

Senator Lincoln Fillmore proposes the following substitute bill:

STUDENT ATHLETE PARTICIPATION AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jordan D. Teuscher

Senate Sponsor: Lincoln Fillmore

LONG TITLE

General Description:

This bill amends provisions related to student athletes within the public education system.

Highlighted Provisions:

This bill:

- ▶ amends indemnification provisions to clarify the intent of state indemnification in public education athletics;
- ▶ provides that an athletic association may collect documentation for a student that is homeless or not a United States citizen that confirms the student's date of birth and sex; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

Utah Code Sections Affected:

AMENDS:



26 **53G-6-904**, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1
 27 **53G-6-1007**, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1
 28 **53G-7-1102**, as last amended by Laws of Utah 2023, Chapter 340 and last amended by
 29 Coordination Clause, Laws of Utah 2023, Chapter 493

30 **Utah Code Sections Affected by Coordination Clause:**

31 **63G-31-201**, Utah Code Annotated 1953
 32 **63G-31-402**, Utah Code Annotated 1953

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

35 Section 1. Section **53G-6-904** is amended to read:

36 **53G-6-904. Indemnification -- Enforcement.**

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

- 40 (a) [~~are brought or incurred~~] arise as a result of this part; and
- 41 (b) are not covered by the person's insurance policies or by any coverage agreement
- 42 issued by the State Risk Management Fund.

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

46 Section 2. Section **53G-6-1007** is amended to read:

47 **53G-6-1007. Indemnification -- Enforcement.**

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

- 51 [~~(a) are brought or incurred~~]
- 52 (i) arise as a result of this part; and
- 53 [~~(b)~~] (ii) are not covered by the person's insurance policies or by any coverage
- 54 agreement issued by the State Risk Management Fund.

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

57 the LEA's or school's teams.

58 Section 3. Section **53G-7-1102** is amended to read:

59 **53G-7-1102. Public schools prohibited from membership.**

60 (1) A public school may not be a member of or pay dues to an association that:

61 (a) is not in compliance with:

62 (i) this part;

63 (ii) Title 52, Chapter 4, Open and Public Meetings Act;

64 (iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

65 (iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

66 (b) does not collect each student's birth certificate [~~and birth certificate amendment~~
67 ~~history~~], as that term is defined in Section [53G-6-1001](#), or subject to Subsection (3), equivalent
68 documentation, as described in Subsection (2)(a), to determine eligibility as a condition of the
69 association's registration process for an athletic team, event, or category; or

70 (c) does not require a student to provide the [~~athlete's~~] student's date of birth and sex as
71 a condition of the registration process for an athletic team, event, or category.

72 (2) (a) [~~Except as provided in Subsection (3), for~~] For a student who is [~~homeless or~~]
73 not a United States citizen and who is unable to provide a birth certificate [~~and birth certificate~~
74 ~~amendment history~~], as that term is defined in Section [53G-6-1001](#), the association may collect
75 the student's:

76 [~~(a)~~] (i) state-issued identification document, including a driver's license or passport; or

77 [~~(b)~~] (ii) federally recognized identification document, including a document that the
78 Department of Homeland Security issues.

79 (b) If a student who is not a United States citizen is unable to provide a document
80 under Subsection (2)(a), the association may collect other reliable proof of a student's date of
81 birth and sex, including:

82 (i) an affidavit from the student's parent or legal guardian attesting:

83 (A) to the student's date of birth and sex; and

84 (B) that the parent or legal guardian is unable to obtain a document described in
85 Subsection (2)(a); and

86 (ii) one of the following:

87 (A) a religious, hospital, or physician certificate;

88 (B) verified school records;

89 (C) verified immunization records; or

90 (D) documentation from a social service provider.

91 (3) (a) Subsection (1)(b) [~~or (2) do~~] does not apply to an association for a student who
92 is a homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42
93 U.S.C. Sec. 11431 et seq.

94 (b) For a student who is a homeless child or youth, including an unaccompanied
95 homeless child or youth, an association may collect:

96 (i) an affidavit from the student's parent or guardian, or the student if the student is an
97 unaccompanied homeless child or youth, indicating that the student does not meet the
98 necessary requirements to obtain a document described in Subsection (2)(a); and

99 (ii) a document described in Subsection (2)(b)(ii).

100 (4) Nothing in this section limits or impairs an LEA's requirement to verify a student's
101 initial review of eligibility to participate in an athletic team, event, or category under applicable
102 state or federal law or state board rule, including the student's:

103 (a) residency status;

104 (b) age;

105 (c) sex, verified by the student's birth certificate [~~and birth certificate amendment~~
106 ~~history~~], as that term is defined in Section [53G-6-1001](#);

107 (d) academic requirements; or

108 (e) school enrollment capacity.

109 (5) Unless otherwise specified, an association's compliance with or an association
110 employee or officer's compliance with the provisions described in Subsection (1) does not alter:

111 (a) the association's public or private status; or

112 (b) the public or private employment status of the employee or officer.

113 **Section 4. Effective date.**

114 (1) Except as provided in Subsection (2), if approved by two-thirds of all the members
115 elected to each house, this bill takes effect upon approval by the governor, or the day following
116 the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's
117 signature, or in the case of a veto, the date of veto override.

118 (2) If this bill is not approved by two-thirds of all members elected to each house, this

119 bill takes effect May 1, 2024.

120 **Section 5. Coordinating H.B. 172 with H.B. 257**

121 If H.B. 172, Student Athlete Participation Amendments, and H.B. 257, Sex-Based
122 Designations for Privacy, Anti-bullying, and Women's Opportunities, both pass and become
123 law, the Legislature intends that, on the effective date of H.B. 172:

124 (1) the following language be inserted as new Subsection (4) in Section 63G-31-201,
125 enacted in H.B. 257:

126 "(4) Notwithstanding Subsections (1) through (3), this chapter does not apply to:

127 (a) the School Activity Eligibility Commission created in Section [53G-6-1003](#); or

128 (b) in the context of a student who has obtained the eligibility approval of the

129 commission under Subsection [53G-6-1004](#)(2) to participate in a gender-designated

130 interscholastic activity that does not correspond with the sex designation on the student's birth

131 certificate, as those terms are defined in Section [53G-6-1001](#)."; and

132 (2) the following language replace the language enacted as Section 63G-31-402 in H.B.
133 257:

134 "The attorney general shall defend and the state shall indemnify and hold harmless a
135 government entity acting under color of state law to enforce this chapter for any claims or
136 damages, including court costs and attorney fees that:

137 (1) arise as a result of this chapter; and

138 (2) are not covered by the government entity's insurance policies or any coverage

139 agreement that the State Risk Management Fund issues."