

# SENATE BILL NO. 1440

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR COLEMAN.

5830S.02I

KRISTINA MARTIN, Secretary

## AN ACT

To repeal section 163.048, RSMo, and to enact in lieu thereof one new section relating to performance enhancing drugs in student athletics.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Section 163.048, RSMo, is repealed and one new  
2 section enacted in lieu thereof, to be known as section 163.048,  
3 to read as follows:

163.048. 1. As used in this section, the following  
2 terms mean:

3 (1) "Athletics", any interscholastic athletic games,  
4 contests, programs, activities, exhibitions, or other  
5 similar competitions organized and provided for students;

6 (2) "Sex", the two main categories of male and female  
7 into which individuals are divided based on an individual's  
8 reproductive biology at birth and the individual's genome.

9 2. (1) The general assembly hereby finds the  
10 following:

11 (a) A noticeable disparity continues between the  
12 athletics participation rates of students who are male and  
13 students who are female; and

14 (b) Courts have recognized that classification by sex  
15 is the only feasible classification to promote the  
16 governmental interest of providing opportunities for  
17 athletics for females.

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

18           (2) The general assembly hereby declares that it is  
19 the public policy of this state to further the governmental  
20 interest of ensuring that sufficient opportunities for  
21 athletics remain available for females to remedy past  
22 discrimination on the basis of sex.

23           3. (1) Except as provided under subdivision (2) of  
24 this subsection, no private school, public school district,  
25 public charter school, or public or private institution of  
26 postsecondary education shall allow any student to compete  
27 in an athletics competition that is designated for the  
28 biological sex opposite to the student's biological sex as  
29 correctly stated on the student's official birth certificate  
30 as described in subsection 4 of this section or, if the  
31 student's official birth certificate is unobtainable,  
32 another government record.

33           (2) A private school, public school, public charter  
34 school, or public or private institution of postsecondary  
35 education may allow a female student to compete in an  
36 athletics competition that is designated for male students  
37 if no corresponding athletics competition designated for  
38 female students is offered or available.

39           4. **No private school, public school, public charter**  
40 **school, public school district, or public or private**  
41 **institution of postsecondary education shall be a member of,**  
42 **or remit any funds to, any statewide athletic activities**  
43 **association that allows student athletes to use performance**  
44 **enhancing drugs.**

45           5. For purposes of this section, a statement of a  
46 student's biological sex on the student's official birth  
47 certificate or another government record shall be deemed to  
48 have correctly stated the student's biological sex only if  
49 the statement was:

50 (1) Entered at or near the time of the student's  
51 birth; or

52 (2) Modified to correct any scrivener's error in the  
53 student's biological sex.

54 [5.] 6. A private school, public school district,  
55 public charter school, or public or private institution of  
56 postsecondary education that violates subdivision (1) of  
57 subsection 3 of this section **or subsection 4 of this section**  
58 shall not receive any state aid under this chapter or  
59 chapter 173 or any other revenues from the state.

60 [6.] 7. The parent or guardian of any student, or any  
61 student who is over eighteen years of age, who is deprived  
62 of an athletic opportunity as a result of a violation of  
63 this section shall have a cause of action for injunctive or  
64 other equitable relief, as well as payment of reasonable  
65 attorney's fees, costs, and expenses of the parent,  
66 guardian, or student. The relief and remedies set forth  
67 shall not be deemed exclusive and shall be in addition to  
68 any other relief or remedies permitted by law.

69 [7.] 8. The department of elementary and secondary  
70 education and the department of higher education and  
71 workforce development shall each promulgate all necessary  
72 rules and regulations for the implementation and  
73 administration of this section. Such rules and regulations  
74 shall ensure compliance with state and federal law regarding  
75 the confidentiality of student medical information. Any  
76 rule or portion of a rule, as that term is defined in  
77 section 536.010, that is created under the authority  
78 delegated in this section shall become effective only if it  
79 complies with and is subject to all of the provisions of  
80 chapter 536 and, if applicable, section 536.028. This  
81 section and chapter 536 are nonseverable and if any of the

82 powers vested with the general assembly pursuant to chapter  
83 536 to review, to delay the effective date, or to disapprove  
84 and annul a rule are subsequently held unconstitutional,  
85 then the grant of rulemaking authority and any rule proposed  
86 or adopted after August 28, 2023, shall be invalid and void.

87 [8.] 9. The provisions of this section shall expire on  
88 August 28, 2027.

89 [9.] 10. If any provision of this section or the  
90 application thereof to anyone or to any circumstance is held  
91 invalid, the remainder of this section and the application  
92 of such provisions to others or other circumstances shall  
93 not be affected thereby.

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