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LEGISLATURE *of* THE STATE *of* KANSAS
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MEMORANDUM

To: Senate Committee on Education
From: Kansas Office of Revisor of Statutes
Date: March 6, 2023
Subject: HB 2238—Fairness in Women’s Sports Act

House Bill 2238 would create the fairness in women’s sports act.

Section 1 would provide the citation of the act and section 2 would provide definitions for relevant terms used in the act.

Section 3 would require that all teams or sports sponsored by a public elementary or secondary school or public college or university designate such teams or sports as being in one of the following three categories:

- Males, men or boys;
- Females, women or girls; or
- Coed or mixed

This designation requirement would also apply to any students or teams of any private elementary or secondary school or college or university that competes against a public school, college or university.

HB 2238 would require that any team or sports designated for females, women or girls not be open to students of the male sex. The sex of the participant is determined based on participant’s biological sex, as defined in section 1 of the bill to mean, “the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth, without regard to an individual’s psychological, chosen or subjective experience of gender.”

Additionally, the state high school activities association, the state board of regents and the governing body of any municipal university, community college and technical college would be required to adopt rules and regulations to implement the provisions of the act.

Section 4 of the bill would prohibit any governmental entity or licensing, accrediting or athletic organization from taking any adverse action against any school, college or university that complies with the requirements of the act.

Section 5 would provide the following three causes of action arising from a violation of section 3:

- Any student who is deprived of an athletic opportunity or suffers harm due to such violation;
- Any student who is subjected to retaliation or other adverse action due to the student reporting a violation of section 3; and
- Any school, college, or university that suffers harm due to a violation.

Any such lawsuit would be required to be brought within two years after the harm occurred. The plaintiff in any such lawsuit would be able to seek monetary damages and attorney fees and court costs.

The bill would take effect on July 1 upon publication in the statute book.

2022 SB 160 contained the same substantive provisions as HB 2238. The Governor vetoed SB 160 on April 5, 2022, and the motion to override the veto passed in the Senate but failed in the House of Representatives.