SECOND REGULAR SESSION

HOUSE BILL NO. 2734

101ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE BASYE.

5664H.01I DANA RADEMAN MILLER, Chief Clerk

AN ACT

To amend chapters 163 and 173, RSMo, by adding thereto two new sections relating to participation in athletic competitions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapters 163 and 173, RSMo, are amended by adding thereto two new sections, to be known as sections 163.048 and 173.088, to read as follows:

163.048. 1. As used in this section, the following terms mean:

(1) "Athletics", any interscholastic athletic games, contests, programs, activities, exhibitions, or other similar competitions organized and provided for students;

(2) "Sex", the two main categories of male and female into which individuals are divided based on an individual's reproductive biology at birth and the individual's genome.

2. (1) The general assembly hereby finds the following:

(a) A noticeable disparity continues between the athletics participation rates of students who are male and students who are female;

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

(c) Courts have recognized that classification by sex is the only feasible classification to promote the governmental interest of providing opportunities for athletics for females.

EXPLANATION — Matter enclosed in bold-faced brackets **[**~~thus~~**]** in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

(2) The general assembly hereby declares that it is the public policy of this state to further the governmental interest of ensuring that sufficient opportunities for athletics remain available for females to remedy past discrimination on the basis of sex.

3. (1) Except as provided under subdivision (2) of this subsection, no school district or charter school shall allow any student to compete in an athletics competition that is designated for the biological sex opposite to the student's biological sex as correctly stated on the student's official birth certificate as described in subsection 4 of this section or, if the student's official birth certificate is unobtainable, another government record.

(2) A school district or charter school may allow a female student to compete in an athletics competition that is designated for male students if no corresponding athletics competition designated for female students is offered or available.

4. For purposes of this section, a statement of a student's biological sex on the student's official birth certificate or another government record shall be deemed to have correctly stated the student's biological sex only if the statement was:

(1) Entered at or near the time of the student's birth; or

(2) Modified to correct any scrivener's error in the student's biological sex.

5. No school district or charter school that violates subdivision (1) of subsection 3 of this section shall receive any state aid under this chapter or any other revenues from the state.

6. The department of elementary and secondary education shall promulgate all necessary rules and regulations for the implementation and administration of this section. Such rules and regulations shall ensure compliance with state and federal law regarding the confidentiality of student medical information. Any rule or portion of a rule, as that term is defined in section 536.010, that is created under the authority delegated in this section shall become effective only if it complies with and is subject to all of the provisions of chapter 536 and, if applicable, section 536.028. This section and chapter 536 are nonseverable, and if any of the powers vested with the general assembly pursuant to chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2022, shall be invalid and void.

173.088. 1. As used in this section, the following terms mean:

(1) "Athletics", any intercollegiate athletic games, contests, programs, activities, exhibitions, or other similar competitions organized and provided for students;

(2) "Sex", the two main categories of male and female into which individuals are divided based on an individual's reproductive biology at birth and the individual's genome.

2. (1) The general assembly hereby finds the following:

(a) A noticeable disparity continues between the athletics participation rates of students who are male and students who are female;

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

(c) Courts have recognized that classification by sex is the only feasible classification to promote the governmental interest of providing opportunities for athletics for females.

(2) The general assembly hereby declares that it is the public policy of this state to further the governmental interest of ensuring that sufficient opportunities for athletics remain available for females to remedy past discrimination on the basis of sex.

3. (1) Except as provided under subdivision (2) of this subsection, no institution of higher education that receives revenues from the state shall allow any student to compete in an athletics competition that is designated for the biological sex opposite to the student's biological sex as correctly stated on the student's official birth certificate as described in subsection 4 of this section or, if the student's official birth certificate is unobtainable, another government record.

(2) An institution of higher education may allow a female student to compete in an athletics competition that is designated for male students if no corresponding athletics competition designated for female students is offered or available.

4. For purposes of this section, a statement of a student's biological sex on the student's official birth certificate or another government record shall be deemed to have correctly stated the student's biological sex only if the statement was:

(1) Entered at or near the time of the student's birth; or

(2) Modified to correct any scrivener's error in the student's biological sex.

5. No institution of higher education that violates subdivision (1) of subsection 3 of this section shall receive any revenues from the state.

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