

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 972 Session of 2021

INTRODUCED BY GLEIM, WHITE, KEEFER, GAYDOS, BOROWICZ, RYAN, FEE, ROTHMAN, JONES, ROWE, HELM, KAUFFMAN, COX, OWLETT, HAMM, ZIMMERMAN, MILLARD, JOZWIAK, PENNYCUICK, METCALFE, HERSHEY, PICKETT, SONNEY, RAPP, SCHEMEL, DIAMOND, E. NELSON, B. MILLER, MALONEY, KLUNK, LEWIS DELROSSO, FRITZ, GILLEN, STAMBAUGH, HICKERNELL, IRVIN, WHEELAND, DAVANZO, GREINER, KNOWLES, SCHLEGEL CULVER, SMITH, MUSTELLO, STAATS, JAMES, WARNER, TWARDZIK AND ROAE, APRIL 5, 2021

AS REPORTED FROM COMMITTEE ON EDUCATION, HOUSE OF REPRESENTATIVES, AS AMENDED, MARCH 29, 2022

AN ACT

1 Providing for sport activities in public institutions of higher
2 education and public school entities to be expressly
3 designated male, female or coed; and creating causes of
4 action for harms suffered by designation.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Fairness in
9 Women's Sports Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 ~~"Biological sex." For the purpose of this act, biological~~ <--
15 ~~sex is based solely on an individual's reproductive organs,~~

1 ~~biology or genetics at birth.~~

2 "PUBLIC INSTITUTION OF HIGHER EDUCATION." ONE OF THE <--
3 FOLLOWING:

4 (1) A COMMUNITY COLLEGE OPERATING UNDER ARTICLE XIX-A OF
5 THE ACT OF MARCH 10, 1949 (P.L.30, NO.14), KNOWN AS THE
6 PUBLIC SCHOOL CODE OF 1949.

7 (2) A RURAL REGIONAL COLLEGE ESTABLISHED UNDER ARTICLE
8 XIX-G OF THE PUBLIC SCHOOL CODE OF 1949.

9 (3) AN UNIVERSITY WITHIN THE STATE SYSTEM OF HIGHER
10 EDUCATION UNDER ARTICLE XX-A OF THE PUBLIC SCHOOL CODE OF
11 1949.

12 (4) A STATE-RELATED INSTITUTION AS DEFINED IN SECTION
13 2001-C OF THE PUBLIC SCHOOL CODE OF 1949.

14 (5) THE THADDEUS STEVENS COLLEGE OF TECHNOLOGY.

15 (6) THE PENNSYLVANIA COLLEGE OF TECHNOLOGY.

16 "PUBLIC SCHOOL ENTITY." ONE OF THE FOLLOWING OPERATING UNDER
17 THE PUBLIC SCHOOL CODE OF 1949:

18 (1) A SCHOOL DISTRICT.

19 (2) AN INTERMEDIATE UNIT.

20 (3) AN AREA CAREER AND TECHNICAL SCHOOL.

21 (4) A CHARTER SCHOOL, REGIONAL CHARTER SCHOOL OR CYBER
22 CHARTER SCHOOL.

23 "SEX." THE BIOLOGICAL DISTINCTION BETWEEN MALE AND FEMALE
24 BASED ON REPRODUCTIVE BIOLOGY AND GENETIC MAKE-UP.

25 Section 3. Designation of athletic teams AND SPORTS. <--

26 (a) General rule.--Interscholastic, intercollegiate,
27 intramural or club athletic teams or sports that are sponsored
28 by a public ~~primary or high school~~ SCHOOL ENTITY, a public <--
29 institution of higher education or any school or institution
30 where students or teams compete against a public school ~~or~~ <--

1 ~~institution~~ ENTITY OR PUBLIC INSTITUTION of higher education <--
2 must be expressly designated as one of the following based on
3 ~~biological~~ sex: <--

- 4 (1) Male, men or boys.
- 5 (2) Female, women or girls.
- 6 (3) Coed or mixed.

7 (b) Prohibition.--Athletic teams or sports designated for
8 females, women or girls under subsection (a) (2) may not be open
9 to students of the male sex.

10 (C) LIMITATIONS ON RESTRICTION.--NOTHING IN THIS SECTION <--
11 SHALL BE CONSTRUED TO RESTRICT THE ELIGIBILITY OF A STUDENT TO
12 PARTICIPATE IN AN INTERSCHOLASTIC, INTERCOLLEGIATE, INTRAMURAL
13 OR CLUB ATHLETIC TEAM OR SPORT DESIGNED FOR THE STUDENT'S SEX OR
14 DESIGNATED CO-ED OR MIXED.

15 Section 4. Protection for educational institutions.

16 A government entity, licensing or accrediting organization or
17 an athletic association or organization may not entertain a
18 complaint, open an investigation or take any other adverse
19 action against a school or institution of higher education for
20 maintaining separate interscholastic, intercollegiate,
21 intramural or club athletic teams or sports for students of the
22 female sex.

23 Section 5. Cause of action.

24 (a) Deprivation of opportunity.--A student who is deprived
25 of an athletic opportunity or who suffers a direct or indirect
26 harm as a result of a known violation of section 3 ~~or 4~~ may <--
27 bring a cause of action for injunctive relief, damages,
28 psychological, emotional and physical harm suffered, attorney
29 fees and costs and any other relief available under law against
30 the school or institution of higher education.

1 (b) Retaliation.--A student who is subject to retaliation or
2 other adverse action by a school, institution of higher
3 education or athletic association or organization as a result of
4 reporting a violation of ~~sections 3 and 4~~ SECTION 3 to an <--
5 employee or representative of the school, institution or
6 athletic association or organization or to any Federal or State
7 agency with oversight of schools or institutions of higher
8 education in Pennsylvania may bring a cause of action for
9 injunctive relief, damages, attorney fees and costs and any
10 other relief available under law against the school, institution
11 or athletic association or organization.

12 (c) School's cause of action.--A school or institution of
13 higher education that suffers a direct or indirect harm as a
14 result of a violation of ~~sections 3 and 4~~ SECTION 4 may bring a <--
15 cause of action for injunctive relief, damages and any other
16 relief available under law against the government entity,
17 licensing or accrediting organization or athletic association or
18 organization.

19 (d) Limitation.--A person may not bring a civil action under
20 this section later than two years after the day on which the
21 harm underlying the cause of action occurs.

22 Section 6. Severability.

23 If a part of this act is found invalid, all valid parts that
24 are severable from the invalid part shall remain in effect. If a
25 part of this act is invalid in one or more of its applications,
26 the part remains in effect in all valid applications that are
27 severable from the invalid applications.

28 Section 7. Effective date.

29 This act shall take effect in 60 days.