

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 574
PROPOSED COMMITTEE SUBSTITUTE H574-PCS30298-BE-17

Short Title: Fairness in Women's Sports Act.

(Public)

Sponsors:

Referred to:

April 6, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT OPPORTUNITIES FOR WOMEN AND GIRLS IN ATHLETICS.
3 The General Assembly of North Carolina enacts:

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5 **PART I. ATHLETIC ELIGIBILITY IN MIDDLE AND HIGH SCHOOL**

6 **SECTION 1.(a)** G.S. 115C-12(23) is amended by adding the following new
7 sub-subdivisions to read:

8 "e. All teams participating in interscholastic or intramural athletic
9 activities shall comply with the following:

10 1. Each team shall be expressly designated by the biological sex
11 of the team participants as one of the following:

12 I. Males, men, or boys.

13 II. Females, women, or girls.

14 III. Coed or mixed.

15 2. Athletic teams designated for females, women, or girls shall
16 not be open to students of the male sex.

17 3. Athletic teams designated for males, men, or boys shall not be
18 open to students of the female sex unless both of the following
19 apply:

20 I. There is no comparable female team for a particular
21 sport.

22 II. The sport is not wrestling.

23 4. For purposes of this sub-subdivision, a student's sex shall be
24 recognized based solely on the student's reproductive biology
25 and genetics at birth.

26 f. A student who is deprived of an athletic opportunity or suffers or is
27 likely to suffer from any direct or indirect harm as a result of a
28 violation of sub-subdivision e. of this subdivision may assert that
29 violation as a cause of action for remedies provided for in
30 sub-subdivision i. of this subdivision.

31 g. A student who is subjected to retaliation or other adverse action by a
32 public school unit, administering organization as defined in
33 G.S. 115C-407.50, or other organization as a result of reporting a
34 violation of sub-subdivision e. of this subdivision to an employee or
35 representative of the public school unit, administering organization, or
36 to any local, State, or federal agency with oversight of the public



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1 school unit shall have a cause of action for remedies provided for in
2 sub-subdivision i. of this subdivision.

3 h. Any public school unit or its representatives or employees who suffer
4 any direct or indirect harm for complying with sub-subdivision e. of
5 this subdivision shall have a cause of action for remedies provided for
6 in sub-subdivision i. of this subdivision.

7 i. Any person who brings a cause of action pursuant to sub-subdivisions
8 f. through h. of this subdivision, within two years of the date the harm
9 occurred, may obtain appropriate relief, including the following:

10 1. Injunctive relief, protective order, writ of mandamus or
11 prohibition, or declaratory relief to prevent any violation of
12 sub-subdivision e. of this subdivision.

13 2. Actual damages, including for psychological, emotional, or
14 physical harm, reasonable attorney fees, and costs.

15 j. The State Board of Education shall monitor middle and high schools
16 for compliance with sub-subdivision e. of this subdivision. If the
17 Board finds a school in violation, it shall report the identity of the
18 school to the Joint Legislative Education Oversight Committee."

19 **SECTION 1.(b)** G.S. 115C-218.75 is amended by adding a new subsection to read:

20 "(k) Athletic Teams. – A charter school organizing athletic teams for middle or high school
21 students to participate in interscholastic or intramural athletic activities shall do so in accordance
22 with G.S. 115C-12(23)."

23 **SECTION 1.(c)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

24 "(19) Athletic teams. – A regional school organizing athletic teams for middle or
25 high school students to participate in interscholastic or intramural athletic
26 activities shall do so in accordance with G.S. 115C-12(23)."

27 **SECTION 1.(d)** G.S. 116-239.8(b) is amended by adding a new subdivision to read:

28 "(22) Athletic teams. – A laboratory school organizing athletic teams for middle or
29 high school students to participate in interscholastic or intramural athletic
30 activities shall do so in accordance with G.S. 115C-12(23)."

31 **SECTION 1.(e)** Article 39 of Chapter 115C of the General Statutes is amended by
32 adding a new section to read:

33 **"§ 115C-548.1. Athletic teams.**

34 (a) Any private church school or school of religious charter that is a member of an
35 organization that administers interscholastic athletic activities pursuant to Article 29E of this
36 Chapter shall comply with G.S. 115C-12(23).

37 (b) Any athletic team organized by a private church school or school of religious charter
38 at the middle or high school level that is not covered by subsection (a) of this section shall comply
39 with G.S. 115C-12(23) if the team is playing a team from any school required to follow
40 G.S. 115C-12(23)."

41 **SECTION 1.(f)** Article 39 of Chapter 115C of the General Statutes is amended by
42 adding a new section to read:

43 **"§ 115C-556.1. Athletic teams.**

44 (a) Any qualified nonpublic school that is a member of an organization that administers
45 interscholastic athletic activities pursuant to Article 29E of this Chapter shall comply with
46 G.S. 115C-12(23).

47 (b) Any athletic team organized by a qualified nonpublic school at the middle or high
48 school level that is not covered by subsection (a) of this section shall comply with
49 G.S. 115C-12(23) if the team is playing a team from any school required to follow
50 G.S. 115C-12(23)."

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PART II. ATHLETIC ELIGIBILITY IN HIGHER EDUCATION

SECTION 2.(a) G.S. 115D-5 is amended by adding a new subsection to read:

"(z) The State Board of Community Colleges shall monitor community colleges for compliance with Article 38 of Chapter 116 of the General Statutes. If the State Board determines that a community college is in violation of Article 38, it shall report the identity of the community college to the Joint Legislative Education Oversight Committee."

SECTION 2.(b) Chapter 116 of the General Statutes is amended by adding a new Article to read:

"Article 38.

"Biological Sex-Specific Athletic Teams.

"§ 116-400. Definitions.

The following definitions apply in this Article:

- (1) Institution of higher education. – A constituent institution of The University of North Carolina, a community college under the jurisdiction of the State Board of Community Colleges, or a private college or university located in North Carolina.
- (2) Intercollegiate athletic program. – A sport program played at the collegiate level for which eligibility requirements for participation by a student are established by a national association for the promotion or regulation of intercollegiate athletics, including the National Collegiate Athletic Association (NCAA), the National Association of Intercollegiate Athletics (NAIA), and the National Junior College Athletic Association (NJCAA).
- (3) Intramural athletics. – Recreational sports organized by a constituent institution of The University of North Carolina or a community college under the jurisdiction of the State Board of Community Colleges.

"§ 116-401. Designation of athletic teams.

(a) All intramural athletic teams and teams that are part of an intercollegiate athletic program of an institution of higher education shall comply with the following:

- (1) Each team shall be expressly designated by the biological sex of the team participants as one of the following:
 - a. Males, men, or boys.
 - b. Females, women, or girls.
 - c. Coed or mixed.
- (2) Athletic teams designated for females, women, or girls shall not be open to students of the male sex.
- (3) Athletic teams designated for males, men, or boys shall not be open to students of the female sex unless both of the following apply:
 - a. There is no comparable female team for a particular sport.
 - b. The sport is not boxing or wrestling.

(b) For the purposes of this section, sex shall be recognized based solely on a person's reproductive biology and genetics at birth.

"§ 116-402. Cause of action; remedies.

(a) A student who is deprived of an athletic opportunity or suffers or is likely to suffer from any direct or indirect harm as a result of a violation of this Article may assert that violation as a cause of action for remedies provided for in subsection (d) of this section.

(b) A student who is subjected to retaliation or other adverse action by an institution of higher education, athletic association, or other organization as a result of reporting a violation of this Article to an employee or representative of the institution of higher education, athletic association, or to any local, State, or federal agency with oversight of the institution shall have a cause of action for remedies provided for in subsection (d) of this section.

1 (c) Any institution of higher education or its representatives or employees who suffer any
2 direct or indirect harm for complying with the requirements of this Article shall have a cause of
3 action for remedies provided for in subsection (d) of this section.

4 (d) Any person who brings a cause of action pursuant to this Article may obtain
5 appropriate relief, including the following:

6 (1) Injunctive relief, protective order, writ of mandamus or prohibition, or
7 declaratory relief to prevent any violation of this Article.

8 (2) Actual damages, including for psychological, emotional, or physical harm,
9 reasonable attorney fees, and costs.

10 (e) All civil actions under this Article must be initiated within two years from the date
11 that the harm occurred.

12 **"§ 116-403. Monitoring compliance with this Article.**

13 The Board of Governors shall monitor constituent institutions for compliance with this
14 Article. If the Board of Governors determines that a constituent institution is in violation of this
15 Article, it shall report the identity of the constituent institution to the Joint Legislative Education
16 Oversight Committee."

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18 **PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

19 **SECTION 3.(a)** If any provision of this act or its application is held invalid, the
20 invalidity does not affect other provisions or applications of this act that can be given effect
21 without the invalid provisions or application and, to this end, the provisions of this act are
22 severable.

23 **SECTION 3.(b)** This act is effective when it becomes law and applies beginning
24 with the 2023-2024 school year.