



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2520/1
FFK:kjf

2021 SENATE BILL 322

April 22, 2021 - Introduced by Senators BERNIER, JACQUE and NASS, cosponsored by Representatives DITTRICH, BRANDTJEN, CABRAL-GUEVARA, ROZAR, TITTL, GUNDRUM, SORTWELL, TUSLER, PLUMER, SKOWRONSKI, JAMES, ALLEN, KUGLITSCH, MOSES, RAMTHUN and SANFELIPPO. Referred to Committee on Human Services, Children and Families.

1 **AN ACT** *to amend* 118.13 (1); and *to create* 118.132 of the statutes; **relating to:**
2 designating athletic sports and teams operated or sponsored by public schools
3 or private schools participating in a parental choice program based on the sex
4 of the participants.

Analysis by the Legislative Reference Bureau

This bill requires each school board, independent charter school, and private school participating in a parental choice program (educational institution) that operates or sponsors an interscholastic, 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 pupils. The three categories are 1) participants who are males, men, or boys; 2) participants who are females, women, or girls; and 3) coed or participants of both sexes. The bill defines "sex" as the sex determined at birth by a physician and reflected on the birth certificate. The bill also requires an educational institution to prohibit a male pupil from participating on an athletic team or in an athletic sport designated for females, women, or girls. Finally, the bill requires the educational institution to notify pupils and parents if an educational institution 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:

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1 **SECTION 1.** 118.13 (1) of the statutes is amended to read:

2 118.13 (1) Except as provided in s. ss. 118.132 (2) (b) and 120.13 (37m), no
3 person may be denied admission to any public school or be denied participation in,
4 be denied the benefits of or be discriminated against in any curricular,
5 extracurricular, pupil services, recreational or other program or activity because of
6 the person's sex, race, religion, national origin, ancestry, creed, pregnancy, marital
7 or parental status, sexual orientation or physical, mental, emotional or learning
8 disability.

9 **SECTION 2.** 118.132 of the statutes is created to read:

10 **118.132 Interscholastic or intramural sports; designation as single sex**
11 **or coed. (1)** In this section:

12 (a) "Educational institution" means a school board, operator of a charter school
13 authorized under s. 118.40 (2r) or (2x), and governing body of a private school
14 participating in a program under s. 118.60 or 119.23.

15 (b) "Sex" means the sex determined at birth by a physician and reflected on the
16 birth certificate.

17 **(2)** An educational institution that operates or sponsors an interscholastic,
18 intramural, or club athletic team or sport shall do all of the following:

19 (a) Expressly designate the athletic team or sport as one of the following based
20 on the sex of the participating pupils:

- 21 1. Males, men, or boys,
- 22 2. Females, women, or girls.
- 23 3. Coed or mixed-sex.

24 (b) Prohibit pupils of the male sex from participating on an athletic team or in
25 an athletic sport that is designated for females, women, or girls under par. (a).

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1 (c) If the educational institution intends to change the designation of an
2 athletic team or sport under par. (a), provide written notification of the change to
3 pupils who are eligible under both the previous and current designation to
4 participate in the athletic sport or on the athletic team and to the parents or
5 guardians of those pupils.

6 **(3)** (a) A pupil who is deprived of the opportunity to participate in an athletic
7 sport or on an athletic team or who suffers any direct or indirect harm as the result
8 of a violation of sub. (2) may bring a cause of action against an educational institution
9 for injunctive relief, damages, and any other relief available under law.

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

17 (c) An educational institution that suffers any direct or indirect harm by a
18 governmental entity, licensing or accrediting organization, or athletic association or
19 organization as a result of compliance with sub. (2) may bring a cause of action
20 against the governmental entity, licensing or accrediting organization, or athletic
21 association or organization for injunctive relief, damages, and any other relief
22 available under law.

23 (END)