State of Arizona
Senate
Fifty-fifth Legislature
Second Regular Session
2022

CHAPTER 106

SENATE BILL 1165

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 15-120.02; RELATING TO ATHLETICS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Title 15, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 15-120.02, to read:

15-120.02. Interscholastic and intramural athletics; designation of teams; biological sex; cause of action; definition

A. Each interscholastic or intramural athletic team or sport that is sponsored by a public school or a private school whose students or teams compete against a public school shall be expressly designated as one of the following based on the biological sex of the students who participate on the team or in the sport:

1. "MALES", "MEN" or "BOYS".
2. "FEMALES", "WOMEN" or "GIRLS".
3. "COED" or "MIXED".

B. Athletic teams or sports designated for "FEMALES", "WOMEN" or "GIRLS" may not be open to students of the male sex.

C. This section does not restrict the eligibility of any student to participate in any interscholastic or intramural athletic team or sport designated as being for "MALES", "MEN" or "BOYS" or designated as "COED" or "MIXED".

D. A government entity, any licensing or accrediting organization or any athletic association or organization may not entertain a complaint, open an investigation or take any other adverse action against a school for maintaining separate interscholastic or intramural athletic teams or sports for students of the female sex.

E. Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a school knowingly violating this section has a private cause of action for injunctive relief, damages and any other relief available under law against the school.

F. Any student who is subject to retaliation or another adverse action by a school or an athletic association or organization as a result of reporting a violation of this section to an employee or representative of the school or the athletic association or organization, or to any state or federal agency with oversight of schools in this state, has a private cause of action for injunctive relief, damages and any other relief available under law against the school or the athletic association or organization.

G. Any school that suffers any direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages and any other relief available under law against the government entity, the licensing or accrediting organization or the athletic association or organization.

H. All civil actions must be initiated within two years after the alleged violation of this section occurred. A person or organization that
1. PREVAILS ON A CLAIM BROUGHT PURSUANT TO THIS SECTION IS ENTITLED TO 2. MONETARY DAMAGES, INCLUDING DAMAGES FOR ANY PSYCHOLOGICAL, EMOTIONAL OR 3. PHYSICAL HARM SUFFERED, REASONABLE ATTORNEY FEES AND COSTS AND ANY OTHER 4. APPROPRIATE RELIEF.

I. FOR THE PURPOSES OF THIS SECTION, "SCHOOL" MEANS EITHER:

1. A SCHOOL THAT PROVIDES INSTRUCTION IN ANY COMBINATION OF 2. KINDERGARTEN PROGRAMS OR GRADES ONE THROUGH TWELVE.

2. AN INSTITUTION OF HIGHER EDUCATION.

Sec. 2. Legislative findings and purpose

The legislature finds that:

1. "With respect to biological sex, one is either male or female."


4. "Secondary sex characteristics that develop during puberty...generate anatomical divergence beyond the reproductive system, leading to adult body types that are measurably different between sexes." Emma N. Hilton & Tommy R. Lundberg, Transgender Women in the Female Category of Sport: Perspectives on Testosterone Suppression and Performance Advantage, 51 SPORTS MED. 199 (2021), https://doi.org/10.1007/s40279-020-01389-3.

5. There are "'[i]nherent differences' between men and women," and that these differences "remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity." United States v. Virginia, 518 U.S. 515, 533 (1996).


See also, Mark J Catley & Grant R Tomkinson, Normative Health-related fitness values for children: analysis of 85347 test results on 9-17 year
old Australians since 1985. 47(2) BRIT. J. SPORTS MED. 98 (2013),

7. Physiological differences between males and females relevant to
sports performance "include a larger body size with more skeletal-muscle
mass, a lower percentage of body fat, and greater maximal delivery of
anaerobic and aerobic energy." Øyvind Sandbakk et al., Sex Differences in
World-Record Performance: The Influence of Sport Discipline and
Competition Duration, 13(1) INT'L J. SPORTS PHYSIOLOGY & PERFORMANCE 2 (2018),

8. Men also have higher natural levels of testosterone, which
affects traits such as hemoglobin levels, body fat content, the storage
and use of carbohydrates, and the development of Type 2 muscle fibers, all
of which result in men being able to generate higher speed and power
during physical activity. Doriane Lambelet Coleman, Sex in Sport, 80 LAW &
2 Words: Got Testosterone?, N.Y. TIMES (Aug. 21, 2008).

9. There is a sports performance gap between males and females,
such that "the physiological advantages conferred by biological sex
appear, on assessment of performance data, insurmountable." Hilton, supra
at 200.

10. While classifications based on sex are generally disfavored,
the Supreme Court has recognized that "sex classifications may be used to
compensate women for particular economic disabilities [they have] suffered. . . . to promote equal employment opportunity. . . . [and] to
advance full development of the talent and capacities of our Nation's
citations and quotation marks omitted).

11. One place where sex classifications allow for the "full
development of the talent and capacities of our Nation's people" is in the
context of sports and athletics.

12. Courts have recognized that the inherent, physiological
differences between males and females result in different athletic
capabilities. See, e.g., Kleczek v. Rhode Island Interscholastic League,
Inc., 612 A.2d 734, 738 (R.I. 1992) ("Because of innate physiological
differences, boys and girls are not similarly situated as they enter
athletic competition."); Petrie v. Ill. High Sch. Ass'n, 394 N.E.2d 855,
861 (Ill. App. Ct. 1979) (noting that "high school boys [generally possess
physiological advantages over] their girl counterparts" and that those
advantages give them an unfair lead over girls in some sports like "high
school track").

13. The benefits that natural testosterone provides to male
athletes is not diminished through the use of testosterone suppression. A
recent study on the impact of such treatments found that policies like
those of the International Olympic Committee requiring biological males to
undergo at least one year of testosterone suppression before competing in
women's sports do not create a level playing field. "[T]he reduction in testosterone levels required by [policies like those of the International Olympic Committee] is insufficient to remove or reduce the male advantage, in terms of muscle mass and strength, by any meaningful degree." The study concluded that "[t]he data presented here demonstrate that superior anthropometric, muscle mass and strength parameters achieved by males at puberty, and underpinning a considerable portion of the male performance advantage over females, are not removed by the current regimen of testosterone suppression" permitted by the International Olympic Committee and other sports organizations. Rather, the study found that male performance advantage over females "remains substantial" and "raises obvious concerns about fair and safe competition." Hilton, supra at 207, 209.

14. Having separate sex-specific teams furthers efforts to promote sex equality by providing opportunities for female athletes to demonstrate their skill, strength and athletic abilities while also providing them with opportunities to obtain recognition, accolades, college scholarships and the numerous other long-term benefits that flow from success in athletic endeavors.

Sec. 3. **Severability**

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Sec. 4. **Short title**

This act may be cited as the "Save Women's Sports Act".

APPROVED BY THE GOVERNOR MARCH 30, 2022.