A school district or charter school may allow a female student to compete in**
34 **an athletics competition that is designated for male students if no corresponding**
35 **athletics competition designated for female students is offered or available.**

36 **4. For purposes of this section, a statement of a student's biological sex on the**
37 **student's official birth certificate or another government record shall be deemed to have**
38 **correctly stated the student's biological sex only if the statement was:**

39 **(1) Entered at or near the time of the student's birth; or**

40 **(2) Modified to correct any scrivener's error in the student's biological sex.**

41 **5. In each school year, the department of elementary and secondary education**
42 **shall withhold from a school district, charter school, or private school that violates**
43 **subdivision (1) or (2) of subsection 3 of this section a percentage of any monthly**
44 **distribution of state formula funding and any other revenues from the state that are**
45 **distributed to such school district or charter or private school. The department shall**
46 **withhold such distributions for the month in which the violation occurs and all months**
47 **remaining in the school year in which the violation occurs in the following percentages:**

48 **(1) For the first violation, twenty-five percent;**

49 **(2) For the second violation, fifty percent; and**

50 **(3) For the third and subsequent violations, one hundred percent.**

51 **6. The department of elementary and secondary education shall promulgate all**
52 **necessary rules and regulations for the implementation and administration of this**
53 **section. Such rules and regulations shall ensure compliance with state and federal law**
54 **regarding the confidentiality of student medical information. Any rule or portion of a**
55 **rule, as that term is defined in section 536.010, that is created under the authority**

56 delegated in this section shall become effective only if it complies with and is subject to
57 all of the provisions of chapter 536 and, if applicable, section 536.028. This section and
58 chapter 536 are nonseverable and if any of the powers vested with the general assembly
59 pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul
60 a rule are subsequently held unconstitutional, then the grant of rulemaking authority
61 and any rule proposed or adopted after August 28, 2023, shall be invalid and void.

173.088. 1. As used in this section, the following terms mean:

2 (1) "Athletics", any intercollegiate athletic games, contests, programs, activities,
3 exhibitions, or other similar competitions organized and provided for students;

4 (2) "Intercollegiate association", a national association with athletics governance
5 authority that is composed of postsecondary educational institutions and athletic
6 conferences, that sets eligibility requirements for participation in sports at the collegiate
7 level, and that provides the coordination, supervision, and regulation of the
8 intercollegiate competitions;

9 (3) "Postsecondary educational institution", any public or private institution of
10 higher education in this state that is subject to the coordinating board for higher
11 education under section 173.005;

12 (4) "Sex", the two main categories of male and female into which individuals are
13 divided based on an individual's reproductive biology at birth and the individual's
14 genome.

15 2. (1) Except as provided under subdivision (3) of this subsection, no
16 postsecondary educational institution shall allow any student to compete in an athletics
17 competition that is designated for the biological sex opposite to the student's biological
18 sex as correctly stated on the student's official birth certificate as described in
19 subsection 3 of this section or, if the student's official birth certificate is unobtainable,
20 another government record.

21 (2) No postsecondary educational institution shall allow a student to compete in
22 an athletics competition of any intercollegiate association that does not have or adopt a
23 policy that is substantially similar to subdivision (1) of this subsection.

24 (3) A postsecondary educational institution may allow a female student to
25 compete in an athletics competition that is designated for male students if no
26 corresponding athletics competition designated for female students is offered or
27 available.

28 3. For purposes of this section, a statement of a student's biological sex on the
29 student's official birth certificate or another government record shall be deemed to have
30 correctly stated the student's biological sex only if the statement was:

31 (1) Entered at or near the time of the student's birth; or

32 **(2) Modified to correct any scrivener's error in the student's biological sex.**

33 **4. (1) In each fiscal year, the coordinating board for higher education shall**
34 **order a public postsecondary educational institution's that violates subdivision (1) or (2)**
35 **of subsection 2 of this section to remit a fine in an amount of the postsecondary**
36 **institutions current fiscal year state operating appropriation in the following**
37 **percentages:**

38 **(a) For the first violation, twenty-five percent;**

39 **(b) For the second violation, fifty percent; and**

40 **(c) For the third and subsequent violations, one hundred percent.**

41 **(2) Any private postsecondary educational institution that violates subdivision**
42 **(1) of subsection 2 of this section shall be fined up to one million dollars per violation as**
43 **determined by the coordinating board of higher education.**

44 **5. The department of higher education and workforce development shall**
45 **promulgate all necessary rules and regulations for the implementation and**
46 **administration of this section. Such rules and regulations shall ensure compliance**
47 **with state and federal law regarding the confidentiality of student medical information.**
48 **Any rule or portion of a rule, as that term is defined in section 536.010, that is created**
49 **under the authority delegated in this section shall become effective only if it complies**
50 **with and is subject to all of the provisions of chapter 536 and, if applicable, section**
51 **536.028. This section and chapter 536 are nonseverable and if any of the powers vested**
52 **with the general assembly pursuant to chapter 536 to review, to delay the effective date,**
53 **or to disapprove and annul a rule are subsequently held unconstitutional, then the grant**
54 **of rulemaking authority and any rule proposed or adopted after August 28, 2023, shall**
55 **be invalid and void.**

✓