

STATE OF KANSAS



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GOVERNOR LAURA KELLY

MESSAGE FROM THE GOVERNOR

REGARDING VETO OF HOUSE BILL 2238

As I've said before, we all want a fair and safe place for our kids to play and compete.

That's why I support the Kansas State High School Activities Association, which was set up to ensure nobody has an unfair advantage on the playing field. The Legislature should let the Association do its job.

Let's be clear about what this bill is all about – politics. It won't increase any test scores. It won't help any kids read or write. It won't help any teachers prepare our kids for the real world. Here's what this bill would actually do: harm the mental health of our students. That's exactly why Republican governors have joined me in vetoing similar bills.

This bill would also reverse the progress we've made in recruiting businesses and creating jobs. It would send a signal to prospective companies that Kansas is more focused on unnecessary and divisive legislation than becoming a place where young people want to work and raise a family.

Therefore, under Article 2, Section 14(a) of the Constitution, I hereby veto House Bill 2238.

THE GOVERNOR'S OFFICE

BY THE GOVERNOR

A handwritten signature in blue ink, appearing to read "Laura Kelly", written over a horizontal line.

DATED

A handwritten date in blue ink, "March 17, 2023", written over a horizontal line.

HOUSE BILL No. 2238

AN ACT concerning education; relating to student athletes; creating the fairness in women's sports act; restricting participation on women's teams to female students; providing a cause of action for violations of the act.

Be it enacted by the Legislature of the State of Kansas:

Section 1. The provisions of sections 1 through 6, and amendments thereto, shall be known and may be cited as the fairness in women's sports act.

Sec. 2. As used in sections 1 through 6, and amendments thereto:

(a) "Biological sex" means the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual's psychological, chosen or subjective experience of gender;

(b) "postsecondary educational institution" means the same as defined in K.S.A. 74-3201b, and amendments thereto;

(c) "private postsecondary educational institution" means any private postsecondary educational institution as defined in K.S.A. 74-32,163, and amendments thereto, or any accredited independent institution as defined in K.S.A. 72-3222, and amendments thereto;

(d) "public educational entity" means any public school or postsecondary educational institution;

(e) "public school" means any elementary or secondary school maintained and operated by a school district; and

(f) "school" means any nonpublic school offering any of the grades kindergarten through 12.

Sec. 3. (a) Interscholastic, intercollegiate, intramural or club athletic teams or sports that are sponsored by a public educational entity or any school or private postsecondary educational institution whose students or teams compete against a public educational entity shall be expressly designated as one of the following based on biological sex:

- (1) Males, men or boys;
- (2) females, women or girls; or
- (3) coed or mixed.

(b) Athletic teams or sports designated for females, women or girls shall not be open to students of the male sex.

(c) (1) The Kansas state high school activities association shall adopt rules and regulations for its member schools to implement the provisions of this section.

(2) The state board of regents and the governing body for each municipal university, community college and technical college shall adopt rules and regulations for the postsecondary educational institutions governed by each such entity, respectively, to implement the provisions of this section.

Sec. 4. No governmental entity, licensing or accrediting organization or athletic association or organization shall entertain a complaint, open an investigation or take any other adverse action against a public educational entity for maintaining separate interscholastic, intercollegiate, intramural or club athletic teams or sports for students of the female sex.

Sec. 5. (a) Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a violation of section 3, and amendments thereto, shall have a private cause of action for injunctive relief, damages and any other relief available under law against the public educational entity in which the student is enrolled.

(b) Any student who is subject to retaliation or other adverse action by a public educational entity or athletic association or organization as a result of reporting a violation of section 3, and

amendments thereto, to an employee or representative of such public educational entity or athletic association or organization, or to any state or federal agency with oversight of public educational entities in this state, shall have a private cause of action for injunctive relief, damages and any other relief available under law against such public educational entity or athletic association or organization.

(c) Any public educational entity that suffers any direct or indirect harm as a result of a violation of section 3 or 4, and amendments thereto, shall have a private cause of action for injunctive relief, damages and any other relief available under law against the governmental entity, licensing or accrediting organization or athletic association or organization.

(d) All civil actions must be initiated within two years after the harm occurred. Persons or organizations who prevail on a claim brought pursuant to this section shall be entitled to monetary damages, including for any psychological, emotional and physical harm suffered, reasonable attorney fees and costs and any other appropriate relief.

Sec. 6. The provisions of sections 1 through 5, and amendments thereto, are hereby declared to be severable. If any provision of sections 1 through 5, and amendments thereto, or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of sections 1 through 5, and amendments thereto, that can be given effect without the invalid provision or application.

Sec. 7. This act shall take effect and be in force from and after its publication in the statute book.

I hereby certify that the above BILL originated in the HOUSE, and passed that body

Speaker of the House.

Chief Clerk of the House.

Passed the SENATE _____

President of the Senate.

Secretary of the Senate.

APPROVED _____

Governor.