

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

H

3

HOUSE BILL 574
Committee Substitute Favorable 4/19/23
Senate Education/Higher Education Committee Substitute Adopted 6/14/23

Short Title: Fairness in Women's Sports Act.

(Public)

Sponsors:

Referred to:

April 6, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO PROTECT OPPORTUNITIES FOR WOMEN AND GIRLS IN ATHLETICS.
3 The General Assembly of North Carolina enacts:

4
5 **PART I. ATHLETIC ELIGIBILITY IN MIDDLE AND HIGH SCHOOL**

6 **SECTION 1.(a)** G.S. 115C-12(23) is amended by adding the following new
7 sub-subdivisions to read:

8 "e. All teams participating in interscholastic or intramural athletic
9 activities shall comply with the following:

10 1. Each team shall be expressly designated by the biological sex
11 of the team participants as one of the following:

12 I. Males, men, or boys.

13 II. Females, women, or girls.

14 III. Coed or mixed.

15 2. Athletic teams designated for females, women, or girls shall
16 not be open to students of the male sex.

17 3. For purposes of this sub-subdivision, a student's sex shall be
18 recognized based solely on the student's reproductive biology
19 and genetics at birth.

20 f. A student who is deprived of an athletic opportunity or suffers or is
21 likely to suffer from any direct or indirect harm as a result of a
22 violation of sub-subdivision e. of this subdivision may assert that
23 violation as a cause of action for remedies provided for in
24 sub-subdivision i. of this subdivision.

25 g. A student who is subjected to retaliation or other adverse action by a
26 public school unit, administering organization as defined in
27 G.S. 115C-407.50, or other organization as a result of reporting a
28 violation of sub-subdivision e. of this subdivision to an employee or
29 representative of the public school unit, administering organization, or
30 to any local, State, or federal agency with oversight of the public
31 school unit shall have a cause of action for remedies provided for in
32 sub-subdivision i. of this subdivision.

33 h. Any public school unit or its representatives or employees who suffer
34 any direct or indirect harm for complying with sub-subdivision e. of



* H 5 7 4 - V - 3 *

1 this subdivision shall have a cause of action for remedies provided for
2 in sub-subdivision i. of this subdivision.

3 i. Any person who brings a cause of action pursuant to sub-subdivisions
4 f. through h. of this subdivision, within two years of the date the harm
5 occurred, may obtain appropriate relief, including the following:

6 1. Injunctive relief, protective order, writ of mandamus or
7 prohibition, or declaratory relief to prevent any violation of
8 sub-subdivision e. of this subdivision.

9 2. Actual damages, including for psychological, emotional, or
10 physical harm, reasonable attorney fees, and costs.

11 j. The State Board of Education shall monitor middle and high schools
12 for compliance with sub-subdivision e. of this subdivision. If the
13 Board finds a school in violation, it shall report the identity of the
14 school to the Joint Legislative Education Oversight Committee."

15 **SECTION 1.(b)** G.S. 115C-218.75 is amended by adding a new subsection to read:

16 "(m) Athletic Teams. – A charter school organizing athletic teams for middle or high school
17 students to participate in interscholastic or intramural athletic activities shall do so in accordance
18 with G.S. 115C-12(23)."

19 **SECTION 1.(c)** G.S. 115C-238.66 is amended by adding a new subdivision to read:

20 "(21) Athletic teams. – A regional school organizing athletic teams for middle or
21 high school students to participate in interscholastic or intramural athletic
22 activities shall do so in accordance with G.S. 115C-12(23)."

23 **SECTION 1.(d)** G.S. 116-239.8(b) is amended by adding a new subdivision to read:

24 "(23) Athletic teams. – A laboratory school organizing athletic teams for middle or
25 high school students to participate in interscholastic or intramural athletic
26 activities shall do so in accordance with G.S. 115C-12(23)."

27 **SECTION 1.(e)** Article 39 of Chapter 115C of the General Statutes is amended by
28 adding a new section to read:

29 "**§ 115C-548.1. Athletic teams.**

30 (a) Any private church school or school of religious charter that is a member of an
31 organization that administers interscholastic athletic activities pursuant to Article 29E of this
32 Chapter shall comply with G.S. 115C-12(23).

33 (b) Any athletic team organized by a private church school or school of religious charter
34 at the middle or high school level that is not covered by subsection (a) of this section shall comply
35 with G.S. 115C-12(23) if the team is playing a team from any school required to follow
36 G.S. 115C-12(23)."

37 **SECTION 1.(f)** Article 39 of Chapter 115C of the General Statutes is amended by
38 adding a new section to read:

39 "**§ 115C-556.1. Athletic teams.**

40 (a) Any qualified nonpublic school that is a member of an organization that administers
41 interscholastic athletic activities pursuant to Article 29E of this Chapter shall comply with
42 G.S. 115C-12(23).

43 (b) Any athletic team organized by a qualified nonpublic school at the middle or high
44 school level that is not covered by subsection (a) of this section shall comply with
45 G.S. 115C-12(23) if the team is playing a team from any school required to follow
46 G.S. 115C-12(23)."

47 **PART II. ATHLETIC ELIGIBILITY IN HIGHER EDUCATION**

48 **SECTION 2.(a)** G.S. 115D-5 is amended by adding a new subsection to read:

49 "(z) The State Board of Community Colleges shall monitor community colleges for
50 compliance with Article 38 of Chapter 116 of the General Statutes. If the State Board determines
51

1 that a community college is in violation of Article 38, it shall report the identity of the community
2 college to the Joint Legislative Education Oversight Committee."

3 **SECTION 2.(b)** Chapter 116 of the General Statutes is amended by adding a new
4 Article to read:

5 "Article 38.

6 "Biological Sex-Specific Athletic Teams.

7 **"§ 116-400. Definitions.**

8 The following definitions apply in this Article:

9 (1) Institution of higher education. – A constituent institution of The University
10 of North Carolina, a community college under the jurisdiction of the State
11 Board of Community Colleges, or a private college or university located in
12 North Carolina.

13 (2) Intercollegiate athletic program. – A sport program played at the collegiate
14 level for which eligibility requirements for participation by a student are
15 established by a national association for the promotion or regulation of
16 intercollegiate athletics, including the National Collegiate Athletic
17 Association (NCAA), the National Association of Intercollegiate Athletics
18 (NAIA), and the National Junior College Athletic Association (NJCAA).

19 **"§ 116-401. Designation of athletic teams.**

20 (a) All teams that are part of an intercollegiate athletic program of an institution of higher
21 education shall comply with the following:

22 (1) Each team shall be expressly designated by the biological sex of the team
23 participants as one of the following:

24 a. Males, men, or boys.

25 b. Females, women, or girls.

26 c. Coed or mixed.

27 (2) Athletic teams designated for females, women, or girls shall not be open to
28 students of the male sex.

29 (b) For the purposes of this section, sex shall be recognized based solely on a person's
30 reproductive biology and genetics at birth.

31 **"§ 116-402. Cause of action; remedies.**

32 (a) A student who is deprived of an athletic opportunity or suffers or is likely to suffer
33 from any direct or indirect harm as a result of a violation of this Article may assert that violation
34 as a cause of action for remedies provided for in subsection (d) of this section.

35 (b) A student who is subjected to retaliation or other adverse action by an institution of
36 higher education, athletic association, or other organization as a result of reporting a violation of
37 this Article to an employee or representative of the institution of higher education, athletic
38 association, or to any local, State, or federal agency with oversight of the institution shall have a
39 cause of action for remedies provided for in subsection (d) of this section.

40 (c) Any institution of higher education or its representatives or employees who suffer any
41 direct or indirect harm for complying with the requirements of this Article shall have a cause of
42 action for remedies provided for in subsection (d) of this section.

43 (d) Any person who brings a cause of action pursuant to this Article may obtain
44 appropriate relief, including the following:

45 (1) Injunctive relief, protective order, writ of mandamus or prohibition, or
46 declaratory relief to prevent any violation of this Article.

47 (2) Actual damages, including for psychological, emotional, or physical harm,
48 reasonable attorney fees, and costs.

49 (e) All civil actions under this Article must be initiated within two years from the date
50 that the harm occurred.

51 **"§ 116-403. Monitoring compliance with this Article.**

1 The Board of Governors shall monitor constituent institutions for compliance with this
2 Article. If the Board of Governors determines that a constituent institution is in violation of this
3 Article, it shall report the identity of the constituent institution to the Joint Legislative Education
4 Oversight Committee."

5
6 **PART III. SEVERABILITY CLAUSE AND EFFECTIVE DATE**

7 **SECTION 3.(a)** If any provision of this act or its application is held invalid, the
8 invalidity does not affect other provisions or applications of this act that can be given effect
9 without the invalid provisions or application and, to this end, the provisions of this act are
10 severable.

11 **SECTION 3.(b)** This act is effective when it becomes law and applies beginning
12 with the 2023-2024 school year.