



2021 South Dakota Legislature

House Bill 1217

HOUSE STATE AFFAIRS ENGROSSED

Introduced by: Representative Milstead

1 **An Act to promote continued fairness in women's sports.**

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 **Section 1.** That a NEW SECTION be added:

4 **13-67-1. Athletic teams and sports--Designation by sex--Participation.**

5 Any athletic team or sport that is sponsored or sanctioned by a public school, a
6 school district, an association meeting the requirements of § 13-36-4, or an institution of
7 higher education under the control of the Board of Regents or the South Dakota Board of
8 Technical Education must be expressly designated as being:

9 (1) A male team or sport;

10 (2) A female team or sport; or

11 (3) A coeducational team or sport.

12 A team or sport designated as being female is available only to participants who
13 are female, based on their biological sex, as verified in accordance with § ~~13-67-3~~ 13-67-

14 2.

15 **Section 2.** That a NEW SECTION be added:

16 **13-67-2. Annual statement--False statement as cause for removal.**

17 Once each school year and before permitting a student to participate on an athletic
18 team or in a sport, the sponsoring or sanctioning entity shall obtain a written statement
19 verifying:

20 (1) The student's age;

21 (2) The student's biological sex, as ascertained at or before birth in accordance with
22 the student's genetics and reproductive biology; and

23 (3) That the student is not taking and has not taken, during the preceding twelve
24 months, any performance enhancing drugs, including anabolic steroids.

The statement must be signed by the student's parent, if the student is under eighteen years of age or by the student, if the student is eighteen years of age or older.

If a sponsoring or sanctioning entity has reasonable cause to believe that any information provided in accordance with this section is false or misleading, the entity may remove the student from, and prohibit further participation in, any sport or on any athletic team for the duration of the school year.

Section 3. That a NEW SECTION be added:

13-67-3. Complaint--Investigation--Adverse action.

A governmental entity, licensing or accrediting organization, or athletic association or organization may not entertain a complaint, open an investigation, or take any adverse action against a school, a school district, or an institution of higher education, or against any person employed by, or a governing board member of, such a school, school district, or institution, for maintaining athletic teams or sports in accordance with § 13-67-1.

Section 4. That a NEW SECTION be added:

13-67-4. Cause of Action.

If a student is deprived of an athletic opportunity or if a student suffers direct or indirect harm, as a result of this Act being violated, that student has a private cause of action for injunctive relief, damages, and any other relief available under law, against the violating entity.

If a student is subjected to retaliation or other adverse action, as a result of reporting a violation of this Act to an employee or representative of a school, school district, institution of higher education, athletic association or organization, or to a state or federal governmental entity having oversight authority, that student has a private cause of action for injunctive relief, damages, and any other relief available under law, against the school, school district, institution of higher education, or athletic association or organization.

If a school, school district, or institution of higher education suffers any direct or indirect harm, as a result of this Act being violated, that school, school district, or institution of higher education has a private cause of action for injunctive relief, damages, and any other relief available under law, against the governmental entity, licensing or accrediting organization, or athletic association or organization.

A civil action under this section must be initiated within two years from the date the harm occurred.

- 1 Any person prevailing on a claim brought under this section is entitled to monetary
- 2 damages, including for psychological, emotional, and physical harm suffered, reasonable
- 3 attorney's fees and costs, and any other appropriate relief.