

JAN 25 2023

A BILL FOR AN ACT

RELATING TO SEX-SPECIFIC STUDENT ATHLETIC TEAMS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that it is both proper
2 and healthy for a society to maintain opportunities for female
3 athletes to demonstrate their skill, strength, and athletic
4 abilities while also providing them with opportunities to obtain
5 recognition and accolades, college scholarships, and the
6 numerous other long-term benefits that result from success in
7 athletic endeavors.

8 The legislature also finds that in recent years, the
9 question of transgender athletes competing against biologically
10 opposite genders has stirred controversies across the nation,
11 with male-to-female transgender athletes winning events ranging
12 from girls state high school championship titles, to a womens
13 NCAA 500-yard freestyle swimming event.

14 The legislature further finds there is a dire need to
15 promote sex equality by ensuring that female athletes have a
16 designated space to compete against other females. While it has
17 become part of a national conversation, the legislature finds



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1 that for this particular issue, the male and female designation
2 is to mean biological male and biological female, respectively.

3 The purpose of this Act is to require the designation of
4 separate sex-specific athletic teams or sports.

5 SECTION 2. Chapter 302A, Hawaii Revised Statutes, is
6 amended by adding three new sections to be appropriately
7 designated and to read as follows:

8 "§302A- Sex-specific athletic teams. (a) The
9 department shall designate separate sex-specific athletic teams
10 or sports within interscholastic, intercollegiate, intramural,
11 and club athletic teams or sports. These include sports teams
12 sponsored by a public, primary or secondary school, a public
13 postsecondary institution, or any school or institution whose
14 students or teams compete against a public school or public
15 postsecondary institution. These teams shall be expressly
16 designated as one of the following based on biological sex:

- 17 (1) Males, men, or boys;
- 18 (2) Females, women, or girls; or
- 19 (3) Coed or mixed.

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



1 (c) A dispute regarding a student's sex shall be resolved
2 by the student's school or institution by requesting that the
3 student provide a health examination and consent form or other
4 statement signed by the student's personal health care provider
5 that shall verify the student's biological sex. The health care
6 provider may verify the student's biological sex as part of a
7 routine sports physical examination by relying on only one or
8 more of the following:

9 (1) The student's reproductive anatomy;

10 (2) The student's genetic makeup; or

11 (3) The student's normal endogenously produced
12 testosterone levels.

13 (d) The board shall adopt rules regarding the receipt and
14 timely resolution of disputes by schools and institutions
15 consistent with this subsection.

16 **§302A- Protection for educational institutions.** A
17 governmental entity, any licensing or accrediting organization,
18 or any athletic association or organization shall not entertain
19 a complaint, open an investigation, or take any other adverse
20 action against any school or public postsecondary institution
21 for maintaining separate interscholastic, intercollegiate,



1 intramural, or club athletic teams or sports for students of the
2 female sex.

3 §302A- Cause of action, civil remedies. (a) Any
4 student who is deprived of an athletic opportunity or suffers
5 any direct or indirect harm as a result of a violation of this
6 section shall have a private cause of action for injunctive
7 relief, damages, and any other relief available under law
8 against the school or public postsecondary institution.

9 (b) Any student who is subject to retaliation or other
10 adverse action by a school, postsecondary institution, or
11 athletic association or organization as a result of reporting a
12 violation of this section to an employee or representative of
13 the school, institution, or athletic association or
14 organization, or to any state or federal agency with oversight
15 of schools or public postsecondary institutions in the State,
16 shall have a private cause of action for injunctive relief,
17 damages, and any other relief available under law against the
18 school, institution, or athletic association or organization.

19 (c) Any school or public postsecondary institution that
20 suffers any direct or indirect harm as a result of a violation
21 of this section shall have a private cause of action for



1 injunctive relief, damages, and any other relief available under
2 law against the governmental entity, licensing or accrediting
3 organization, or athletic association or organization.

4 (d) All civil actions brought under this section shall be
5 initiated within two years after the alleged harm occurred.
6 Persons or organizations who prevail on a claim brough under
7 this section shall be entitled to monetary damages, including
8 for any psychological, emotional, or physical harm suffered,
9 reasonable attorney fees and costs, and any other appropriate
10 relief."

11 SECTION 3. This Act does not affect rights and duties that
12 matured, penalties that were incurred, and proceedings that were
13 begun before its effective date.

14 SECTION 4. If any provision of this Act, or the
15 application thereof to any person or circumstance, is held
16 invalid, the invalidity does not affect other provisions or
17 applications of the Act that can be given effect without the
18 invalid provision or application, and to this end the provisions
19 of this Act are severable.

20 SECTION 5. New statutory material is underscored.



1 SECTION 6. This Act shall take effect upon its approval.

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INTRODUCED BY:

A handwritten signature in black ink, consisting of a large, stylized initial 'A' followed by a long horizontal stroke and a vertical stroke at the end.

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Report Title:

Sex-specific Athletic Teams; School Sports

Description:

Creates the requirement of school sports to designate sex-specific teams for the purpose of gender equality.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

