

By Senator Stargel

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1                   A bill to be entitled  
2       An act relating to promoting equality of athletic  
3       opportunity; creating s. 1006.205, F.S.; providing a  
4       short title; providing legislative intent and  
5       findings; requiring that certain athletic teams or  
6       sports sponsored by certain educational institutions  
7       be designated on the basis of students' biological  
8       sex; prohibiting athletic teams or sports designated  
9       for female students from being open to male students;  
10      specifying conditions under which persons who  
11      transition from male to female are eligible to compete  
12      in the female category; requiring a student that fails  
13      to comply with certain conditions to be suspended from  
14      female competition for 12 months; requiring the Board  
15      of Governors of the State University System to adopt  
16      regulations and the State Board of Education to adopt  
17      rules regarding the resolution of disputes; providing  
18      protections for educational institutions from certain  
19      adverse actions taken by a governmental entity, any  
20      licensing or accrediting organization, or any athletic  
21      association or organization; providing civil remedies  
22      for students and educational institutions; providing a  
23      statute of limitation; providing for damages;  
24      providing an effective date.

25  
26       WHEREAS, the United States Supreme Court recognized in  
27      United States v. Virginia, 518 U.S. 515 (1996), that there are  
28      inherent differences between men and women and these differences  
29      remain cause for celebration, but not for denigration of the

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30 members of either sex for artificial constraints on an  
31 individual's opportunity, and

32 WHEREAS, the Supreme Court recognized that sex  
33 classifications may be used to compensate women for particular  
34 economic disabilities they have suffered, to promote equal  
35 employment opportunity, and to advance full development of the  
36 talent and capacities of our nation's people, and

37 WHEREAS, one area where sex classifications allow for the  
38 full development of the talent and capacities of our nation's  
39 people is in the context of sports and athletics, and

40 WHEREAS, the Olympic Games are considered the world's  
41 foremost sporting competitions in which thousands of male and  
42 female athletes from more than 200 nations participate, and

43 WHEREAS, the biological differences between females and  
44 males, especially as it relates to natural levels of  
45 testosterone, explain the male and female secondary sex  
46 characteristics, including physical strength, speed, and  
47 endurance, and

48 WHEREAS, after consulting with hundreds of athletes,  
49 doctors, and human rights experts, in November 2015, the  
50 International Olympic Committee issued guidelines specifying  
51 that an athlete who has transitioned from male to female is  
52 eligible to compete if she demonstrates that her total  
53 testosterone level in serum has been below 10 nmol/L for at  
54 least 12 months before her first competition, with the  
55 requirement for any longer period to be based on a confidential  
56 case-by-case evaluation considering whether 12 months is a  
57 sufficient length of time to minimize any advantage in women's  
58 competition, and

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59 WHEREAS, the athlete's total testosterone level in serum  
60 must remain below 10 nmol/L throughout the period of desired  
61 eligibility to compete in the female category, and

62 WHEREAS, these guidelines remain in effect and have  
63 successfully led to parity between athletes who have  
64 transitioned from male to female and cisgender female athletes,  
65 and

66 WHEREAS, the use of cross-sex hormone therapy is increasing  
67 nationwide and in this state, and

68 WHEREAS, the number of transgender athletes is also  
69 increasing in this state, and

70 WHEREAS, athletes who have transitioned from male to female  
71 generally have higher levels of testosterone and may excel in  
72 physical strength, speed, and endurance in comparison to  
73 cisgender females, and

74 WHEREAS, the increase in athletes who have transitioned  
75 from male to female has and will continue to displace cisgender  
76 female athletes in this state and prevent them from excelling in  
77 athletic competitions, and

78 WHEREAS, transgender athletes should compete against  
79 athletes with similar abilities, and

80 WHEREAS, this act, which requires the designation of  
81 separate sex-specific athletic teams, is necessary to redress  
82 past discrimination against female athletes and to avoid  
83 jeopardizing the equality of athletic opportunity in this state,  
84 NOW, THEREFORE,

85

86 Be It Enacted by the Legislature of the State of Florida:

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88 Section 1. Section 1006.205, Florida Statutes, is created  
89 to read:

90 1006.205 Promoting Equality of Athletic Opportunity Act.-

91 (1) SHORT TITLE.-This section may be cited as the  
92 "Promoting Equality of Athletic Opportunity Act."

93 (2) LEGISLATIVE INTENT AND FINDINGS.-

94 (a) It is the intent of the Legislature to provide  
95 opportunities for female athletes to demonstrate their strength,  
96 skills, and athletic abilities and to provide them with  
97 opportunities to obtain recognition and accolades, college  
98 scholarships, and the numerous other long-term benefits that  
99 result from participating and competing in athletic endeavors.

100 (b) The Legislature finds that promoting the equality of  
101 athletic opportunity is an important state interest. The  
102 Legislature finds that requiring the designation of separate  
103 sex-specific athletic teams or sports is necessary to promote  
104 equality of athletic opportunity.

105 (3) DESIGNATION OF ATHLETIC TEAMS OR SPORTS.-

106 (a) Interscholastic, intercollegiate, intramural, or club  
107 athletic teams or sports that are sponsored by a public primary  
108 or secondary school, a public postsecondary institution, or any  
109 school or institution whose students or teams compete against a  
110 public school or public postsecondary institution must be  
111 expressly designated as one of the following based on the  
112 biological sex of team members:

113 1. Males, men, or boys;

114 2. Females, women, or girls; or

115 3. Coed or mixed, including both males and females.

116 (b) Athletic teams or sports designated for females, women,

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117 or girls may not be open to students of the male sex.

118 (c) Persons who transition from male to female are eligible  
119 to compete in the female category if all of the following  
120 conditions are met:

121 1. The student has declared a female gender identity to her  
122 school or institution.

123 2. The student demonstrates that her total testosterone  
124 level in serum has been below 10 nmol/L for at least 12 months  
125 before her first competition and monthly throughout the period  
126 of desired eligibility to compete in the female category.

127 3. The student's total testosterone level in serum must  
128 remain below 10 nmol/L throughout the period of desired  
129 eligibility to compete in the female category.

130  
131 A student that fails to comply with the requirements of  
132 subparagraphs 2. or 3. must be suspended from female competition  
133 for 12 months.

134 (d) The Board of Governors of the State University System  
135 shall adopt regulations, and the State Board of Education shall  
136 adopt rules, regarding the receipt and timely resolution of  
137 disputes by schools and institutions, consistent with this  
138 subsection.

139 (4) PROTECTION FOR EDUCATIONAL INSTITUTIONS.—A governmental  
140 entity, licensing or accrediting organization, or an athletic  
141 association or organization may not entertain a complaint, open  
142 an investigation, or take any other adverse action against any  
143 school or public postsecondary institution in this state for  
144 maintaining separate interscholastic, intercollegiate,  
145 intramural, or club athletic teams or sports for students of the

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146 female sex.

147 (5) CAUSE OF ACTION; CIVIL REMEDIES.—

148 (a) Any student who is deprived of an athletic opportunity  
149 or suffers any direct or indirect harm as a result of a  
150 violation of this section has a private cause of action for  
151 injunctive relief, damages, and any other relief available under  
152 law against the school or public postsecondary institution.

153 (b) Any student who is subject to retaliation or other  
154 adverse action by a school, a public postsecondary institution,  
155 or an athletic association or organization as a result of  
156 reporting a violation of this section to an employee or a  
157 representative of the school, institution, or athletic  
158 association or organization, or to any state or federal agency  
159 with oversight of schools or public postsecondary institutions  
160 in this state, has a private cause of action for injunctive  
161 relief, damages, and any other relief available under law  
162 against the school, institution, or athletic association or  
163 organization.

164 (c) Any public school or public postsecondary institution  
165 that suffers any direct or indirect harm as a result of a  
166 violation of this section shall have a private cause of action  
167 for injunctive relief, damages, and any other relief available  
168 under law against the governmental entity, licensing or  
169 accrediting organization, or athletic association or  
170 organization.

171 (d) A civil action brought under this section must be  
172 initiated within 2 years after the alleged harm occurred.  
173 Persons or organizations who prevail on a claim brought under  
174 this section are entitled to monetary damages, including for any

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175 psychological, emotional, or physical harm suffered, reasonable  
176 attorney fees and costs, and any other appropriate relief.

177 Section 2. This act shall take effect July 1, 2021.