

SENATE BILL NO. 68

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Education and Health
on February 8, 2024)

(Patron Prior to Substitute--Senator Peake)

A BILL to amend the Code of Virginia by adding a section numbered 22.1-23.4, relating to high schools;
athletics; participation in female sports; civil cause of action.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 22.1-23.4 as follows:

§ 22.1-23.4. Athletics; participation in female sports.

A. For purposes of this section, "high school" means any public school that includes only grades nine through 12 or any private school that includes only grades nine through 12 and competes in sponsored athletic events against any public high school.

B. Notwithstanding any other provision of law, all athletic teams or squads at a high school, whether a high school athletic team or squad or an intramural athletic team or squad sponsored by such high school, shall designate each such team or squad based on biological sex as follows:

1. For "males," "men," or "boys":

2. For "females," "women," or "girls"; or

3. As "coed" or "mixed" if participation on such team is open to both (i) males, men, or boys and (ii) females, women, or girls.

C. No student whose biological sex is male and who has not physically transitioned to female prior to puberty shall be permitted to participate on any high school or intramural athletic team or squad designated for "females," "women," or "girls."

D. Nothing in this section shall be construed to:

1. Apply to physical education classes at high schools; or

26 2. Restrict the eligibility of any student to participate on any high school or intramural athletic
27 team or squad designated for "males," "men," or "boys" or as "coed" or "mixed" pursuant to subsection
28 B.

29 E. No government entity, licensing or accrediting organization, or athletic association or
30 organization shall entertain a complaint, open an investigation, or take any other adverse action against a
31 high school for designating and maintaining separate athletic teams or squads for "females," "women," or
32 "girls" pursuant to subdivision B 2.

33 F. Any student who (i) is deprived of an athletic opportunity or suffers any direct or indirect harm
34 as a result of a high school knowingly violating any provision of this section or (ii) is subject to retaliation
35 or another adverse action by a high school or athletic association or organization as a result of reporting a
36 violation of any provision of this section to an employee or representative of a high school or athletic
37 association or organization, or to any state or federal agency with oversight of schools in the
38 Commonwealth, shall have a cause of action for injunctive relief, damages, and any other relief available
39 against the high school or athletic association or organization.

40 G. Any high school that suffers any direct or indirect harm as a result of a violation of this section
41 by a government entity, licensing or accrediting organization, or athletic association or organization shall
42 have a cause of action for injunctive relief, damages, and any other relief available against such entity,
43 organization, or association.

44 H. All civil actions described in subsections F and G are required to be initiated within two years
45 after the harm occurred. Any student or high school that prevails in a cause of action pursuant to subsection
46 F or G shall be entitled to monetary damages, including for any psychological, emotional, or physical
47 harm suffered, reasonable attorney fees, and any other appropriate relief.

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