

**First Regular Session  
Seventy-fourth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 23-0589.01 Michael Dohr x4347

**HOUSE BILL 23-1098**

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**HOUSE SPONSORSHIP**

**Frizell and Bradley**, Armagost, Hartsook, Weinberg, Winter T.

**SENATE SPONSORSHIP**

**Pelton B.**,

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**House Committees**

State, Civic, Military, & Veterans Affairs

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING PROTECTING FEMALE STUDENTS' RIGHTS IN ATHLETICS.**

**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)*

The bill requires any intercollegiate, interscholastic, intramural, or club athletic team, sport, or athletic event to be designated as one of the following, based on the biological sex at birth of the participating students: Male, female, or coeducational. Male and female athletes may only participate on teams designated to their respective sexes. The bill prohibits a governmental entity from investigating a complaint or taking any adverse action against a public school, school district, activities association or organization, institution of higher education, or any

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
Capital letters or bold & italic numbers indicate new material to be added to existing law.  
Dashes through the words or numbers indicate deletions from existing law.

employee or governing board member for complying with the bill.

The bill creates a cause of action for a student, school, or institution that suffers harm as a result of noncompliance with the bill. There is also a cause of action for a student who suffers retaliation for reporting violations of the bill. The statutes of limitations for the causes of action are 2 years and a prevailing party is entitled to reasonable attorney fees. The attorney general is required to provide legal representation to a school, school district, association, or institution of higher education that is sued for complying with the bill.

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1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **add** 22-32-116.6 as  
3 follows:

4 **22-32-116.6. Extracurricular and interscholastic athletic**  
5 **activities fairness - definition.** (1) (a) ANY INTERSCHOLASTIC,  
6 INTRAMURAL, OR CLUB ATHLETIC TEAM, SPORT, OR ATHLETIC EVENT THAT  
7 IS SPONSORED OR SANCTIONED BY A PUBLIC SCHOOL, SCHOOL DISTRICT, OR  
8 ACTIVITIES ASSOCIATION OR ORGANIZATION MUST BE DESIGNATED AS ONE  
9 OF THE FOLLOWING, BASED ON THE BIOLOGICAL SEX AT BIRTH OF THE  
10 PARTICIPATING STUDENTS:

11 (I) FEMALES, WOMEN, OR GIRLS;

12 (II) MALES, MEN, OR BOYS; OR

13 (III) COEDUCATIONAL OR MIXED.

14 (b) ONLY FEMALE STUDENTS, BASED ON THEIR BIOLOGICAL SEX,  
15 MAY PARTICIPATE ON ANY TEAM OR IN A SPORT OR ATHLETIC EVENT  
16 DESIGNATED AS BEING FOR FEMALES, WOMEN, OR GIRLS. ONLY MALE  
17 STUDENTS, BASED ON THEIR BIOLOGICAL SEX, MAY PARTICIPATE ON ANY  
18 TEAM OR IN A SPORT OR ATHLETIC EVENT DESIGNATED AS BEING FOR  
19 MALES, MEN, OR BOYS.

20 (c) A GOVERNMENTAL ENTITY SHALL NOT INVESTIGATE A

1 COMPLAINT OR TAKE ANY ADVERSE ACTION AGAINST A PUBLIC SCHOOL,  
2 SCHOOL DISTRICT, OR ACTIVITIES ASSOCIATION OR ORGANIZATION, OR ANY  
3 EMPLOYEE OR GOVERNING BOARD MEMBER OF THE SCHOOL, SCHOOL  
4 DISTRICT, OR ASSOCIATION OR ORGANIZATION FOR COMPLIANCE WITH THIS  
5 SUBSECTION (1).

6 (2) (a) IF A STUDENT SUFFERS DIRECT OR INDIRECT HARM AS A  
7 RESULT OF A VIOLATION OF SUBSECTION (1) OF THIS SECTION, THE  
8 STUDENT HAS A PRIVATE CAUSE OF ACTION FOR INJUNCTIVE, MANDAMUS,  
9 AND DECLARATORY RELIEF AGAINST THE PUBLIC SCHOOL, SCHOOL  
10 DISTRICT, OR ACTIVITIES ASSOCIATION OR ORGANIZATION THAT CAUSED  
11 THE HARM. IF A STUDENT IS SUBJECTED TO RETALIATION OR OTHER  
12 ADVERSE ACTION BY A PUBLIC SCHOOL, SCHOOL DISTRICT, OR ACTIVITIES  
13 ASSOCIATION OR ORGANIZATION AS A RESULT OF REPORTING A VIOLATION  
14 OF SUBSECTION (1) OF THIS SECTION TO AN EMPLOYEE OR REPRESENTATIVE  
15 OF THE SCHOOL, SCHOOL DISTRICT, ACTIVITIES ASSOCIATION OR  
16 ORGANIZATION OR TO A STATE OR FEDERAL GOVERNMENTAL ENTITY  
17 HAVING OVERSIGHT AUTHORITY, THAT STUDENT HAS A PRIVATE CAUSE OF  
18 ACTION FOR INJUNCTIVE, MANDAMUS, AND DECLARATORY RELIEF AGAINST  
19 THE SCHOOL, SCHOOL DISTRICT, OR ACTIVITIES ASSOCIATION OR  
20 ORGANIZATION.

21 (b) IF A PUBLIC SCHOOL OR SCHOOL DISTRICT SUFFERS ANY DIRECT  
22 OR INDIRECT HARM AS A RESULT OF A VIOLATION OF SUBSECTION (1) OF  
23 THIS SECTION, THAT SCHOOL OR SCHOOL DISTRICT HAS A PRIVATE CAUSE  
24 OF ACTION FOR INJUNCTIVE, MANDAMUS, AND DECLARATORY RELIEF  
25 AGAINST THE GOVERNMENTAL ENTITY, LICENSING OR ACCREDITING  
26 ORGANIZATION, OR ACTIVITIES ASSOCIATION OR ORGANIZATION THAT  
27 CAUSED THE HARM.

1 (c) A GOVERNMENTAL ENTITY, SCHOOL, OR SCHOOL DISTRICT IS  
2 NOT LIABLE TO ANY STUDENT FOR ITS COMPLIANCE WITH SUBSECTION (1)  
3 OF THIS SECTION. A CIVIL ACTION PURSUANT TO SUBSECTION (2)(a) OR  
4 (2)(b) OF THIS SECTION MUST BE INITIATED WITHIN TWO YEARS FROM THE  
5 DATE THE ALLEGED HARM OCCURRED. A PARTY PREVAILING ON A CLAIM  
6 BROUGHT PURSUANT TO SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION IS  
7 ENTITLED TO REASONABLE ATTORNEY FEES AND COSTS.

8 (d) THE FAILURE TO COMPLY WITH SUBSECTION (1) OF THIS  
9 SECTION IS A WAIVER OF SOVEREIGN IMMUNITY FOR THE CIVIL ACTIONS  
10 AUTHORIZED IN SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION.

11 (3) FOR ANY LAWSUIT BROUGHT OR ANY COMPLAINT FILED  
12 AGAINST A PUBLIC SCHOOL OR A SCHOOL DISTRICT OR AN EMPLOYEE OR A  
13 MEMBER OF A PUBLIC SCHOOL OR SCHOOL DISTRICT, AS A RESULT OF  
14 COMPLIANCE WITH SUBSECTION (1) OF THIS SECTION, THE ATTORNEY  
15 GENERAL SHALL PROVIDE LEGAL REPRESENTATION AT NO COST TO THAT  
16 ENTITY OR INDIVIDUAL. IN ADDITION TO THE EXPENSES OF  
17 REPRESENTATION, THE STATE SHALL ASSUME FINANCIAL RESPONSIBILITY  
18 FOR ANY OTHER EXPENSE RELATED TO THE LAWSUIT OR COMPLAINT  
19 INCURRED BY A PUBLIC SCHOOL OR A SCHOOL DISTRICT, AN EMPLOYEE OF  
20 THE SCHOOL OR SCHOOL DISTRICT, OR A MEMBER OF THE ASSOCIATION OR  
21 ORGANIZATION, INCLUDING ANY AWARD FOR ATTORNEY FEES AND COSTS  
22 FOR WHICH THAT ENTITY OR INDIVIDUAL WOULD BE OTHERWISE  
23 RESPONSIBLE.

24 (4) FOR PURPOSES OF THIS SECTION, "BIOLOGICAL SEX" MEANS  
25 EITHER THE FEMALE OR MALE SEX LISTED ON THE STUDENT'S OFFICIAL  
26 BIRTH CERTIFICATE IF THE CERTIFICATE WAS ISSUED AT OR NEAR THE TIME  
27 OF THE STUDENT'S BIRTH.

1           **SECTION 2.** In Colorado Revised Statutes, **add 23-1-142** as  
2 follows:

3           **23-1-142. Extracurricular and interscholastic athletic**  
4 **activities fairness - definition.** (1) (a) ANY INTERCOLLEGIATE,  
5 INTRAMURAL, OR CLUB ATHLETIC TEAM, SPORT, OR ATHLETIC EVENT THAT  
6 IS SPONSORED OR SANCTIONED BY AN INSTITUTION OF HIGHER EDUCATION  
7 THAT RECEIVES PUBLIC MONEY FROM THE STATE MUST BE DESIGNATED AS  
8 ONE OF THE FOLLOWING, BASED ON THE BIOLOGICAL SEX AT BIRTH OF THE  
9 PARTICIPATING STUDENTS:

10           (I) FEMALES OR WOMEN;

11           (II) MALES OR MEN; OR

12           (III) COEDUCATIONAL OR MIXED.

13           (b) ONLY FEMALE STUDENTS, BASED ON THEIR BIOLOGICAL SEX,  
14 MAY PARTICIPATE ON A TEAM OR IN A SPORT OR ATHLETIC EVENT  
15 DESIGNATED AS BEING FOR FEMALES OR WOMEN. ONLY MALE STUDENTS,  
16 BASED ON THEIR BIOLOGICAL SEX, MAY PARTICIPATE ON ANY TEAM OR IN  
17 A SPORT OR ATHLETIC EVENT DESIGNATED AS BEING FOR MALES OR MEN.

18           (c) A GOVERNMENTAL ENTITY SHALL NOT INVESTIGATE A  
19 COMPLAINT OR TAKE ANY ADVERSE ACTION AGAINST AN INSTITUTION OF  
20 HIGHER EDUCATION THAT RECEIVES PUBLIC MONEY FROM THE STATE OR  
21 ANY EMPLOYEE OR GOVERNING BOARD MEMBER OF THE INSTITUTION FOR  
22 COMPLIANCE WITH THIS SUBSECTION (1).

23           (2) (a) IF A STUDENT SUFFERS DIRECT OR INDIRECT HARM AS A  
24 RESULT OF A VIOLATION OF SUBSECTION (1) OF THIS SECTION, THE  
25 STUDENT HAS A PRIVATE CAUSE OF ACTION FOR INJUNCTIVE, MANDAMUS,  
26 AND DECLARATORY RELIEF AGAINST THE INSTITUTION OF HIGHER  
27 EDUCATION THAT RECEIVES PUBLIC MONEY FROM THE STATE THAT

1 CAUSED THE HARM. IF A STUDENT IS SUBJECTED TO RETALIATION OR  
2 OTHER ADVERSE ACTION BY AN INSTITUTION OF HIGHER EDUCATION THAT  
3 RECEIVES PUBLIC MONEY FROM THE STATE AS A RESULT OF REPORTING A  
4 VIOLATION OF SUBSECTION (1) OF THIS SECTION TO AN EMPLOYEE OR  
5 REPRESENTATIVE OF THE INSTITUTION OR TO A STATE OR FEDERAL  
6 GOVERNMENTAL ENTITY HAVING OVERSIGHT AUTHORITY, THAT STUDENT  
7 HAS A PRIVATE CAUSE OF ACTION FOR INJUNCTIVE, MANDAMUS, AND  
8 DECLARATORY RELIEF AGAINST THE INSTITUTION OF HIGHER EDUCATION  
9 THAT RECEIVES PUBLIC MONEY FROM THE STATE.

10 (b) IF AN INSTITUTION OF HIGHER EDUCATION THAT RECEIVES  
11 PUBLIC MONEY FROM THE STATE SUFFERS ANY DIRECT OR INDIRECT HARM  
12 AS A RESULT OF A VIOLATION OF SUBSECTION (1) OF THIS SECTION, THAT  
13 INSTITUTION HAS A PRIVATE CAUSE OF ACTION FOR INJUNCTIVE,  
14 MANDAMUS, AND DECLARATORY RELIEF AGAINST THE GOVERNMENTAL  
15 ENTITY, LICENSING OR ACCREDITING ORGANIZATION, OR ACTIVITIES  
16 ASSOCIATION OR ORGANIZATION.

17 (c) AN INSTITUTION OF HIGHER EDUCATION THAT RECEIVES PUBLIC  
18 MONEY FROM THE STATE IS NOT LIABLE TO ANY STUDENT FOR ITS  
19 COMPLIANCE WITH SUBSECTION (1) OF THIS SECTION. A CIVIL ACTION  
20 PURSUANT TO SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION MUST BE  
21 INITIATED WITHIN TWO YEARS FROM THE DATE THE ALLEGED HARM  
22 OCCURRED. A PARTY PREVAILING ON A CLAIM BROUGHT PURSUANT TO  
23 SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION IS ENTITLED TO  
24 REASONABLE ATTORNEY FEES AND COSTS.

25 (d) THE FAILURE TO COMPLY WITH SUBSECTION (1) OF THIS  
26 SECTION IS A WAIVER OF SOVEREIGN IMMUNITY FOR THE CIVIL ACTIONS  
27 AUTHORIZED IN SUBSECTION (2)(a) OR (2)(b) OF THIS SECTION.

1           (3) FOR ANY LAWSUIT BROUGHT OR ANY COMPLAINT FILED  
2 AGAINST AN INSTITUTION OF HIGHER EDUCATION THAT RECEIVES PUBLIC  
3 MONEY FROM THE STATE OR AN EMPLOYEE OF THE INSTITUTION AS A  
4 RESULT OF COMPLIANCE WITH SUBSECTION (1) OF THIS SECTION, THE  
5 ATTORNEY GENERAL SHALL PROVIDE LEGAL REPRESENTATION AT NO COST  
6 TO THAT INSTITUTION OR INDIVIDUAL. IN ADDITION TO THE EXPENSES OF  
7 REPRESENTATION, THE STATE SHALL ASSUME FINANCIAL RESPONSIBILITY  
8 FOR ANY OTHER EXPENSE RELATED TO THE LAWSUIT OR COMPLAINT  
9 INCURRED BY AN INSTITUTION OF HIGHER EDUCATION THAT RECEIVES  
10 PUBLIC MONEY FROM THE STATE OR EMPLOYEE OF THE INSTITUTION  
11 INCLUDING ANY AWARD FOR ATTORNEY FEES AND COSTS FOR WHICH THAT  
12 ENTITY OR INDIVIDUAL WOULD BE OTHERWISE RESPONSIBLE.

13           (4) FOR PURPOSES OF THIS SECTION, "BIOLOGICAL SEX" MEANS  
14 EITHER THE FEMALE OR MALE SEX LISTED ON THE STUDENT'S OFFICIAL  
15 BIRTH CERTIFICATE IF THE CERTIFICATE WAS ISSUED AT OR NEAR THE TIME  
16 OF THE STUDENT'S BIRTH.

17           **SECTION 3.** In Colorado Revised Statutes, 24-10-106, **amend**  
18 (1)(i) and (1)(j); and **add** (1)(k) as follows:

19           **24-10-106. Immunity and partial waiver.** (1) A public entity  
20 shall be immune from liability in all claims for injury which lie in tort or  
21 could lie in tort regardless of whether that may be the type of action or the  
22 form of relief chosen by the claimant except as provided otherwise in this  
23 section. Sovereign immunity is waived by a public entity in an action for  
24 injuries resulting from:

- 25           (i) An action brought pursuant to section 13-21-128; ~~or~~  
26           (j) An action brought pursuant to part 12 of article 20 of title 13,  
27 whether the conduct alleged occurred before, on, or after January 1, 2022;

1 OR

2 (k) AN ACTION BROUGHT PURSUANT TO SECTION 22-32-116.6  
3 (2)(a) OR (2)(b) OR AN ACTION BROUGHT PURSUANT TO SECTION 23-1-142  
4 (2)(a) OR (2)(b).

5 **SECTION 4. Act subject to petition - effective date.** This act  
6 takes effect at 12:01 a.m. on the day following the expiration of the  
7 ninety-day period after final adjournment of the general assembly; except  
8 that, if a referendum petition is filed pursuant to section 1 (3) of article V  
9 of the state constitution against this act or an item, section, or part of this  
10 act within such period, then the act, item, section, or part will not take  
11 effect unless approved by the people at the general election to be held in  
12 November 2024 and, in such case, will take effect on the date of the  
13 official declaration of the vote thereon by the governor.