

**SECOND CONFERENCE COMMITTEE REPORT BRIEF  
SENATE BILL NO. 160**

As Agreed to March 31, 2022

**Brief\***

SB 160 would create the Fairness in Women's Sports Act (Act) and require interscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by public educational institutions to be designated based on biological sex.

***Athletic Team Criteria***

The bill would require all interscholastic, intercollegiate, intramural, and club athletic teams that are sponsored by public elementary, secondary, and postsecondary institutions that compete against teams from other public educational institutions to be expressly designated as one of the following, based on the biological sex of the team members:

- Males, men, or boys;
- Females, women, or girls; or
- Coed or mixed.

The bill would further clarify that athletic teams or sports designated for females, women, or girls shall not be open to students of the male sex.

[*Note:* The bill would not exclude students of the female sex from participating on athletic teams designated for males, men, or boys.]

***Rules and Regulations***

The bill would require the Kansas State High School Activities Association (KSHSAA), the Kansas Board of Regents, and the governing bodies for municipal universities, community colleges, and technical colleges to adopt rules and regulations for the implementation of the designations of their athletic teams.

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\*Conference committee report briefs are prepared by the Legislative Research Department and do not express legislative intent. No summary is prepared when the report is an agreement to disagree. Conference committee report briefs may be accessed on the Internet at <http://www.kslegislature.org/kIRD>

### ***Prohibition of Complaints***

The bill would prohibit governmental entities, licensing organizations, accrediting organizations, or athletic associations or organizations from taking the following actions against public educational institutions that maintain separate teams for students of the female sex:

- Entertaining a complaint;
- Opening an investigation; or
- Taking other adverse actions.

### ***Resolving Violations***

In the event of a violation of the Act, the bill would allow the following individuals and organizations to file civil suit and seek relief in the form of monetary damages, reasonable attorney fees, and other appropriate relief:

- Any student deprived of an athletic opportunity or who suffers direct or indirect harm by a violation of the Act;
- Any student subjected to retaliation or other adverse action by a public educational institution or athletic association for reporting a violation of the Act; or
- Any public education institution that suffers direct or indirect harm as a result of a violation of the Act.

The bill would require all civil actions to be initiated no later than two years after the harm occurred.

### ***Severability***

The bill would declare all sections of the Act to be severable in the event one or more sections are determined to be invalid.

### ***Conference Committee Action***

The second Conference Committee agreed to remove the contents of SB 160, as amended by the House Committee on Agriculture, and insert the contents of SB 484.

### ***Background***

The second Conference Committee agreed to remove the contents of SB 160 and insert the provisions of SB 484. SB 160, as amended by the House Committee on Agriculture, would have updated references in law to the guidelines of the American Fisheries Society. [*Note:* The contents of SB 160, as amended by the House Committee on Agriculture, were inserted into the

Conference Committee Report for SB 142, which was signed by the Governor during the 2021 Session.]

### **SB 484**

The bill was introduced by the Senate Committee on Education at the request of Senator Erickson. [Note: The bill contains provisions contained in 2021 SB 208, as amended by the Senate Committee on Education, and 2021 SB 55, which was vetoed by the Governor.]

#### *Senate Committee on Education*

In the Senate Committee hearing, **proponent** testimony was provided by Senator Erickson, Senator Steffen, and Representative Ehardt of Idaho. Proponent testimony also was provided by representatives of the Alliance Defending Freedom, Chart Consulting, and Kansas Family Voice and by private citizens. The proponents generally indicated the bill is necessary to ensure biological females can fairly participate in athletics due to the distinct physiological advantages held by biological males over biological females. Written-only proponent testimony was provided by a representative of the City of Shawnee and by private citizens.

**Opponent** testimony was provided by Representatives Byers, Meyer, Ruiz, and Woodard. Opponent testimony was also provided by representatives of the ACLU-Kansas, Equality Kansas, Kansas Appleseed Center for Law and Justice, Kansas Interfaith Action, Mid-America LGBT Chamber of Commerce, and by private citizens. Opponents generally indicated the bill would harm transgender children by excluding them from participating in athletic activities under the gender they identify as. They also noted there are no examples of transgender athletes excelling in athletic competition due to the physiological advantages related to sex. Written-only opponent testimony was provided by representatives of the Center of Daring, Flint Hills Human Rights Project, Kansas Action for Children, Kansas Association of School Boards, Kansas Chapter of American Academy of Pediatrics, Kansas National Education Association, Kansas Suicide Prevention HG, Mainstream Coalition, National Center for Transgender Equality, Sisters of Charity of Leavenworth, and State Board of Education and by private citizens.

Neutral testimony was provided by a representative of the Kansas Independent College Association. The conferee stated the association's primary concern with the bill was the creation of a new cause of action against private colleges. Written-only neutral testimony was provided by a representative of the Kansas Board of Regents.

#### *Fiscal Information*

According to the fiscal note prepared by the Division of Budget, the Kansas State Department of Education states the enactment of the bill would have no fiscal effect on the agency or school districts.

Fairness in Women's Sports Act; sports; athletics; education; elementary schools; secondary schools; postsecondary educational institutions; transgender; sex

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