

# 2026 SESSION

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**HOUSE BILL NO. 1242**

Offered January 14, 2026

Prefiled January 14, 2026

A BILL to amend the Code of Virginia by adding sections numbered 22.1-271.11 and 23.1-408.2, relating to K-12 schools and institutions of higher education; student participation in women's sports; civil cause of action.

Patron—Oates

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 22.1-271.11 and 23.1-408.2 as follows:

§ 22.1-271.11. *Interscholastic, intramural, and club athletic teams and sports; designation of teams; student participation.*

A. Each interscholastic, intramural, or club athletic team or sport sponsored by a public school or any other school that is a member of the Virginia High School League shall be expressly designated as one of the following based on the biological sex of the students who participate on the team or in the sport:

1. For "males," "men," or "boys";

2. For "females," "women," or "girls"; or

3. For "coed" or "mixed" if participation on such team or in such sport is open to both (i) males, men, or boys and (ii) females, women, or girls.

B. Each interscholastic, intramural, or club athletic team or sport sponsored by a public school or any other school that is a member of the Virginia High School League that is expressly designated for "females," "women," or "girls," pursuant to subsection A shall not be open to any student of the male sex.

C. The biological sex of any student seeking to participate on such an expressly designated team shall be affirmed by a signed physician's statement.

D. No government entity, licensing or accrediting organization, or athletic association or organization shall entertain a complaint, open an investigation, or take any other adverse action against a school for explicitly designating or maintaining separate interscholastic, intramural, or club athletic teams or sports for "females," "women," or "girls" pursuant to subsections A, B, and C. Any school that suffers any direct or indirect harm as a result of a violation of this section shall have a private cause of action for injunctive relief, damages, and any other relief available under law against such government entity, licensing or accrediting organization, or athletic association or organization.

E. Any student who is (i) deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a school knowingly violating this section or (ii) subject to retaliation or other adverse action by a school, athletic association, or organization as a result of reporting a violation of this section to an employee or representative of such school, athletic association, or organization, or to any state or federal agency with oversight of such school in the Commonwealth, shall have a private cause of action for injunctive relief, damages, and any other relief available under law against such school, athletic association, or organization.

F. The provisions of subsections D and E shall constitute a waiver of sovereign immunity.

G. All civil actions brought pursuant to subsection D or E must be initiated within two years after the harm occurred. Any person who prevails on a claim brought pursuant to this section shall be entitled to monetary damages, including for any psychological, emotional, or physical harm suffered, reasonable attorney fees and costs, and any other appropriate relief.

§ 23.1-408.2. *Intercollegiate, intramural, and club athletic teams and sports; designation of teams; student participation.*

A. Each intercollegiate, intramural, and club athletic team or sport that is sponsored by a public institution of higher education or any institution of higher education that is a member of the National Collegiate Athletic Association (NCAA), National Association of Intercollegiate Athletics (NAIA), or National Junior College Athletic Association (NJCAA) shall be expressly designated as one of the following based on the biological sex of the students who participate on the team or in the sport:

1. For "males," "men," or "boys";

2. For "females," "women," or "girls"; or

3. For "coed" or "mixed" if participation on such team or sport is open to both (i) males, men, or boys and (ii) females, women, or girls.

B. Each intercollegiate, intramural, or club athletic team or sport that is sponsored by any such institution of higher education and that is expressly designated for "females," "women," or "girls" pursuant

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59 to subsection A shall not be open to any student of the male sex.

60 C. The biological sex of any such student seeking to participate on such an expressly designated team  
61 shall be affirmed by a signed physician's statement.

62 D. No government entity, licensing or accrediting organization, or athletic association or organization  
63 shall entertain a complaint, open an investigation, or take any other adverse action against an institution of  
64 higher education for explicitly designating or maintaining separate intercollegiate, intramural, or club  
65 athletic teams or sports for "females," "women," or "girls" pursuant to subsections A, B, and C. Any institution  
66 of higher education that suffers any direct or indirect harm as a result of a violation of this section shall have  
67 a private cause of action for injunctive relief, damages, and any other relief available under law against such  
68 government entity, licensing or accrediting organization, or athletic association or organization.

69 E. Any student who is (i) deprived of an athletic opportunity or suffers any direct or indirect harm as a result  
70 of a knowing violation of this section by any such institution of higher education or (ii) subject to  
71 retaliation or other adverse action by an institution of higher education, athletic association, or organization  
72 as a result of reporting a violation of this section to an employee or representative of such institution, athletic  
73 association, or organization, or to any state or federal agency with oversight of such institution in the  
74 Commonwealth, shall have a private cause of action for injunctive relief, damages, and any other relief  
75 available under law against such institution, athletic association, or organization.

76 F. The provisions of subsections D and E shall constitute a waiver of sovereign immunity.

77 G. All civil actions brought pursuant to subsection D or E must be initiated within two years after the  
78 harm occurred. Any person who prevails on a claim brought pursuant to this section shall be entitled to  
79 monetary damages, including for any psychological, emotional, and physical harm suffered, reasonable  
80 attorney fees and costs, and any other appropriate relief.

81 2. That the General Assembly finds (i) that there are "inherent differences between men and women,"  
82 and that these differences "remain cause for celebration, but not for denigration of the members of  
83 either sex or artificial constraints on an individual's opportunity" (*United States v. Virginia* 518 U.S.  
84 515, 533 (1996)), and these "inherent differences" range from chromosomal and hormonal differences  
85 to physiological differences, including men generally have "denser, stronger bones, tendons, and  
86 ligaments," "larger hearts, greater lung volume per body mass, a higher red blood cell count, and  
87 higher hemoglobin" (Neel Burton, "The Battle of the Sexes," *Psychology Today* (July 2, 2012)), higher  
88 natural levels of testosterone, which affects traits such as body fat content, the storage and use of  
89 carbohydrates, and the development of type two muscle fibers, all of which result in men being able to  
90 generate higher speed and power during physical activity (Doriane Lambelet Coleman, "Sex in Sport,"  
91 *Law and Contemporary Problems* 63, 74 (2017)); (ii) that these biological differences between men and  
92 women "explain the male and female secondary sex characteristics which develop during puberty and  
93 have lifelong effects, including those most important for success in sport: categorically different  
94 strength, speed and endurance" (Doriane Lambelet Coleman and Wickliffe Shreve, "Comparing  
95 Athletic Performances: The Best Elite Women to Boys and Men," Duke Law Center for Sports Law  
96 and Policy), and that while classifications based on sex are generally disfavored, the Supreme Court  
97 has recognized that "sex classifications may be used to compensate women for particular economic  
98 disabilities [they have] suffered, to promote equal employment opportunity, [and] to advance full  
99 development of the talent and capacities of our Nation's people" (*United States v. Virginia*, 518 U.S. 515,  
100 533 (1996)); (iii) that one place in which sex classifications allow for the "full development of the talent  
101 and capacities of our Nation's people" is in the context of sports and athletics (*Id.*); (iv) that courts have  
102 recognized that the inherent, physiological differences between males and females result in different  
103 athletic capabilities, as seen in *Kleczek v. Rhode Island Interscholastic League, Inc.*, 612 A.2d 734, 738  
104 (R.I. 1992): "Because of innate physiological differences, boys and girls are not similarly situated as  
105 they enter athletic competition." and in *Petrie v. Illinois High Sch. Ass'n*, 394 N.E. 2d 855, 861 (Ill. Ct.  
106 App. 1979), which found that "high school boys [generally possess physiological advantages over] their  
107 girl counterparts" and that those advantages give them an unfair lead over girls in some sports like  
108 "high school track"; (v) that a recent study of female and male Olympic performances dating back to  
109 1983 found that, although athletes of both sexes improved over the time span, the "gender gap"  
110 between female and male performances remains stable and "[t]h[is] suggest[s] that women's  
111 performances at the high level will never match those of men" (Valerie Thibault et al., "Women and  
112 Men in Sport Performance: The Gender Gap Has Not Evolved since 1983," *Journal of Sports Science &*  
113 *Medicine* 214, 291 (2010)); (vi) that, as Duke Law professor and All-American track athlete Doriane  
114 Coleman, tennis champion Martina Navratilova, and Olympic track gold medalist Sanya Richards-  
115 Ross wrote, "[t]he evidence is unequivocal that starting in puberty, in every sport except sailing,  
116 shooting, and riding, there will always be significant numbers of boys and men who would beat the best  
117 girls and women in head-to-head competition. Claims to the contrary are simply a denial of science."  
118 (Doriane Coleman, Martina Navratilova, et al., "Pass the Equality Act, But Don't Abandon Title IX,"  
119 *Washington Post* (Apr. 29, 2019)); and (vii) that the benefits that natural testosterone provides to male  
120 athletes are not diminished through the use of puberty blockers and cross-sex hormones. A recent

121 study on the impact of such treatments found that even "after 12 months of hormonal therapy" a man  
122 who identifies as a woman and is taking cross-sex hormones "had an absolute advantage" over female  
123 athletes and "will still likely have performance benefits" over women (Tommy Lundberg, et al.,  
124 "Muscle strength, size, and composition following 12 months of gender-affirming treatment in  
125 transgender individuals: retained advantage for the transwomen," Karolinska Institute (Sept. 26,  
126 2019)). The General Assembly finds that having sex-specific teams provides opportunities for female  
127 athletes to demonstrate their skill, strength, and athletic abilities while also providing them with  
128 opportunities to obtain recognition and accolades, college scholarships, and the numerous other long-  
129 term benefits that flow from success in athletic endeavors, and that, therefore, maintaining separate  
130 sex-specific teams is imperative to promoting sex equality and necessary to ensuring female athletes  
131 equal protection under the law and equal treatment and opportunity in public school and higher  
132 education athletics.