State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2339/1
ARG:kjf

2021 ASSEMBLY BILL 195

March 25, 2021 - Introduced by Representatives DITTRICH, BRANDTJEN, CABRAL-GUEVARA, ROZAR, TITTL, GUNDRUM, SORTWELL, TUSLER, PLUMER, SKOWRONSKI, JAMES, ALLEN, KUGLITSCH, MOSES, RAMTHUN and SANFELIPPO, cosponsored by Senators BERNIER, JACQUE and NASS. Referred to Committee on Colleges and Universities.

AUTHORS SUBJECT TO CHANGE

AN ACT ***to amend*** 36.12 (1) and 38.23 (1); and ***to create*** 36.25 (58) and 38.12 (15) of the statutes; **relating to:** designating University of Wisconsin and technical college sports and athletic teams based on the sex of the participants.

Analysis by the Legislative Reference Bureau

This bill requires each University of Wisconsin institution and technical college that operates or sponsors an intercollegiate, intramural, or club athletic team or sport to designate the athletic team or sport as falling into one of three categories based on the sex of the participating students. The three categories are 1) participants who are males or men; 2) participants who are females or women; and 3) coed or participants of both sexes. The bill defines "sex" as the sex assigned at birth by a physician. The bill also requires a UW institution or technical college to prohibit a male student from participating on an athletic team or in a sport designated for females or women. Finally, the bill requires the UW institution or technical college to notify students if the institution or technical college intends to change a designation for an athletic team or sport.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 36.12 (1) of the statutes is amended to read:

36.12 **(1)** ~~No~~ Except as provided in s. 36.25 (58), no student may be denied admission to, participation in or the benefits of, or be discriminated against in any service, program, course or facility of the system or its institutions because of the student's race, color, creed, religion, sex, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status or parental status.

SECTION 2. 36.25 (58) of the statutes is created to read:

36.25 **(58)** INTERCOLLEGIATE OR INTRAMURAL SPORTS; DESIGNATION AS SINGLE SEX OR COED. (a) In this subsection, "sex" means the sex assigned to an individual at birth by a physician.

(b) An institution that operates or sponsors an intercollegiate, intramural, or club athletic team or sport shall do all of the following:

1. Expressly designate the athletic team or sport as one of the following based on the sex of the participating students:

a. Males or men.

b. Females or women.

c. Coed or mixed–sex.

2. Prohibit students of the male sex from participating on an athletic team or in a sport that is designated for females or women under subd. 1.

3. If the institution intends to change the designation of an athletic team or sport under subd. 1., provide written notification of the change to students who are eligible under both the previous and current designation to participate in the sport or on the athletic team.

(c) 1. A student who is deprived of the opportunity to participate in a sport or on an athletic team or who suffers any direct or indirect harm as the result of a

violation of par. (b) may bring a cause of action against the institution for injunctive relief, damages, and any other relief available under law.

2. A student who is subject to retaliation or other adverse action by an institution or athletic association or organization, as a result of reporting a violation of par. (b) to an employee or representative of the institution or athletic association or organization or to any state or federal agency with oversight over the institution, may bring a cause of action against the institution or athletic association or organization for injunctive relief, damages, and any other relief available under law.

3. An institution that suffers any direct or indirect harm by a licensing or accrediting organization or an athletic association or organization as a result of compliance with par. (b) may bring a cause of action against the licensing or accrediting organization or the athletic association or organization for injunctive relief, damages, and any other relief available under law.

SECTION 3. 38.12 (15) of the statutes is created to read:

38.12 **(15)** INTERCOLLEGIATE OR INTRAMURAL SPORTS; DESIGNATION AS SINGLE SEX OR COED. (a) In this subsection, "sex" means the sex assigned to an individual at birth by a physician.

(b) A district board that operates or sponsors an intercollegiate, intramural, or club athletic team or sport shall do all of the following:

1. Expressly designate the athletic team or sport as one of the following based on the sex of the participating students:

a. Males or men.

b. Females or women.

c. Coed or mixed–sex.

2. Prohibit students of the male sex from participating on an athletic team or in a sport that is designated for females or women under subd. 1.

3. If the district board intends to change the designation of an athletic team or sport under subd. 1., provide written notification of the change to students who are eligible under both the previous and current designation to participate in the sport or on the athletic team.

(c) 1. A student who is deprived of the opportunity to participate in a sport or on an athletic team or who suffers any direct or indirect harm as the result of a violation of par. (b) may bring a cause of action against the district board for injunctive relief, damages, and any other relief available under law.

2. A student who is subject to retaliation or other adverse action by a district board or athletic association or organization, as a result of reporting a violation of par. (b) to an employee or representative of the district board or athletic association or organization or to any state or federal agency with oversight over the district board, may bring a cause of action against the district board or athletic association or organization for injunctive relief, damages, and any other relief available under law.

3. A district board that suffers any direct or indirect harm by a governmental entity, licensing or accrediting organization, or athletic association or organization as a result of compliance with par. (b) may bring a cause of action against the governmental entity, licensing or accrediting organization, or athletic association or organization for injunctive relief, damages, and any other relief available under law.

SECTION 4. 38.23 (1) of the statutes is amended to read:

38.23 **(1)** ~~No~~ Except as provided in s. 38.12 (15), no student may be denied admission to, participation in or the benefits of, or be discriminated against in any

service, program, course or facility of the board or any district because of the student's race, color, creed, religion, sex, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital status or parental status.

SECTION 5. Initial applicability.

(1) This act first applies in the first semester or session beginning after the effective date of this subsection.

(END)