

FAMILY ISSUE FACT SHEET

NO. 2020-11 (JANUARY 2020)

SAVE WOMEN'S SPORTS ACT HB 2706 Interscholastic athletics; biological sex

EXECUTIVE SUMMARY

HB 2706 protects opportunities for women and girls in athletics by ensuring them a level playing field. Women and girls should not be forced to compete against men playing on women's sports teams. This bill prohibits biological men from playing on women's scholastic sports teams. The bill applies to public schools, colleges and universities, as well as private schools that are part of an interscholastic association. It includes a process to resolve disputes over a student's sex, legal protection for educational institutions following the law, and a private cause of action for any student that is denied an athletic opportunity by a school that violates this law.

HB 2706 provides a scientifically based way to ensure girls have a fair, level playing field. It is not unlike other criteria used to ensure fairness in sports, such as age or weight categorizations.

WHAT IS THE PROBLEM?

Nearly 50 years ago, Title IX ensured women athletes the same opportunities as men in sports. Recently, biological males identifying as females have denied girls and women those opportunities by competing on women's and girls' sports teams. Female athletes have been denied spots on teams, denied victories, titles, and potential scholarships because they are being forced to compete against men—who have a undeniable physiological advantage.

For example, since 2017, the Connecticut Interscholastic Athletic Conference (CIAC) has allowed biological males who identify as girls to compete in high school women's sports. Girls like, Selina Soule and Alanna Smith—high school track athletes—are automatically at a disadvantage.¹ Male athletes who identify as female have won race after race, collecting state titles along the way.

In fact, since CIAC changed their policy, two male athletes have taken 15 state titles that were previously held by 9 different girls in 2016. Here are just a few of these championship titles:

- At the 2018 CIAC State Open Championship, two biological males took first and second place in the Women's Varsity 100-meter dash.
- At the 2019 Indoor Track Championship in January, a male athlete won both the Women's 55-meter dash and the Women's 300-meter dash.
- At the 2019 CIAC Combined State Open Championship in June, a male athlete won the Women's 200-meter dash.

And it even goes beyond the state level. One of these male athletes went on to win the Women's 200-meter dash at the 2019 New England Interscholastic Track and Field Championships.

WHAT DOES THE BILL DO?

HB 2706 protects opportunities for women and girls in athletics by ensuring women are not forced to compete against men playing on women's sports teams.

This bill stipulates all sports teams shall be designated as either male, female, or co-ed based on biological sex and makes clear that males cannot play on female teams. This applies to all public schools and colleges and any private schools or colleges that are members of a state or national athletic association, allowing private schools to be exempt so long as they do not join a state or national athletic conference where their athletes would be allowed to compete against schools that maintain female-only teams.

This bill also creates a process to resolve disputes over a student's sex in a way that compassionately accommodates students who have an intersex condition or disorder of sexual development to demonstrate that they are female, while ensuring men who assert a female identity cannot be categorized as—and thus allowed to compete against—women.

It provides for a doctor to make the determination, not the school. A doctor will determine biological sex with a birth certificate and simple DNA, non-invasive genetic testing just like ones used in other medical situations.

It also protects a school or college that maintains sports teams for students of the female sex from any adverse action by a government entity, accrediting or licensing organization, or a state athletic association. This protects both public and private schools that preserve women-only teams from being punished under a state or local non-discrimination law, or from losing their accreditation or being expelled from an athletic conference.

Finally, this bill creates a private right of action for any student who is deprived of an athletic opportunity or is otherwise harmed by a school or college that violates this act. It also protects students from retaliatory action by a school, college, or athletic association for reporting a violation of this act to the appropriate governmental authorities.

A recent Center for Arizona Policy Action poll found more than 60% of Arizonans support legislation that prohibits biological males from competing in girls and women's sports.

TALKING POINTS

1. **Girls deserve to compete on a level playing field.** Biological boys who believe they are girls are shattering dreams and stealing opportunities from girl athletes who deserve to win.
2. **Studies show biological males have “an absolute advantage” over female athletes, even long after using cross-sex hormones.**ⁱⁱ Men generally have “denser, strong bones, tendons, and ligaments” and “larger hearts, greater lung volume per body mass, [and] a higher red blood cell count.”ⁱⁱⁱ The physical advantages are undeniable.
3. **Women fought long and hard to earn equal athletic opportunities. Allowing boys to compete in girls’ sports reverses nearly 50-years of advances for women.**
4. **Girls deserve the same opportunities as boys to excel and chase their dreams.** Forcing girls to compete with biological boys robs them of equal opportunity. It’s why we have girls’ sports.
5. **A large majority of Arizonans support legislation protecting girls’ and women’s athletic opportunities with sex-specific sports teams.** It levels the playing field.

CONCLUSION

Women fought long and hard to earn equal athletic opportunities. Allowing boys to compete in girls’ sports reverses nearly 50 years of advances for women and girls. HB 2706 protects opportunities for women and girls in athletics by ensuring women are not forced to compete against men playing on women’s sports teams.

ⁱTitle IX Discrimination Complaint on Behalf of Minor Children Selina Soule, [Second Complaint], and Alanna Smith. June 17, 2019. Available at [https://adfllegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/selina-soule---title-ix-complaint/selina-soule---title-ix-complaint---complaint-filed-with-u-s-doe-office-for-civil-rights-\(2019-06-17\).pdf?sfvrsn=4e2231c5_6](https://adfllegal.blob.core.windows.net/mainsite-new/docs/default-source/documents/legal-documents/selina-soule---title-ix-complaint/selina-soule---title-ix-complaint---complaint-filed-with-u-s-doe-office-for-civil-rights-(2019-06-17).pdf?sfvrsn=4e2231c5_6)

ⁱⁱTommy Lundberg, et al., “Muscle strength, size and composition following 12 months of gender-affirming treatment in transgender individuals: retained advantage for the transwomen,” Karolinksa Institutet, (Sept. 26, 2019).

ⁱⁱⁱNeel Burton, The Battle of the Sexes, PSYCHOL. TODAY (July 2, 2012), <https://www.psychologytoday.com/blog/hide-andseek/201207/the-battle-the-sexes>.

ⁱⁱⁱⁱResolute Group poll (Dec., 2019) https://azaction.files.wordpress.com/2020/01/release_az_statewide_live_lv_toplines_011520-003.pdf