



SPONSOR: Sen. Richardson & Sen. Buckson & Rep. Dukes
Sens. Hocker, Lawson; Reps. Collins, Vanderwende

DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE BILL NO. 191

AN ACT TO AMEND TITLE 14 OF THE DELAWARE CODE RELATING TO THE FAIRNESS IN GIRLS' SPORTS ACT.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

1 Section 1. Amend Part V, Title 14 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 Chapter 84. Fairness in Girls' Sports Act.

4 § 8401. Short title.

5 This chapter may be cited as the "Fairness in Girls' Sports Act".

6 § 8402. Findings; purpose.

7 (a) The General Assembly finds as follows:

8 (1) Historically, males participate in interscholastic athletics at a higher rate than females, and a notable
9 disparity continues between the athletic participation rates of students who are female and students who are male in
10 sports tracked by the Delaware Interscholastic Athletic Association.

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

14 (3) Courts have recognized that classification by sex is the only feasible classification to promote the
15 governmental interest of providing for interscholastic athletic opportunities for females.

16 (b) The purpose of this chapter is to do all of the following:

17 (1) Provide opportunities for female athletes to demonstrate their skill, strength, and athletic abilities while
18 also providing them with opportunities to obtain recognition and accolades, college scholarships, and numerous other
19 long-term benefits that result from success in athletic endeavors.

20 (2) Promote sex equality by requiring the designation of sex-specific athletic teams or sports.

21 § 8403. Definitions.

22 (a) For purposes of this chapter:

23 (1) “Charter school” means a public school established under Chapter 5 of this title.

24 (2) “Department” means the Department of Education.

25 (3) “Member school” means as defined under § 302 of this title.

26 (4) “School district” means a clearly defined geographic subdivision of this State organized for the purpose of
27 administering public education in that area and includes a district specifically created to administer a system of
28 vocational or technical education.

29 § 8404. Designation of athletic teams or sports based on sex of athlete; prohibitions.

30 (a) A school district, charter school, or member school shall designate an athletic team or sport sponsored by the
31 school district, charter school, or member school as one of the following based on biological sex:

32 (1) Males, men, or boys.

33 (2) Females, women, or girls.

34 (3) Coed or mixed.

35 (b)(1) Except as provided under subsection (c) of this section, a school district, charter school, or member school
36 may not allow a student to compete for an athletic team or in a sport designated for the biological sex that is not the
37 student’s biological sex as correctly stated on one of the following:

38 a. The students’ official birth certificate.

39 b. If the student’s official birth certificate is unobtainable, another government record.

40 (2) For purposes of this subsection, a student’s biological sex is correctly stated only if the statement meets
41 one of the following:

42 a. It was entered at or near the time of the student’s birth.

43 b. It was modified to correct a scrivener or clerical error in the student’s biological sex.

44 (c) A school district, charter school, or member school may allow a female student to compete for an athletic team
45 or in a sport designated for male students if a corresponding athletic team or sport for female students is not offered or
46 available.

47 § 8405. Protections for compliance with this chapter.

48 A governmental entity, licensing or accrediting organization, or athletic association or organization may not accept
49 a complaint, open an investigation, or take any other adverse action against a school district, charter school, or member
50 school for complying with this chapter.

51 § 8406. Cause of action; civil remedies.

52 (a) A student who is deprived of an athletic opportunity or who suffers a direct or indirect harm as a result of a
53 violation of § 8404 of this title may bring a cause of action for injunctive relief, damages, and any other relief available
54 under law against the school district, charter school, or member school.

55 (b) A student who is subject to retaliation or other adverse action by the school district, charter school, member
56 school, or athletic association or organization as a result of reporting a violation of § 8404 of this title to an employee or
57 representative of the school district, charter school, member school, or athletic association or organization, or to any state or
58 federal agency with oversight of the school district, charter school, member school, or athletic association or organization in
59 this State may bring a cause of action for injunctive relief, damages, and any other relief available under law against the
60 school district, charter school, member school, or athletic association or organization.

61 (c) A school district, charter school, or member school that suffers a direct or indirect harm as a result of a
62 violation of § 8405 of this title may bring a cause of action for injunctive relief, damages, and any other relief available
63 under law against the government entity, licensing or accrediting organization, or athletic association or organization.

64 (d) A civil action brought under this section must be initiated within 2 years after the alleged harm occurred.

65 (e) A student, school district, charter school, or member school that prevails on a claim brought under this section
66 is entitled to all of the following:

67 (1) Monetary damages, including for any psychological, emotional, or physical harm suffered.

68 (2) Reasonable attorney fees and costs.

69 (3) Any other appropriate relief.

70 § 8407. Regulatory authority.

71 The Delaware Interscholastic Athletic Association shall adopt regulations necessary to implement and enforce this
72 chapter.

73 Section 2. This Act is effective immediately and is to be implemented beginning with the 2024 through 2025
74 school year.

SYNOPSIS

This Act generally requires a student athlete to compete for athletic teams or in sports associated with their biological sex, as determined at or near birth and based on the student's birth certificate or other government record if a birth certificate is unobtainable. An exception is permitted to allow female athletes to compete in male sports if a corresponding female sport is not available.

To facilitate this Act, a school district, charter school, or Delaware Interscholastic Athletic Association member school must designate an athletic team or sport sponsored by the school district, charter school, or Delaware Interscholastic Athletic Association member school based on the biological sex of students.

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