

REFERENCE TITLE: **biological sex; interscholastic athletics**

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1637

Introduced by
Senator Rogers

AN ACT

AMENDING TITLE 15, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY
ADDING SECTION 15-120.01; RELATING TO INTERSCHOLASTIC ATHLETICS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 15, chapter 1, article 1, Arizona Revised
3 Statutes, is amended by adding section 15-120.01, to read:

4 15-120.01. Designation of athletic teams; educational
5 institutions; cause of action; definition

6 A. EACH INTERSCHOLASTIC, INTERCOLLEGIATE, INTRAMURAL OR CLUB
7 ATHLETIC TEAM OR SPORT THAT IS SPONSORED BY AN EDUCATIONAL INSTITUTION OF
8 THIS STATE AND EACH EDUCATIONAL INSTITUTION WHOSE STUDENTS OR TEAMS
9 COMPETE AGAINST AN EDUCATIONAL INSTITUTION SPONSORED BY THIS STATE MUST BE
10 EXPRESSLY DESIGNATED AS ONE OF THE FOLLOWING BASED ON BIOLOGICAL SEX:

- 11 1. MALES, MEN OR BOYS.
- 12 2. FEMALES, WOMEN OR GIRLS.
- 13 3. COED OR MIXED SEX.

14 B. EDUCATIONAL INSTITUTION ATHLETIC TEAMS OR SPORTS THAT ARE
15 DESIGNATED FOR FEMALES, WOMEN OR GIRLS MAY NOT BE OPEN TO STUDENTS OF THE
16 MALE SEX.

17 C. IF DISPUTED, A STUDENT MAY ESTABLISH THE STUDENT'S SEX BY
18 PRESENTING A SIGNED PHYSICIAN'S STATEMENT THAT INDICATES THE STUDENT'S SEX
19 BASED ONLY ON ALL OF THE FOLLOWING FACTORS:

- 20 1. THE STUDENT'S INTERNAL AND EXTERNAL REPRODUCTIVE ANATOMY.
- 21 2. THE STUDENT'S NORMAL ENDOGENOUSLY PRODUCED LEVELS OF
22 TESTOSTERONE.
- 23 3. AN ANALYSIS OF THE STUDENT'S GENETIC MAKEUP.

24 D. SUBSECTION C OF THIS SECTION DOES NOT APPLY IF A STUDENT WAS
25 BORN WITH A MEDICALLY VERIFIABLE GENETIC DISORDER OF SEX DEVELOPMENT,
26 INCLUDING:

- 27 1. A DISORDER IN WHICH THE AMBIGUITY OF THE EXTERNAL BIOLOGICAL SEX
28 CHARACTERISTICS CANNOT BE RESOLVED, SUCH AS BEING BORN WITH FORTY-SIX XX
29 CHROMOSOMES WITH VIRILIZATION, FORTY-SIX XY CHROMOSOMES WITH
30 UNDERVIRILIZATION OR BOTH OVARIAN AND TESTICULAR TISSUE.
- 31 2. A SEXUAL DEVELOPMENT DISORDER FOR WHICH A PHYSICIAN HAS
32 DETERMINED THROUGH GENETIC TESTING THAT THE STUDENT DOES NOT HAVE THE
33 NORMAL CHROMOSOME STRUCTURE FOR A MALE OR A FEMALE.

34 E. FOR STUDENTS BORN WITH A GENETIC DISORDER OF SEX DEVELOPMENT AS
35 DESCRIBED UNDER SUBSECTION D OF THIS SECTION, A STUDENT MAY ESTABLISH THE
36 STUDENT'S SEX BY PRESENTING A PHYSICIAN'S SIGNED STATEMENT INDICATING THE
37 BIOLOGICAL SEX OF THE STUDENT BASED SOLELY ON GENETIC TESTING, SUCH AS THE
38 PRESENCE OF XX OR XY CHROMOSOMES, IF THAT CAN BE DETERMINED. IF THE
39 BIOLOGICAL SEX OF THE STUDENT BASED SOLELY ON GENETIC TESTING CANNOT BE
40 DETERMINED AS PRESCRIBED IN THIS SUBSECTION, THE STUDENT MAY IDENTIFY THE
41 STUDENT'S SEX.

42 F. A GOVERNMENTAL ENTITY, A LICENSING OR ACCREDITING ORGANIZATION
43 OR AN ATHLETIC ASSOCIATION OR ORGANIZATION MAY NOT ENTERTAIN A COMPLAINT,
44 OPEN AN INVESTIGATION OR TAKE ANY OTHER ADVERSE ACTION AGAINST AN
45 EDUCATIONAL INSTITUTION FOR MAINTAINING SEPARATE INTERSCHOLASTIC,

1 INTERCOLLEGIATE, INTRAMURAL OR CLUB ATHLETIC TEAMS OR SPORTS FOR STUDENTS
2 OF THE FEMALE SEX.

3 G. ANY STUDENT WHO IS DEPRIVED OF AN ATHLETIC OPPORTUNITY OR
4 SUFFERS ANY DIRECT OR INDIRECT HARM AS A RESULT OF A VIOLATION OF THIS
5 SECTION HAS A PRIVATE CAUSE OF ACTION FOR INJUNCTIVE RELIEF, DAMAGES AND
6 ANY OTHER RELIEF AVAILABLE UNDER LAW AGAINST THE EDUCATIONAL INSTITUTION.

7 H. ANY STUDENT WHO IS SUBJECT TO RETALIATION OR ANOTHER ADVERSE
8 ACTION BY AN EDUCATIONAL INSTITUTION OR ATHLETIC ASSOCIATION OR
9 ORGANIZATION AS A RESULT OF REPORTING A VIOLATION OF THIS SECTION TO AN
10 EMPLOYEE OR REPRESENTATIVE OF THE EDUCATIONAL INSTITUTION OR ATHLETIC
11 ASSOCIATION OR ORGANIZATION OR TO ANY STATE OR FEDERAL AGENCY WITH
12 OVERSIGHT OF EDUCATIONAL INSTITUTIONS IN THIS STATE HAS A PRIVATE CAUSE OF
13 ACTION FOR INJUNCTIVE RELIEF, DAMAGES AND ANY OTHER RELIEF AVAILABLE UNDER
14 LAW AGAINST THE EDUCATIONAL INSTITUTION OR ATHLETIC ASSOCIATION OR
15 ORGANIZATION.

16 I. ANY EDUCATIONAL INSTITUTION THAT SUFFERS ANY DIRECT OR INDIRECT
17 HARM AS A RESULT OF A VIOLATION OF THIS SECTION HAS A PRIVATE CAUSE OF
18 ACTION FOR INJUNCTIVE RELIEF, DAMAGES AND ANY OTHER RELIEF AVAILABLE UNDER
19 LAW AGAINST THE GOVERNMENTAL ENTITY, LICENSING OR ACCREDITING ORGANIZATION
20 OR ATHLETIC ASSOCIATION OR ORGANIZATION.

21 J. A CIVIL ACTION UNDER THIS SECTION MUST BE INITIATED WITHIN TWO
22 YEARS AFTER THE HARM OCCURS. A PERSON THAT PREVAILS ON A CLAIM BROUGHT
23 UNDER THIS SECTION IS ENTITLED TO MONETARY DAMAGES, INCLUDING FOR ANY
24 PSYCHOLOGICAL, EMOTIONAL AND PHYSICAL HARM SUFFERED, ANY REASONABLE
25 ATTORNEY FEES AND COSTS AND ANY OTHER APPROPRIATE RELIEF.

26 K. FOR THE PURPOSES OF THIS SECTION, "EDUCATIONAL INSTITUTION"
27 MEANS ANY OF THE FOLLOWING:

28 1. A PUBLIC SCHOOL, WHETHER OR NOT THE PUBLIC SCHOOL IS A MEMBER OF
29 AN INTERSCHOLASTIC ATHLETIC ASSOCIATION OR ORGANIZATION.

30 2. A PRIVATE SCHOOL THAT IS A MEMBER OF AN INTERSCHOLASTIC ATHLETIC
31 ASSOCIATION OR ORGANIZATION.

32 3. A UNIVERSITY UNDER THE JURISDICTION OF THE ARIZONA BOARD OF
33 REGENTS, WHETHER OR NOT THE UNIVERSITY IS A MEMBER OF ANY ASSOCIATION
34 LISTED IN PARAGRAPH 5 OF THIS SUBSECTION.

35 4. A COMMUNITY COLLEGE AS DEFINED IN SECTION 15-1401, WHETHER OR
36 NOT THE COMMUNITY COLLEGE IS A MEMBER OF ANY ASSOCIATION LISTED IN
37 PARAGRAPH 5 OF THIS SUBSECTION.

38 5. ANY OTHER INSTITUTION OF HIGHER EDUCATION THAT IS A MEMBER OF
39 ANY OF THE FOLLOWING:

40 (a) A NATIONAL COLLEGIATE ATHLETIC ASSOCIATION.

41 (b) A NATIONAL ASSOCIATION OF INTERCOLLEGIATE ATHLETICS.

42 (c) A NATIONAL JUNIOR COLLEGE ATHLETIC ASSOCIATION.

1 Sec. 2. Short title

2 This act may be cited as the "Equitable Treatment of Women and Girls
3 in Sports Act".

4 Sec. 3. Emergency

5 This act is an emergency measure that is necessary to preserve the
6 public peace, health or safety and is operative immediately as provided by
7 law.