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SENATE BILL NO. 703

Offered January 14, 2026

Prefiled January 14, 2026

A BILL to amend the Code of Virginia by adding sections numbered 22.1-271.7:1 and 23.1-408.2, relating to public elementary and secondary schools and institutions of higher education; student participation in women's sports; civil cause of action.

Patron—Durant

Referred to Committee on Education and Health

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding sections numbered 22.1-271.7:1 and 23.1-408.2 as follows:

§ 22.1-271.7:1. 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 subsection 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 (i) is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a school knowingly violating this section or (ii) is 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 shall 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

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
66 institution of higher education that suffers any direct or indirect harm as a result of a violation of this
67 subsection shall have a private cause of action for injunctive relief, damages, and any other relief available
68 under law against such government entity, licensing or accrediting organization, or athletic association or
69 organization.

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

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

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

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

121 male athletes are not diminished through the use of puberty blockers and cross-sex hormones. A recent
122 study on the impact of such treatments found that even "after 12 months of hormonal therapy" a man
123 who identifies as a woman and is taking cross-sex hormones "had an absolute advantage" over female
124 athletes and "will still likely have performance benefits" over women (Tommy Lundberg, et al.,
125 "Muscle strength, size and composition following months of gender-affirming treatment of transgender
126 individuals: retained advantage for the transwomen," Karolinska Institute (Sept. 26, 2019)), and the
127 General Assembly finds that having sex-specific teams provides opportunities for female athletes to
128 demonstrate their skill, strength, and athletic abilities while also providing them with opportunities to
129 obtain recognition and accolades, college scholarships, and the numerous other long-term benefits that
130 flow from success in athletic endeavors; and that, therefore, maintaining separate sex-specific teams is
131 imperative to promoting sex equality and necessary to ensuring female athletes equal protection under
132 the law and equal treatment and opportunity in public school and higher education athletics.

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