

HB3001S04 compared with HB3001

~~{deleted text}~~ shows text that was in HB3001 but was deleted in HB3001S04.

inserted text shows text that was not in HB3001 but was inserted into HB3001S04.

DISCLAIMER: This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

Representative Karen Kwan proposes the following substitute bill:

SEX-DESIGNATED INTERSCHOLASTIC ATHLETICS

INDEMNIFICATION

2022 THIRD SPECIAL SESSION

STATE OF UTAH

Chief Sponsor: Kera Birkeland

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill ~~{addresses liability regarding state limitations on student competition in interscholastic athletic activities designated for students of the female sex.}~~ enacts provisions to codify an existing athletic association policy regarding transgender student athlete participation.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ establishes which students may participate on which gender-designated sports teams;

HB3001S04 compared with HB3001

- ▶ allows a transgender student to participate on a gender-designated sports team under certain conditions after the student's local education agency and school make an eligibility determination that allows the student's participation;
- ▶ requires a local education agency and school to verify compliance with the provisions of this bill when submitting a gender-designated team roster to an athletic association;
- ▶ allows an athletic association to rely on the verification described in the above paragraph;
- ▶ requires certain biennial reporting to the Education Interim Committee;
- ▶ provides for indemnification regarding ~~{state}~~ limitations on student ~~{competition}~~participation in ~~{interscholastic athletic activities designated for students of the female sex; and}~~gender-designated sports;
- ▶ provides that a local education agency or school is responsible for enforcement of ~~{state}~~ limitations on student ~~{competition in interscholastic athletic activities designated for students of the female sex}~~participation in gender-designated sports;
- ▶ provides for severability; and
- ▶ repeals H.B. 11, Student Eligibility in Interscholastic Activities, which the Legislature passed during the 2022 General Session.

Money Appropriated in this Bill:

This bill appropriates in fiscal year 2023:

- ▶ To the Attorney General - Attorney General - Civil as a one-time appropriation:
 - From the General Fund, One-time, \$500,000.

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

ENACTS:

~~53G-6-904~~53G-6-1101, Utah Code Annotated 1953

53G-6-1102, Utah Code Annotated 1953

53G-6-1103, Utah Code Annotated 1953

53G-6-1104, Utah Code Annotated 1953

53G-6-1105, Utah Code Annotated 1953

HB3001S04 compared with HB3001

Uncodified Material Affected:

ENACTS UNCODIFIED MATERIAL

Be it enacted by the Legislature of the state of Utah:

Section 1. Section ~~{53G-6-904}~~53G-6-1101 is enacted to read:

~~{53G-6-904}~~53G-6-1101. Definitions.

As used in this part:

(1) "Athletic association" means an association, as that term is defined in Section 53G-7-1101.

(2) "Female-designated" means that an interscholastic athletic activity is designated specifically for female students.

(3) "Female student" means a student with a sex designation of female on the student's birth certificate.

(4) "Gender-designated" means that an interscholastic athletic activity is designated specifically for female or male students.

(5) "Gender identity" means the same as that term is defined in Section 34A-5-102.

(6) "Interscholastic athletic activity" means an activity in which a student represents the student's school in the activity in competition against another school.

(7) "Male-designated" means that an interscholastic athletic activity is designated specifically for male students.

(8) "Male student" means a student with a sex designation of male on the student's birth certificate.

(9) "Student" means a student who is enrolled in a school that chooses to participate in interscholastic athletic activities through an athletic association.

Section 2. Section 53G-6-1102 is enacted to read:

53G-6-1102. Transgender student athlete participation in interscholastic athletic activities.

(1) For the protection of competitive balance and the integrity of women's sports, and except as provided in Subsection (2):

(a) if an LEA or school sponsors gender-designated teams in a given sport for both males and females as an interscholastic athletic activity:

HB3001S04 compared with HB3001

(i) female students may only participate on the female-designated team; and

(ii) male students may only participate on the male-designated team; and

(b) if an LEA or school sponsors only a single team in a given sport as an interscholastic athletic activity:

(i) female students may participate on male-designated teams; and

(ii) male students may not participate on female-designated teams.

(2) (a) Notwithstanding Subsection (1), with the consent of the student's parent or legal guardian, a student may participate on a gender-designated sports team that is inconsistent with the sex designation on the student's original birth certificate and that is consistent with the student's public gender identity for all other purposes if the relevant LEA makes a determination that the student is eligible to participate on the gender-designated team in accordance with this Subsection (2).

(b) The relevant LEA and school shall make a determination of a student's eligibility to participate on a gender-designated team for a particular season:

(i) in accordance with the eligibility provisions described in Subsection (2)(c);

(ii) after considering the evidence described in Subsection (2)(d); and

(iii) based on the student's:

(A) gender identification in current school records; and

(B) gender identify in the student's daily life activities in the school and community at the time that the student's eligibility is determined.

(c) (i) The following students are only eligible to participate on a male-designated team:

(A) a female-to-male transgender student who is taking a medically prescribed hormone treatment under a physician's care for the purpose of the student's gender transition; and

(B) a male-to-female transgender student who is not taking hormone treatment related to the student's gender transition.

(ii) A male-to-female transgender student athlete who is taking a medically prescribed hormone treatment under a physician's care for the purpose of the student's gender transition:

(A) is eligible to participate on a male-designated team at any time; and

(B) is only eligible to participate on a female-designated team after completing one

HB3001S04 compared with HB3001

year of hormone treatment related to the student's gender transition.

(d) An LEA and school making an eligibility determination described in Subsection (2)(b) shall base the eligibility determination upon the following types of evidence:

(i) a complete list of all the student's prescribed, non-prescribed or over the counter, treatments or medications;

(ii) written verification from a licensed doctor, psychiatrist, or psychologist of the student's consistent gender identity and expression; and

(iii) any other pertinent documentation or information which the student or the student's parent or legal guardian believes relevant and appropriate.

(e) (i) An LEA and school shall verify compliance with this section when submitting a gender-designated team roster to an athletic association.

(ii) An athletic association may rely on a verification described in Subsection (2)(e)(i) as an acknowledgment that:

(A) the school and the school's principal have determined that the students listed on a gender-designated team are eligible for participation in accordance with this section; and

(B) the LEA has determined that the expression of the student's gender identity is bona fide and not for the purpose of gaining an unfair advantage in competitive athletics.

(3) A student may not participate in practices or try out for gender-designated teams for which the student is ineligible under this section.

(4) Nothing in this section:

(a) entitles a student to be selected on any particular team; or

(b) permits a student to transfer from one gender-designated team to a team designated for another gender during a sports season.

(5) After a student and the student's relevant LEA and school address the issue of the student's gender identity, the determination shall remain consistent for the remainder of the student's school sports eligibility.

Section 3. Section 53G-6-1103 is enacted to read:

53G-6-1103. Reporting.

Beginning in 2023, and during each odd-numbered year, the following shall report to the Education Interim Committee regarding compliance with this part:

(1) an athletic association of which the highest number of schools within the state are

HB3001S04 compared with HB3001

members:

(2) the Utah School Boards Association described in Section 53G-4-502;

(3) an association that represents LEA superintendents; and

(4) the state board.

Section 4. Section 53G-6-1104 is enacted to read:

53G-6-1104. Severability.

(1) If any provision of this part or the application of any provision of this part to any person or circumstance is held invalid by a final decision of a court of competent jurisdiction, the remainder of this part shall be given effect without the invalidated provision or application.

(2) The provisions of this part are severable.

Section 5. Section 53G-6-1105 is enacted to read:

53G-6-1105. Indemnification -- Enforcement.

(1) The state shall ~~defend~~, indemnify, and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

(a) are brought or incurred as a result of ~~{an action required of the person under }~~this part; and

(b) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section 6. Repeal.

H.B. 11, Laws of Utah 2022, Chapter 478 is repealed.

Section ~~{2}~~7. Appropriation.

The following sums of money are appropriated for the fiscal year beginning July 1, 2022, and ending June 30, 2023. These are additions to amounts previously appropriated for fiscal year 2023. Under the terms and conditions of Title 63J, Chapter 1, Budgetary Procedures Act, the Legislature appropriates the following sums of money from the funds or accounts indicated for the use and support of the government of the state of Utah.

ITEM 1

HB3001S04 compared with HB3001

To Attorney General - Attorney General

From General Fund, One-time 500,000

Schedule of Programs:

Civil 500,000

The Legislature intends that appropriations provided under this section be used for the ~~indemnification~~ purposes described in Section ~~53G-6-904~~ 53G-6-1105. Under Section 63J-1-603, appropriations provided under this section do not lapse at the close of fiscal year 2023. The use of any nonlapsing funds is limited to the indemnification described in Section 53G-6-904.

Section ~~3~~8. **Effective date.**

This bill takes effect on July 1, 2022.