

1 AN ACT relating to athletics.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 156.070 is amended to read as follows:

4 (1) The Kentucky Board of Education shall have the management and control of the
5 common schools and all programs operated in these schools, including
6 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for
7 the Blind, and community education programs and services.

8 (2) The Kentucky Board of Education may designate an organization or agency to
9 manage interscholastic athletics in the common schools, provided that the rules,
10 regulations, and bylaws of any organization or agency so designated shall be
11 approved by the board, and provided further that any administrative hearing
12 conducted by the designated managing organization or agency shall be conducted in
13 accordance with KRS Chapter 13B.

14 (a) The state board or its designated agency shall assure through promulgation of
15 administrative regulations that if a secondary school sponsors or intends to
16 sponsor an athletic activity or sport that is similar to a sport for which
17 National Collegiate Athletic Association, National Association of
18 Intercollegiate Athletics, or National Junior College Athletic Association
19 members offer an athletic scholarship, the school shall sponsor the athletic
20 activity or sport for which a scholarship is offered. The administrative
21 regulations shall specify which athletic activities are similar to sports for
22 which National Collegiate Athletic Association members offer scholarships.

23 (b) ~~[Beginning with the 2003-2004 school year,]~~The state board shall require any
24 agency or organization designated by the state board to manage interscholastic
25 athletics to adopt bylaws that establish as members of the agency's or
26 organization's board of control one (1) representative of nonpublic member
27 schools who is elected by the nonpublic school members of the agency or

1 organization from regions one (1) through eight (8) and one (1) representative
2 of nonpublic member schools who is elected by the nonpublic member
3 schools of the agency or organization from regions nine (9) through sixteen
4 (16). The nonpublic school representatives on the board of control shall not be
5 from classification A1 or D1 schools. Following initial election of these
6 nonpublic school representatives to the agency's or organization's board of
7 control, terms of the nonpublic school representatives shall be staggered so
8 that only one (1) nonpublic school member is elected in each even-numbered
9 year.

10 (c) The state board or any agency designated by the state board to manage
11 interscholastic athletics shall not promulgate rules, administrative regulations,
12 or bylaws that prohibit pupils in grades seven (7) to eight (8) from
13 participating in any high school sports except for high school varsity soccer
14 and football, or from participating on more than one (1) school-sponsored
15 team at the same time in the same sport. The Kentucky Board of Education, or
16 an agency designated by the board to manage interscholastic athletics, may
17 promulgate administrative regulations restricting, limiting, or prohibiting
18 participation in high school varsity soccer and football for students who have
19 not successfully completed the eighth grade.

20 (d) 1. The state board or any agency designated by the state board to manage
21 interscholastic athletics shall allow a member school's team or students
22 to play against students of a non-member at-home private school, or a
23 team of students from non-member at-home private schools, if the non-
24 member at-home private schools and students comply with this
25 subsection.

26 2. A non-member at-home private school's team and students shall comply
27 with the rules for student athletes, including rules concerning:

- 1 a. Age;
- 2 b. School semesters;
- 3 c. Scholarships;
- 4 d. Physical exams;
- 5 e. Foreign student eligibility; and
- 6 f. Amateurs.
- 7 3. A coach of a non-member at-home private school's team shall comply
- 8 with the rules concerning certification of member school coaches as
- 9 required by the state board or any agency designated by the state board
- 10 to manage interscholastic athletics.
- 11 4. This subsection shall not allow a non-member at-home private school's
- 12 team to participate in a sanctioned:
- 13 a. Conference;
- 14 b. Conference tournament;
- 15 c. District tournament;
- 16 d. Regional tournament; or
- 17 e. State tournament or event.
- 18 5. This subsection does not allow eligibility for a recognition, award, or
- 19 championship sponsored by the state board or any agency designated by
- 20 the state board to manage interscholastic athletics.
- 21 6. A non-member at-home private school's team or students may
- 22 participate in interscholastic athletics permitted, offered, or sponsored by
- 23 the state board or any agency designated by the state board to manage
- 24 interscholastic athletics.
- 25 (e) Every local board of education shall require an annual medical examination
- 26 performed and signed by a physician, physician assistant, advanced practice
- 27 registered nurse, or chiropractor, if performed within the professional's scope

1 of practice, for each student seeking eligibility to participate in any school
2 athletic activity or sport. The Kentucky Board of Education or any
3 organization or agency designated by the state board to manage interscholastic
4 athletics shall not promulgate administrative regulations or adopt any policies
5 or bylaws that are contrary to the provisions of this paragraph.

6 (f) Any student who turns nineteen (19) years of age prior to August 1 shall not
7 be eligible for high school athletics in Kentucky. Any student who turns
8 nineteen (19) years of age on or after August 1 shall remain eligible for that
9 school year only. An exception to the provisions of this paragraph shall be
10 made, and the student shall be eligible for high school athletics in Kentucky if
11 the student:

- 12 1. Qualified for exceptional children services and had an individual
13 education program developed by an admissions and release committee
14 (ARC) while the student was enrolled in the primary school program;
- 15 2. Was retained in the primary school program because of an ARC
16 committee recommendation; and
- 17 3. Has not completed four (4) consecutive years or eight (8) consecutive
18 semesters of eligibility following initial promotion from grade eight (8)
19 to grade nine (9).

20 (g) The state board or any agency designated by the state board to manage
21 interscholastic athletics shall promulgate administrative regulations or
22 bylaws, as applicable, to provide that:

23 1. A member school shall designate all athletic teams, activities, and
24 sports as one (1) of the following categories:

25 a. Boys';

26 b. Coed; or

27 c. Girls';

1 2. a. An athletic activity or sport designated as girls', shall not be open
2 to a person born as a member of the male sex.

3 b. Nothing in this section shall be construed to restrict the
4 eligibility of any student to participate in an athletic activity or
5 sport designated as boys' or coed; and

6 3. The state board, an agency designated by the state board to manage
7 interscholastic athletics, a school district, or a member school shall
8 not entertain a complaint, open an investigation, or take any other
9 adverse action against a school for maintaining separate
10 interscholastic or intramural athletic teams, activities, or sports for
11 students of the female sex.

12 (h) 1. The state board or any agency designated by the state board to manage
13 interscholastic athletics shall promulgate administrative regulations that
14 permit a school district to employ or assign nonteaching or noncertified
15 personnel or personnel without postsecondary education credit hours to
16 serve in a coaching position. The administrative regulations shall give
17 preference to the hiring or assignment of certified personnel in coaching
18 positions.

19 2. A person employed in a coaching position shall be a high school
20 graduate and at least twenty-one (21) years of age and shall submit to a
21 criminal background check in accordance with KRS 160.380.

22 3. The administrative regulations shall specify post-hire requirements for
23 persons employed in coaching positions.

24 4. The regulations shall permit a predetermined number of hours of
25 professional development training approved by the state board or its
26 designated agency to be used in lieu of postsecondary education credit
27 hour requirements.

1 5. A local school board may specify post-hire requirements for personnel
2 employed in coaching positions in addition to those specified in
3 subparagraph 3. of this paragraph.

4 ~~(i)(h)~~ Any student who transfers enrollment from a district of residence to a
5 nonresident district under KRS 157.350(4)(b) shall be ineligible to participate
6 in interscholastic athletics for one (1) calendar year from the date of the
7 transfer.

8 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State
9 Property and Buildings Commission, or others, whether public or private, any
10 lands, buildings, structures, installations, and facilities suitable for use in
11 establishing and furthering television and related facilities as an aid or
12 supplement to classroom instruction, throughout the Commonwealth, and for
13 incidental use in any other proper public functions. The lease may be for any
14 initial term commencing with the date of the lease and ending with the next
15 ensuing June 30, which is the close of the then-current fiscal biennium of the
16 Commonwealth, with exclusive options in favor of the board to renew the
17 same for successive ensuing bienniums, July 1 in each even year to June 30 in
18 the next ensuing even year; and the rentals may be fixed at the sums in each
19 biennium, if renewed, sufficient to enable the State Property and Buildings
20 Commission to pay therefrom the maturing principal of and interest on, and
21 provide reserves for, any revenue bonds which the State Property and
22 Buildings Commission may determine to be necessary and sufficient, in
23 agreement with the board, to provide the cost of acquiring the television and
24 related facilities, with appurtenances, and costs as may be incident to the
25 issuance of the bonds.

26 (b) Each option of the Kentucky Board of Education to renew the lease for a
27 succeeding biennial term may be exercised at any time after the adjournment

1 of the session of the General Assembly at which appropriations shall have
2 been made for the operation of the state government for such succeeding
3 biennial term, by notifying the State Property and Buildings Commission in
4 writing, signed by the chief state school officer, and delivered to the secretary
5 of the Finance and Administration Cabinet as a member of the commission.
6 The option shall be deemed automatically exercised, and the lease
7 automatically renewed for the succeeding biennium, effective on the first day
8 thereof, unless a written notice of the board's election not to renew shall have
9 been delivered in the office of the secretary of the Finance and Administration
10 Cabinet before the close of business on the last working day in April
11 immediately preceding the beginning of the succeeding biennium.

- 12 (c) The Kentucky Board of Education shall not itself operate leased television
13 facilities, or undertake the preparation of the educational presentations or
14 films to be transmitted thereby, but may enter into one (1) or more contracts to
15 provide therefor, with any public agency and instrumentality of the
16 Commonwealth having, or able to provide, a staff with proper technical
17 qualifications, upon which agency and instrumentality the board, through the
18 chief state school officer and the Department of Education, is represented in
19 such manner as to coordinate matters of curriculum with the curricula
20 prescribed for the public schools of the Commonwealth. Any contract for the
21 operation of the leased television or related facilities may permit limited and
22 special uses of the television or related facilities for other programs in the
23 public interest, subject to the reasonable terms and conditions as the board and
24 the operating agency and instrumentality may agree upon; but any contract
25 shall affirmatively forbid the use of the television or related facilities, at any
26 time or in any manner, in the dissemination of political propaganda or in
27 furtherance of the interest of any political party or candidate for public office,

1 or for commercial advertising. No lease between the board and the State
2 Property and Buildings Commission shall bind the board to pay rentals for
3 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal
4 options. The board may receive and may apply to rental payments under any
5 lease and to the cost of providing for the operation of the television or related
6 facilities not only appropriations which may be made to it from state funds,
7 from time to time, but also contributions, gifts, matching funds, devises, and
8 bequests from any source, whether federal or state, and whether public or
9 private, so long as the same are not conditioned upon any improper use of the
10 television or related facilities in a manner inconsistent with the provisions of
11 this subsection.

12 (4) The state board may, on the recommendation and with the advice of the chief state
13 school officer, prescribe, print, publish, and distribute at public expense such
14 administrative regulations, courses of study, curriculums, bulletins, programs,
15 outlines, reports, and placards as each deems necessary for the efficient
16 management, control, and operation of the schools and programs under its
17 jurisdiction. All administrative regulations published or distributed by the board
18 shall be enclosed in a booklet or binder on which the words "informational copy"
19 shall be clearly stamped or printed.

20 (5) Upon the recommendation of the chief state school officer or his or her designee,
21 the state board shall establish policy or act on all matters relating to programs,
22 services, publications, capital construction and facility renovation, equipment,
23 litigation, contracts, budgets, and all other matters which are the administrative
24 responsibility of the Department of Education.

25 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO
26 READ AS FOLLOWS:

27 **(1) Any student who:**

1 (a) Is deprived of an athletic opportunity;

2 (b) Suffers any direct or indirect harm; or

3 (c) Is subject to retaliation or other adverse action by a school, the state board,
4 or an agency designated by the state board to manage interscholastic
5 athletics;

6 as a result of a violation of an administrative regulation or bylaw promulgated in
7 accordance with subsection (2)(g) of Section 1 of this Act shall have a private
8 cause of action for injunctive relief, monetary damages, and any other relief
9 available under law against the school in violation.

10 (2) A civil action commenced under this section shall be filed within two (2) years
11 after the date the harm occurred.

12 (3) For the purposes of this section, monetary damages shall include any
13 psychological, emotional, and physical harm suffered, reasonable attorney's fees
14 and costs, and any other appropriate relief.

15 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO
16 READ AS FOLLOWS:

17 (1) (a) A public postsecondary education institution or private postsecondary
18 education institution shall designate all intercollegiate and intramural
19 athletic teams, activities, sports, and events that are sponsored or authorized
20 by the institution as one (1) of the following categories:

21 1. Men's;

22 2. Coed; or

23 3. Women's.

24 (b) 1. A public postsecondary education institution or private postsecondary
25 education institution shall prohibit a person born as a member of the
26 male sex from competing on any intercollegiate or intramural athletic
27 team or in any intercollegiate or intramural athletic activity, sport, or

1 event designated as women's.

2 2. Nothing in this section shall be construed to restrict the eligibility of
3 any student to participate in an athletic activity or sport designated as
4 men's or coed.

5 (2) A governmental entity, licensing or accrediting organization, or athletic
6 association or organization shall not entertain a complaint, open an
7 investigation, or take any other adverse action against a postsecondary education
8 institution for maintaining a separate interscholastic or intramural athletic team,
9 activity, sport, or event for members of the female sex.

10 (3) Any student who:

11 (a) Is deprived of an athletic opportunity as a result of a violation of subsection
12 (1) of this section.

13 (b) Suffers any direct or indirect harm as a result of a violation of subsection
14 (1) of this section; or

15 (c) Is subject to retaliation or other adverse action by a postsecondary
16 institution as a result of reporting a violation of subsection (1) of this
17 section;

18 shall have a private cause of action for injunctive relief, damages, and any other
19 relief available under law against the postsecondary institution in violation.

20 (4) A civil action commenced under this section shall be filed within two (2) years
21 after the harm occurred.

22 (5) For the purposes of this section, monetary damages shall include any
23 psychological, emotional, and physical harm suffered, reasonable attorney's fees
24 and costs, and any other appropriate relief.

25 ➔Section 4. This Act may be cited as the Save Women's Sports Act.