

1 AN ACT relating to athletics.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 156.070 is amended to read as follows:

4 (1) The Kentucky Board of Education shall have the management and control of the  
5 common schools and all programs operated in these schools, including  
6 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for  
7 the Blind, and community education programs and services.

8 (2) The Kentucky Board of Education may designate an organization or agency to  
9 manage interscholastic athletics in the common schools, provided that the rules,  
10 regulations, and bylaws of any organization or agency so designated shall be  
11 approved by the board, and provided further that any administrative hearing  
12 conducted by the designated managing organization or agency shall be conducted in  
13 accordance with KRS Chapter 13B.

14 (a) The state board or its designated agency shall assure through promulgation of  
15 administrative regulations that if a secondary school sponsors or intends to  
16 sponsor an athletic activity or sport that is similar to a sport for which  
17 National Collegiate Athletic Association members offer an athletic  
18 scholarship, the school shall sponsor the athletic activity or sport for which a  
19 scholarship is offered. The administrative regulations shall specify which  
20 athletic activities are similar to sports for which National Collegiate Athletic  
21 Association members offer scholarships.

22 (b) Beginning with the 2003-2004 school year, the state board shall require any  
23 agency or organization designated by the state board to manage interscholastic  
24 athletics to adopt bylaws that establish as members of the agency's or  
25 organization's board of control one (1) representative of nonpublic member  
26 schools who is elected by the nonpublic school members of the agency or  
27 organization from regions one (1) through eight (8) and one (1) representative

1 of nonpublic member schools who is elected by the nonpublic member  
2 schools of the agency or organization from regions nine (9) through sixteen  
3 (16). The nonpublic school representatives on the board of control shall not be  
4 from classification A1 or D1 schools. Following initial election of these  
5 nonpublic school representatives to the agency's or organization's board of  
6 control, terms of the nonpublic school representatives shall be staggered so  
7 that only one (1) nonpublic school member is elected in each even-numbered  
8 year.

9 (c) The state board or any agency designated by the state board to manage  
10 interscholastic athletics shall not promulgate rules, administrative regulations,  
11 or bylaws that prohibit pupils in grades seven (7) to eight (8) from  
12 participating in any high school sports except for high school varsity soccer  
13 and football, or from participating on more than one (1) school-sponsored  
14 team at the same time in the same sport. The Kentucky Board of Education, or  
15 an agency designated by the board to manage interscholastic athletics, may  
16 promulgate administrative regulations restricting, limiting, or prohibiting  
17 participation in high school varsity soccer and football for students who have  
18 not successfully completed the eighth grade.

19 (d) 1. The state board or any agency designated by the state board to manage  
20 interscholastic athletics shall allow a member school's team or students  
21 to play against students of a non-member at-home private school, or a  
22 team of students from non-member at-home private schools, if the non-  
23 member at-home private schools and students comply with this  
24 subsection.

25 2. A non-member at-home private school's team and students shall comply  
26 with the rules for student athletes, including rules concerning:

27 a. Age;

- 1                   b. School semesters;
- 2                   c. Scholarships;
- 3                   d. Physical exams;
- 4                   e. Foreign student eligibility; and
- 5                   f. Amateurs.
- 6           3. A coach of a non-member at-home private school's team shall comply
- 7                   with the rules concerning certification of member school coaches as
- 8                   required by the state board or any agency designated by the state board
- 9                   to manage interscholastic athletics.
- 10          4. This subsection shall not allow a non-member at-home private school's
- 11                   team to participate in a sanctioned:
- 12                   a. Conference;
- 13                   b. Conference tournament;
- 14                   c. District tournament;
- 15                   d. Regional tournament; or
- 16                   e. State tournament or event.
- 17          5. This subsection does not allow eligibility for a recognition, award, or
- 18                   championship sponsored by the state board or any agency designated by
- 19                   the state board to manage interscholastic athletics.
- 20          6. A non-member at-home private school's team or students may
- 21                   participate in interscholastic athletics permitted, offered, or sponsored by
- 22                   the state board or any agency designated by the state board to manage
- 23                   interscholastic athletics.
- 24          (e) Every local board of education shall require an annual medical examination
- 25                   performed and signed by a physician, physician assistant, advanced practice
- 26                   registered nurse, or chiropractor, if performed within the professional's scope
- 27                   of practice, for each student seeking eligibility to participate in any school

1 athletic activity or sport. The Kentucky Board of Education or any  
2 organization or agency designated by the state board to manage interscholastic  
3 athletics shall not promulgate administrative regulations or adopt any policies  
4 or bylaws that are contrary to the provisions of this paragraph.

5 (f) Any student who turns nineteen (19) years of age prior to August 1 shall not  
6 be eligible for high school athletics in Kentucky. Any student who turns  
7 nineteen (19) years of age on or after August 1 shall remain eligible for that  
8 school year only. An exception to the provisions of this paragraph shall be  
9 made, and the student shall be eligible for high school athletics in Kentucky if  
10 the student:

- 11 1. Qualified for exceptional children services and had an individual  
12 education program developed by an admissions and release committee  
13 (ARC) while the student was enrolled in the primary school program;
- 14 2. Was retained in the primary school program because of an ARC  
15 committee recommendation; and
- 16 3. Has not completed four (4) consecutive years or eight (8) consecutive  
17 semesters of eligibility following initial promotion from grade eight (8)  
18 to grade nine (9).

19 (g) *The state board or any agency designated by the state board to manage*  
20 *interscholastic athletics shall promulgate administrative regulations or*  
21 *bylaws that provide that:*

22 *1. A member school shall designate all athletic teams, activities, and*  
23 *sports as one (1) of the following categories on the basis of the*  
24 *biological sex of students eligible to participate:*

25 *a. "Boys" and "coed"; or*

26 *b. "Girls";*

27 *2. a. An athletic activity or sport designated as "girls" shall not be*

- 1                   open to male students; and
- 2                   b. Nothing in this section shall be construed to restrict the
- 3                   eligibility of a female student to participate in an athletic activity
- 4                   or sport designated as "boys" or "coed" when there is no
- 5                   comparable activity or sport designated as "girls";
- 6                   3. The sex of a student for the purpose of determining eligibility to
- 7                   participate in an athletic activity or sport or to use an athletic facility
- 8                   designated for the exclusive use of a single sex shall be determined by:
- 9                   a. A student's biological sex as indicated on the student's original,
- 10                   unedited birth certificate issued at the time of birth; or
- 11                   b. If the biological sex on a student's official birth certificate has
- 12                   been edited since originally issued or the biological sex of the
- 13                   student is subject to an official challenge pursuant to procedures
- 14                   established in the administrative regulation or bylaw, a medical
- 15                   examination performed and signed by a physician, physician
- 16                   assistant, or advanced practice registered nurse, if performed
- 17                   within the professional's scope of practice, establishing a
- 18                   student's sex based solely upon:
- 19                   i. The student's internal and external reproductive anatomy;
- 20                   ii. The student's normal endogenously produced levels of
- 21                   testosterone; and
- 22                   iii. An analysis of the student's genetic makeup; and
- 23                   4. Neither the state board, nor any agency designated by the state board
- 24                   to manage interscholastic athletics, nor any school district, nor any
- 25                   member school shall entertain a complaint, open an investigation, or
- 26                   take any other adverse action against a school for maintaining
- 27                   separate interscholastic or intramural athletic teams, activities, or

1                   *sports for students of the female sex.*

- 2           **(h)** 1. The state board or any agency designated by the state board to manage  
3 interscholastic athletics shall promulgate administrative regulations that  
4 permit a school district to employ or assign nonteaching or noncertified  
5 personnel or personnel without postsecondary education credit hours to  
6 serve in a coaching position. The administrative regulations shall give  
7 preference to the hiring or assignment of certified personnel in coaching  
8 positions.
- 9           2. A person employed in a coaching position shall be a high school  
10 graduate and at least twenty-one (21) years of age and shall submit to a  
11 criminal background check in accordance with KRS 160.380.
- 12           3. The administrative regulations shall specify post-hire requirements for  
13 persons employed in coaching positions.
- 14           4. The regulations shall permit a predetermined number of hours of  
15 professional development training approved by the state board or its  
16 designated agency to be used in lieu of postsecondary education credit  
17 hour requirements.
- 18           5. A local school board may specify post-hire requirements for personnel  
19 employed in coaching positions in addition to those specified in  
20 subparagraph 3. of this paragraph.
- 21 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State  
22 Property and Buildings Commission, or others, whether public or private, any  
23 lands, buildings, structures, installations, and facilities suitable for use in  
24 establishing and furthering television and related facilities as an aid or  
25 supplement to classroom instruction, throughout the Commonwealth, and for  
26 incidental use in any other proper public functions. The lease may be for any  
27 initial term commencing with the date of the lease and ending with the next

1           ensuing June 30, which is the close of the then-current fiscal biennium of the  
2           Commonwealth, with exclusive options in favor of the board to renew the  
3           same for successive ensuing bienniums, July 1 in each even year to June 30 in  
4           the next ensuing even year; and the rentals may be fixed at the sums in each  
5           biennium, if renewed, sufficient to enable the State Property and Buildings  
6           Commission to pay therefrom the maturing principal of and interest on, and  
7           provide reserves for, any revenue bonds which the State Property and  
8           Buildings Commission may determine to be necessary and sufficient, in  
9           agreement with the board, to provide the cost of acquiring the television and  
10          related facilities, with appurtenances, and costs as may be incident to the  
11          issuance of the bonds.

12          (b) Each option of the Kentucky Board of Education to renew the lease for a  
13          succeeding biennial term may be exercised at any time after the adjournment  
14          of the session of the General Assembly at which appropriations shall have  
15          been made for the operation of the state government for such succeeding  
16          biennial term, by notifying the State Property and Buildings Commission in  
17          writing, signed by the chief state school officer, and delivered to the secretary  
18          of the Finance and Administration Cabinet as a member of the commission.  
19          The option shall be deemed automatically exercised, and the lease  
20          automatically renewed for the succeeding biennium, effective on the first day  
21          thereof, unless a written notice of the board's election not to renew shall have  
22          been delivered in the office of the secretary of the Finance and Administration  
23          Cabinet before the close of business on the last working day in April  
24          immediately preceding the beginning of the succeeding biennium.

25          (c) The Kentucky Board of Education shall not itself operate leased television  
26          facilities, or undertake the preparation of the educational presentations or  
27          films to be transmitted thereby, but may enter into one (1) or more contracts to

1 provide therefor, with any public agency and instrumentality of the  
2 Commonwealth having, or able to provide, a staff with proper technical  
3 qualifications, upon which agency and instrumentality the board, through the  
4 chief state school officer and the Department of Education, is represented in  
5 such manner as to coordinate matters of curriculum with the curricula  
6 prescribed for the public schools of the Commonwealth. Any contract for the  
7 operation of the leased television or related facilities may permit limited and  
8 special uses of the television or related facilities for other programs in the  
9 public interest, subject to the reasonable terms and conditions as the board and  
10 the operating agency and instrumentality may agree upon; but any contract  
11 shall affirmatively forbid the use of the television or related facilities, at any  
12 time or in any manner, in the dissemination of political propaganda or in  
13 furtherance of the interest of any political party or candidate for public office,  
14 or for commercial advertising. No lease between the board and the State  
15 Property and Buildings Commission shall bind the board to pay rentals for  
16 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal  
17 options. The board may receive and may apply to rental payments under any  
18 lease and to the cost of providing for the operation of the television or related  
19 facilities not only appropriations which may be made to it from state funds,  
20 from time to time, but also contributions, gifts, matching funds, devises, and  
21 bequests from any source, whether federal or state, and whether public or  
22 private, so long as the same are not conditioned upon any improper use of the  
23 television or related facilities in a manner inconsistent with the provisions of  
24 this subsection.

25 (4) The state board may, on the recommendation and with the advice of the chief state  
26 school officer, prescribe, print, publish, and distribute at public expense such  
27 administrative regulations, courses of study, curriculums, bulletins, programs,



1 outlines, reports, and placards as each deems necessary for the efficient  
2 management, control, and operation of the schools and programs under its  
3 jurisdiction. All administrative regulations published or distributed by the board  
4 shall be enclosed in a booklet or binder on which the words "informational copy"  
5 shall be clearly stamped or printed.

6 (5) Upon the recommendation of the chief state school officer or his designee, the state  
7 board shall establish policy or act on all matters relating to programs, services,  
8 publications, capital construction and facility renovation, equipment, litigation,  
9 contracts, budgets, and all other matters which are the administrative responsibility  
10 of the Department of Education.

11 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
12 READ AS FOLLOWS:

13 **(1) Any student:**

14 **(a) Who is deprived of an athletic opportunity or suffers any direct or indirect**  
15 **harm; or**

16 **(b) Who is subject to retaliation or other adverse action by a school, the state**  
17 **board, or agency designated by the state board to manage interscholastic**  
18 **athletics;**

19 **as a result of a violation of an administrative regulation or bylaw promulgated in**  
20 **accordance with subsection (2)(g) of Section 1 of this Act shall have a private**  
21 **cause of action for injunctive relief, monetary damages, and any other relief**  
22 **available under law against the school in violation.**

23 **(2) A civil action under this section must be initiated within two (2) years after the**  
24 **date the harm occurred.**

25 **(3) For the purposes of this section, monetary damages shall include any**  
26 **psychological, emotional, and physical harm suffered, reasonable attorney's fees**  
27 **and costs, and any other appropriate relief.**

1           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
2 READ AS FOLLOWS:

3 (1) (a) A public postsecondary education institution or private postsecondary  
4 education institution that is a member of a national intercollegiate athletic  
5 association shall designate all intercollegiate and intramural athletic teams,  
6 activities, sports, and events that are sponsored or authorized by the  
7 institution as one (1) of the following categories based on biological sex of  
8 students eligible to participate:

9           1. "Mens" and "coed"; or

10           2. "Womens."

11           (b) 1. A public postsecondary education institution or private postsecondary  
12 education institution that is a member of a national intercollegiate  
13 athletic association shall prohibit a member of the male sex from  
14 competing in any intercollegiate or intramural athletic team, activity,  
15 sport, or event designated as "womens."

16           2. Nothing in this section shall be construed to restrict the eligibility of a  
17 female student to participate in an athletic activity or sport designated  
18 as "mens" or "coed" when there is no comparable activity or sport  
19 designated as "womens."

20 (2) The sex of a student for the purpose of determining eligibility to participate in an  
21 athletic activity, sport, or event at a public postsecondary education institution or  
22 to use an athletic facility designated for the exclusive use of a single sex at a  
23 public postsecondary education institution or private postsecondary education  
24 institution that is a member of a national intercollegiate athletic association shall  
25 be determined by:

26           (a) A student's biological sex as indicated on the student's original, unedited  
27 birth certificate issued at the time of birth; or

- 1        (b) If the biological sex listed on the student's birth certificate has been edited,  
2        or if the biological sex of a student is subject to an official challenge  
3        pursuant to procedures that shall be established by the institution, a medical  
4        examination performed and signed by a physician, physician assistant, or  
5        advanced practice registered nurse, if performed within the professional's  
6        scope of practice, establishing a student's sex based solely upon:  
7        1. The student's internal and external reproductive anatomy;  
8        2. The student's normal endogenously produced levels of testosterone;  
9        and  
10       3. An analysis of the student's genetic makeup.
- 11      (3) A government entity, licensing or accrediting organization, or athletic association  
12      or organization shall not entertain a complaint, open an investigation, or take  
13      any other adverse action against a postsecondary education institution for  
14      maintaining a separate interscholastic or intramural athletic team, activity, sport,  
15      or event for members of the female sex.
- 16      (4) Any student:  
17      (a) Who is deprived of an athletic opportunity or suffers any direct or indirect  
18      harm as a result of a violation of subsection (1) of this section; or  
19      (b) Who is subject to retaliation or other adverse action by a postsecondary  
20      institution as a result of reporting a violation of subsection (1) of this  
21      section;  
22      shall have a private cause of action for injunctive relief, damages, and any other  
23      relief available under law against the postsecondary institution in violation.
- 24      (5) A civil action under this section must be initiated within two (2) years after the  
25      harm occurred.
- 26      (6) For the purposes of this section, monetary damages shall include any  
27      psychological, emotional, and physical harm suffered, reasonable attorney's fees

1        *and costs, and any other appropriate relief.*

2        ➔Section 4. This Act may be cited as the "Save Women's Sports Act."