

2020 Regular Session

HOUSE BILL NO. 466

BY REPRESENTATIVE AMEDEE

AMUSEMENTS/SPORTS: Provides relative to the gender of members of school athletic teams

1 AN ACT

2 To enact Chapter 7-A of Title 4 of the Louisiana Revised Statutes of 1950, to be comprised  
3 of R.S. 4:441 through 446, relative to school athletic programs and sporting events;  
4 to require that schools designate interscholastic or intramural athletic teams  
5 according to the biological sex of the students; to provide that teams that are  
6 designated for females are not open to participation by biological males; to provide  
7 protections for schools from adverse actions by licensing or accrediting  
8 organizations; to provide for causes of action; to provide for legislative findings; to  
9 provide for definitions; to provide for remedies; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 7-A of Title 4 of the Louisiana Revised Statutes of 1950, to be  
12 comprised of R.S. 4:441 through 446, is hereby enacted to read as follows:

13 CHAPTER 7-A. SAVE WOMEN'S SPORTS ACT

14 §441. Short title

15 This Chapter shall be known as and may be cited as the "Save Women's  
16 Sports Act".

17 §442. Legislative findings

18 The legislature finds and declares that:

19 A. Title IX of the Education Amendments Act of 1972, 20 U.S.C. §1681 et  
20 seq., was designed to ensure that women are free from discrimination on the basis

1 of sex in both education and athletics so that women would be afforded the  
2 opportunity to compete for athletic scholarships and to potentially launch their own  
3 athletic careers after they have completed their education.

4 B. The United States Supreme Court has recognized that there are  
5 "[i]nherent differences' between men and women", and that these differences  
6 "remain cause for celebration, but not for denigration of the members of either sex  
7 or for artificial constraints on an individual's opportunity" in *United States v.*  
8 *Virginia, et al*, 518 U.S. 515, 533 (1996).

9 C. Inherent differences between men and women range from chromosomal  
10 and hormonal differences to physiological differences resulting in men generally  
11 having denser and stronger bones, tendons, and ligaments, larger hearts, greater lung  
12 volume per body mass, a higher red blood cell count, and higher hemoglobin as well  
13 as higher natural levels of testosterone, which affects traits such as hemoglobin  
14 levels, body fat content, the storage and use of carbohydrates, and the development  
15 of Type II muscle fibers, all of which result in men being able to generate higher  
16 speed and power during physical activity.

17 D. The biological differences between females and males, especially as it  
18 relates to natural levels of testosterone, explain the male and female secondary sex  
19 characteristics which develop during puberty and have lifelong effects, including  
20 those most important for success in sport; categorically, they are strength, speed, and  
21 endurance generally found in greater degrees in biological males than biological  
22 females.

23 E. While classifications based on sex are generally disfavored, the United  
24 States Supreme Court has recognized that "sex classifications may be used to  
25 compensate women for particular economic disabilities suffered, to promote equal  
26 employment opportunity, (and) to advance full development of the talent and  
27 capacities of our Nation's people" in *United States v. Virginia, et al*, 518 U.S. 515,  
28 533-534 (1996).

1           F. In furtherance of the goals set forth in *United States v. Virginia, et al,*  
2           supra, 518 U.S. at 533-534, one area where sex classifications should allow for the  
3           "full development of the talent and capacities of our Nation's people", is in the area  
4           of sports and athletics.

5           G. A recent study of female and male Olympic performances found that,  
6           although athletes from both sexes improved over the time span, the "gender gap"  
7           between female and male performances remained stable. These studies suggest that  
8           women's performances at the high level will never match those of men. The  
9           evidence is unequivocal that starting in puberty, in every sport except sailing,  
10           shooting, and riding, there will always be significant numbers of boys and men who  
11           would prevail over the best girls and women in head-to-head competition. Claims  
12           to the contrary are simply a denial of science.

13           H. Scientific studies have established that the benefits that natural  
14           testosterone provides to male athletes is not diminished through the use of puberty  
15           blockers and cross-sex hormones. A recent study on the impact of such treatments  
16           found that even after twelve months of hormonal therapy, a man who identifies as  
17           a woman and is taking cross-sex hormones had an absolute advantage over female  
18           athletes and will still likely have performance benefits over women.

19           I. Having separate sex-specific teams furthers efforts to promote sex  
20           equality. Sex-specific teams accomplish this by providing opportunities for female  
21           athletes to demonstrate their skill, strength, and athletic abilities while also providing  
22           them with opportunities to obtain recognition, accolades, scholarships, better  
23           physical and mental health, and the numerous other long-term benefits that flow  
24           from success in athletic endeavors.

25           §443. Definitions

26           In this Chapter, unless otherwise indicated, the following definitions shall  
27           apply:

28           (1) "Post secondary education board member" means a person who serves  
29           as a board member or officer for a postsecondary education management board.

1           (2) "Postsecondary education management board" means a board which  
2           governs postsecondary educational institutions, pursuant to R.S. 17:3351.

3           (3) "School" means all of the following:

4           (a) A public elementary or secondary school.

5           (b) A nonpublic elementary or secondary school that receives state funds.

6           (c) A public postsecondary educational institution.

7           (d) A nonpublic postsecondary educational institution that receives state  
8           funds.

9           (4) "School coach" means a person who is a coach, assistant coach, or  
10          volunteer coach of a school interscholastic or intramural athletic team or sporting  
11          event.

12          (5) "School board" means a school board or school governing authority  
13          subject to the provisions of R.S. 17:81 or any nonpublic school governing authority.

14          (6) "School employee" means a person who is employed by a school, a  
15          school board, a postsecondary education management board, or any postsecondary  
16          institution under the authority of a postsecondary education management board.

17          (7) "School board member" means a person who serves as a board member  
18          or officer for a school board or school governing authority subject to the provisions  
19          of R.S. 17:81 or for any nonpublic school governing authority.

20          §444. Designation of athletic teams

21          A. Interscholastic or intramural athletic teams or sporting events that are  
22          sponsored by a school shall be expressly designated, based upon biological sex, as  
23          one of the following:

24          (1) A male, boys', or men's team or event shall be for those students who are  
25          biological males.

26          (2) A female, girls', or women's team or event shall be for those students who  
27          are biological females.

28          (3) A coeducational or mixed team or event shall be open for participation  
29          by biological females and biological males.

1           B. Athletic teams or sporting events designated for females, girls, or women  
2           shall not be open to students who are not biologically female.

3           C. If a dispute arises as to the biological sex of a student who participates or  
4           desires to participate on a female, girls', or women's school athletic team or in a  
5           school sporting event, the student's biological sex may be established by a signed  
6           physician's statement completed by the student's family medical doctor or other  
7           physician of the student's choice, which shall indicate the student's biological sex  
8           based solely upon all of the following:

9                   (1) The student's internal and external reproductive anatomy.

10                   (2) The student's normal endogenously produced levels of testosterone.

11                   (3) An analysis of the student's genetic makeup.

12           D. Nothing in this Chapter is intended to prevent any school from  
13           implementing or maintaining a coeducational or mixed athletic team or sporting  
14           event which is open to both biological males and biological females so long as a  
15           female, girls', or women's athletic team or sporting event is not disbanded for the  
16           purpose of creating a coeducational or mixed team or event which would thereby  
17           result to the detriment of students of the female biological sex.

18           §445. Protection of educational institutions; limitation on liability

19                   A. No government entity, nor any licensing or accrediting organization, nor  
20                   any athletic association shall entertain a complaint, open an investigation, or take any  
21                   other adverse action against a school, school board, or postsecondary education  
22                   management board for maintaining a separate interscholastic or intramural athletic  
23                   team or athletic event that are reserved for students of the female biological sex.

24                   B. No cause of action may be maintained against any school coach, school,  
25                   school board, employee of a school or school board, or board member of a school  
26                   board that prohibits a biological male from participating in a female, girls', or  
27                   women's athletic team or sporting event pursuant to the requirements of this Chapter.

1        §446. Remedies; cause of action

2                A. A biological female student who is deprived of an athletic opportunity or  
3                suffers or is likely to suffer from any direct or indirect harm as a result of a violation  
4                of this Chapter may assert that violation as a cause of action for remedies provided  
5                for in Subsection D of this Section.

6                B. A biological female student who is subjected to retaliation or other  
7                adverse action by a school, athletic association, or other organization as a result of  
8                reporting a violation of this Chapter to an employee or representative of the school,  
9                athletic association, or to any local, state, or federal agency with oversight of schools  
10               shall have a cause of action for remedies provided for in Subsection D of this  
11               Section.

12               C. A school coach, school, school board, or employee of a school or school  
13               board, or board member of a school board that suffers any direct or indirect harm for  
14               prohibiting a biological male from participating in a female, girls', or women's  
15               athletic team or sporting event pursuant to the requirements of this Chapter shall  
16               have a cause of action for remedies provided for in Subsection D of this Section.

17               D. Any person who brings a cause of action pursuant to this Chapter may  
18               obtain appropriate relief, including but not limited to:

19                        (1) Injunctive relief, protective order, writ of mandamus or prohibition, or  
20                        declaratory relief to prevent any violation of this Chapter.

21                        (2) Actual damages, reasonable attorney fees, and costs.

22                E. All civil actions under this Chapter must be initiated within two years  
23                from the date that the harm occurred.

24        Section 2. If any provision or item of this Act, or the application thereof, is held  
25        invalid, such invalidity shall not affect other provisions, items, or applications of the Act  
26        which can be given effect without the invalid provision, item, or application and to this end  
27        the provisions of this Act are hereby declared severable.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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HB 466 Original

2020 Regular Session

Amedee

**Abstract:** Provides relative to the gender of members of school athletics teams.

Proposed law requires that an athletic team or sporting event sponsored by a school will be designated, based upon the biological sex of team members, as one of the following:

- (1) A team for males, boys, or men, which means that it is for students who are biological males.
- (2) A team for females, girls, or women, which means that it is for students who are biological females.
- (3) A team that is coeducational or mixed, which means that is for both students who are biological males and biological females.

Proposed law prohibits a team designated for females, girls, or women from being open to students who are not biologically female.

Proposed law provides that if a student's sex is disputed, the student may establish biological sex by a signed physician's statement completed by the student's family medical doctor or other physician of the student's choice, which verifies the student's biological sex based solely upon the student's internal and external reproductive anatomy, the student's normal endogenously produced levels of testosterone, and an analysis of the student's genetic makeup.

Proposed law provides that nothing in proposed law is intended to prevent any school from implementing or maintaining a coed athletic team or sporting event which is open to both biological males and biological females so long as a female athletic team or sporting event is not disbanded for the purpose of creating a coed team or event which would thereby result to the detriment of biological female students.

Proposed law prohibits any governmental entity or athletic association from entertaining a complaint, opening an investigation, or taking any other adverse action against a school, school board, or post secondary education management board for maintaining separate teams for females and males as provided by proposed law.

Proposed law provides that no cause of action may be maintained against any coach, school, school board, school employee, or school board member, that prohibits a biological male from participating in a female, girls', or women's athletic team or sporting event pursuant to the requirements of proposed law.

Proposed law provides that certain persons are entitled to legal causes of action and legal remedies under proposed law as follows:

- (1) A biological female student who is deprived of an athletic opportunity or suffers or is likely to suffer from any direct or indirect harm as a result of a violation of proposed law.
- (2) Any biological female student who is subjected to retaliation or other adverse action by a school, athletic association, or other organization as a result of reporting a

violation of proposed law to an employee or representative of the school, athletic association, or to any local, state, or federal agency with oversight of schools.

- (3) Any school coach, school, school board, employee of a school or school board, or board member of a school board that suffers any direct or indirect harm for prohibiting a biological male from participating in a girls' or women's athletic team or sporting event.

Proposed law provides that any person who is entitled to bring a cause of action pursuant to proposed law may obtain the following relief:

- (1) A court ordered injunction, a protective order, a writ of mandamus or prohibition, or a declaratory judgment to prevent any violation of proposed law.
- (2) Actual damages suffered, reasonable attorney fees, and costs.

Proposed law provides that any civil action pursuant to proposed law must be initiated within two years from the date that the harm occurred.

(Adds R.S. 4:441-446)