



2023 SENATE BILL 378

August 9, 2023 - Introduced by Senators KNODL, QUINN, MARKLEIN, HUTTON and TOMCZYK, cosponsored by Representatives DITTRICH, RETTINGER, CALLAHAN, MAGNAFICI, BINSFELD, O'CONNOR, GUNDRUM, GUSTAFSON, MAXEY, BODDEN, PENTERMAN, ARMSTRONG, BRANDTJEN, TUSLER, S. JOHNSON, SAPIK, MACCO, ROZAR, GREEN, SCHMIDT, ALLEN, BEHNKE, DUCHOW, HURD, TITTL, NEDWESKI, SCHRAA, WICHGERS, EDMING, SORTWELL and DONOVAN. Referred to Committee on Mental Health, Substance Abuse Prevention, 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 designations are 1) males, 2) females, and 3) males and females. 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. 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:

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

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

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

9 **118.132 Interscholastic or intramural sports; designation as single sex**
10 **or coed. (1)** In this section:

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

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

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

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

20 1. Males. This designation may be referred to as "males," "men," or "boys."

21 2. Females. This designation may be referred to as "females," "women," or
22 "girls."

23 3. Males and Females. This designation may be referred to as "mixed-sex,"
24 "coed," or "inclusive."

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1 (b) Prohibit pupils of the male sex from participating on an athletic team or in
2 an athletic sport that is designated for females under par. (a).

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

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

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

20 (c) An educational institution that suffers any direct or indirect harm by a
21 governmental entity, licensing or accrediting organization, or athletic association or
22 organization as a result of compliance with sub. (2) (b) may bring a cause of action
23 against the governmental entity, licensing or accrediting organization, or athletic

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SECTION 2

1 association or organization for injunctive relief, damages, and any other relief
2 available under law.

3 (END)