

Senate Bill 435

By: Senators Harbin of the 16th, Miller of the 49th, Hatchett of the 50th, Robertson of the 29th, Mullis of the 53rd and others

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to
2 provide that it shall be unlawful for Georgia public schools or participating private schools
3 whose students or teams compete against a Georgia public school to operate, sponsor, or
4 facilitate athletic programs or activities that permit a person of one gender to participate in
5 an athletic program or activity that is designated for persons of the opposite gender; to
6 provide for exceptions; to provide for private rights of action and awards of attorney fees;
7 to provide for legislative findings and intent; to provide for definitions; to provide for a short
8 title; to provide for related matters; to repeal conflicting laws; and for other purposes.

9 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

10 **SECTION 1.**

11 The General Assembly recognizes there are inherent physical differences between males and
12 females. The General Assembly further recognizes that decisions regarding the regulation
13 of sports should be based on promoting integrity and safety. The General Assembly finds
14 that protecting females from harm and preserving the fairness of sports are important state
15 interests. It is the intent of the General Assembly to ensure that females have equal and safe
16 opportunities to succeed in sports.

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SECTION 2.

This Act shall be known and may be cited as the "Save Girls' Sports Act."

SECTION 3.

Title 20 of the Official Code of Georgia Annotated, relating to education, is amended in Code Section 20-2-315, relating to gender discrimination prohibited, authorized separate gender teams, equal athletic opportunity, physical education classes, employee designated to monitor compliance, grievance procedures, and reporting requirements, by adding a new subsection to read as follows:

"(k)(1) As used in this subsection, the term:

(A) 'Gender' means a person's biological sex which shall be recognized solely based on a person's reproductive biology and genetics at birth. For purposes of this subsection, a statement of a student's biological sex on the student's official birth certificate shall be deemed to have correctly stated the student's biological sex at birth if the statement was included on such birth certificate at or near the time of the student's birth.

(B) 'Participating private school' means a private school in this state whose students or teams compete against a local public school or local public school system in this state.

(2)(A) No local public school system, local public school, or participating private school in this state shall operate, sponsor, or facilitate interscholastic or intramural athletics that permit a person whose gender is male to participate in any interscholastic or intramural athletics that are designated for females, unless there is not an equivalent interscholastic or intramural athletic program for males.

(B) No local public school system, local public school, or participating private school in this state shall operate, sponsor, or facilitate interscholastic or intramural athletics that permit a person whose gender is female to participate in any interscholastic or

intramural athletics that are designated for males, unless there is not an equivalent interscholastic or intramural athletic program for females.

(3) A student who is aggrieved by an alleged violation or anticipated violation of this subsection or his or her parent or guardian shall have a right to file a grievance complaint with the employee designated in subsection (g) of this Code section for an immediate determination of whether a violation of this subsection exists or is about to occur. If a violation or anticipated violation is determined to exist or about to occur, the employee designated in subsection (g) of this Code section shall issue a decision immediately and may direct that such activity be terminated or adjusted to prevent further violations. If such grievance is rejected, such complaining party shall have the right of an immediate appeal to the local board of education for relief.

(4) In addition to any other rights or remedies otherwise provided by law, any aggrieved student and any such student's parent or guardian shall have a private right of action to enforce the provisions of this subsection through injunctive or declaratory relief in the superior court of the county in which such local public school or school system or participating private school is located. If an aggrieved student or such student's parent or guardian is the prevailing party in such action, the student or student's parent or guardian shall be entitled to an award of reasonable attorney fees, court costs, and expenses of litigation, but shall not be entitled to any monetary damages.

(5) Nothing in this Code section shall override any requirements or protections prescribed in the federal Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq."

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.