

FAMILY ISSUE FACT SHEET

NO. 2022-01 (JANUARY 2022)

SAVE WOMEN'S SPORTS ACT SB1165 Interscholastic; Intramural athletics; Biological sex

EXECUTIVE SUMMARY

SB1165 protects opportunities for women and girls in athletics by ensuring them a level playing field. Ignoring biological realities hurts girls and women who should not be forced to compete against men playing on women's sports teams. This bill prohibits biological boys and men from playing on girls' and women's scholastic sports teams. This bill applies to every interscholastic or intramural athletic team or sport that is sponsored by a public school. It includes a private cause of action for any student that is denied an athletic opportunity or otherwise harmed by a school that violates this law. It also provides a cause of action for a student suffering retaliation or a school suffering harm for following the law.

SB1165 provides a scientifically based way to ensure all students have the opportunity to play sports, and 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 an undeniable physiological advantage.

The Arizona Interscholastic Association (AIA) and the Canyon Athletic Association (CAA) have opened the door to this type of unfair play by allowing biological males to play on girls' and women's sports teams.ⁱ

Recent Examples of unfair play:

- Lia Thomas, a biological male on the University of Pennsylvania women's swim team, recently shattered records in a number of races, beating the second-place winner by nearly 40 seconds in one race. Thomas took the place of top female swimmers on the winner's podium again and again. The backlash resulted in at least two swimmers speaking out against the unfairness, and a swimming official resigning in protest.ⁱⁱ
- The Save Women's Sports website lists at least 75 recorded examples of unfair play.ⁱⁱⁱ Many athletic associates do not disclose transgender athletes, so there is no way of knowing exactly how many biological males are displacing female athletes overall.

- Several relevant lawsuits throughout the country include one against the Connecticut Interscholastic Athletic Conference after it allowed two biological males to join a girl’s high school track team. The two male athletes went on to take 15 state titles in two years from several deserving female runners. A federal judge dismissed the suit without addressing the merits because the biological males graduated high school by the time the case reached him.^{iv}

Clear advantages:

- Men have circulating testosterone levels 15-times higher than the upper range of circulating testosterone in healthy females, leading to major differences between the sexes in muscle complexion, bone thickness, skeletal muscle mass, and red blood cell count.^v
- Males have larger lungs, providing greater oxygen intake.
- Women produce more estrogen than men do, which leads to higher body fat and less lean muscle.^{vi}
- Men produce more Type Two muscle fibers (fast-twitch muscles) than they do Type One muscle fibers (slow-twitch),^{vii} which gives men more power than women and helps make men stronger and faster.^{viii}

A number of studies, including one in the Journal of Medical Ethics found biological males could retain their muscle mass through training because of muscle memory. Also, it found that opposite-sex hormones did not alter the athletic-enhancing effects of testosterone on the male body.^{ix} A 2019 rigorous study by the Karolinksa Institute in Sweden came to a similar conclusion, with the scientist stating, “Transgender women did not lose strength at all despite inhibited testosterone production. In addition, the effect on muscle mass of the transgender women was less pronounced than many people previously thought, losing only 5% of the muscle volume over the thigh muscles.”^x

As many as thirty-six states have introduced legislation to protect girls’ and women’s sports, and nine of those have been signed into law. Arizona’s Save Women’s Sports Act passed the state House in 2020 and was before the Senate when the COVID pandemic hit, shutting down the state Legislature and all the work to that point.

WHAT DOES THE BILL DO?

SB1165 protects opportunities for women and girls in athletics by ensuring women are not forced to compete against men playing on women’s sports teams. It provides all students the opportunity to play sports, with commonsense criteria for designating on which team an athlete can play.

This bill stipulates all sports teams shall be designated as either male, female, or co-ed based on biological sex and makes clear that biological males cannot play on female teams. This applies to every interscholastic or intramural athletic team or sport that is sponsored by a public school.

SB1165 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. And it protects schools from any direct or indirect harm for following the law.

In accordance with common legislative language, the bill does not dictate details on how a school complies, leaving it up to them and athletic associations to decide.

A recent Center for Arizona Policy poll found more than 64% of Arizonans support legislation that prohibits biological males from competing in girls' and women's sports.

TALKING POINTS

1. **Ignoring biological realities hurts girls.** Forcing girls to compete with biological boys robs them of equal opportunity. It's why we have girls' sports.
2. **Girls deserve a level playing field.** Biological boys are shattering dreams and stealing opportunities from girl athletes who deserve to win.
3. **Studies show biological males have “an absolute advantage” over female athletes, even long after using cross-sex hormones.**^{xi} 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.”^{xii} The physical advantages are undeniable.
4. **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.
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.
6. **Under the Save Women's Sports Act, all students can play.** There is an appropriate team for all to compete.

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. SB1165 protects opportunities for women and girls in athletics by ensuring women are not forced to compete against men playing on women's sports teams.

- ⁱ AIA policy on transgender athletes <https://www.aiaonline.org/files/14046/2021-2022-aia-constitution-by-laws-policies-and-procedures-book.pdf> 2021-2022 page 153. CAA statement on transgender athletes https://azcaa.s3.us-west-2.amazonaws.com/wp-content/uploads/2019/11/29123658/CAA_Transgender_policy.pdf
- ⁱⁱ UPenn transgender swimmer’s dominance ‘grossly unfair’ to women: Former USA Swimming official, Fox News Dec 23, 2021 <https://www.foxnews.com/media/upenn-transgender-swimmer-lia-thomas-millen> (last viewed Jan 2022)
- ⁱⁱⁱ Save Women Sports website <https://savewomenssports.com/males-in-female-sports-1> (last viewed Jan 2022)
- ^{iv} Federal judge dismisses lawsuit that sought to block transgender female athletes from competing in girls school sports in Connecticut, Hartford Courant, April 26, 2021 <https://www.courant.com/sports/high-schools/hc-sp-hs-transgender-case-dismissed-20210425-twgpmkmsrvhnhl64u2tr32tg3y-story.html> (last viewed Jan 2022).
- ^v How do men and women differ athletically? Sports Rec, December 11, 2018 <https://www.sportsrec.com/6580144/how-do-men-and-women-differ-athletically> (last viewed Sept 2021)
- ^{vi} What every woman needs to know to achieve her desired body composition goals. In Body, Nov 14, 2017 <https://inbodyusa.com/blogs/inbodyblog/what-every-woman-needs-to-know-to-achieve-her-desired-body-composition-goals/> (last viewed Sept. 2021)
- ^{vii} Fast twitch vs. slow twitch: What kind of muscles do you want? Nerd Fitness. June 9, 2009 <https://www.nerdfitness.com/blog/fast-twitch-vs-slow-twitch-what-kind-of-muscles-do-you-want/> (last viewed Sept. 2021)
- ^{viii} Gender differences in strength and muscle fiber characteristics, NIH <https://pubmed.ncbi.nlm.nih.gov/8477683/> (last viewed Sept. 2021)
- ^{ix} Transwomen in elite sport: Scientific and ethical considerations, Journal of Medical Ethics <https://jme.bmj.com/content/45/6/395> (last viewed Sept. 2021)
- ^x <https://news.ki.se/new-study-on-changes-in-muscle-mass-and-strength-after-gender-affirming-treatment-may-have-an> (last viewed Sept. 2021)
- ^{xi} Tommy Lundberg, et al., “Muscle strength, size and composition following 12 months of gender-affirming treatment in transgender individuals: retained advantage for the transwomen,” Karolinska Institute, (Sept. 26, 2019).
- ^{xii} Neel Burton, The Battle of the Sexes, PSYCHOL. TODAY (July 2, 2012), <https://www.psychologytoday.com/blog/hidden-and-seek/201207/the-battle-the-sexes>.
- ⁱⁱⁱ Resolute Group poll (Nov. 2021) <https://voice.theresolute.group/the-resolute-voice/2022/1/12/arizona-voters-support-religious-freedom-and-parents-rights>