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To: Universities and Colleges; Accountability, Efficiency, Transparency

COMMITTEE SUBSTITUTE
FOR
SENATE BILL NO. 2536

1 AN ACT TO CREATE THE "MISSISSIPPI FAIRNESS ACT"; TO REQUIRE
2 ANY PUBLIC SCHOOL, PUBLIC INSTITUTION OF HIGHER LEARNING OR
3 INSTITUTION OF HIGHER LEARNING THAT IS A MEMBER OF THE NCAA, NAIA,
4 MHSAA OR NJCCA TO DESIGNATE ITS ATHLETIC TEAMS OR SPORTS ACCORDING
5 TO BIOLOGICAL SEX; TO PROVIDE PROTECTION FOR ANY SCHOOL OR
6 INSTITUTION OF HIGHER EDUCATION THAT MAINTAINS SEPARATE ATHLETIC
7 TEAMS OR SPORT FOR STUDENTS OF THE FEMALE SEX; TO CREATE PRIVATE
8 CAUSES OF ACTION; AND FOR RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 **SECTION 1. Title.** This act shall be known and may be cited
11 as the "Mississippi Fairness Act."

12 **SECTION 2. Designation of athletic teams.** (1)
13 Interscholastic or intramural athletic teams or sports that are
14 sponsored by a public primary or secondary school or any school
15 that is a member of the Mississippi High School Activities
16 Association or public institution of higher education or any
17 higher education institution that is a member of the NCAA, NAIA or
18 NJCCA shall be expressly designated as one of the following based
19 on biological sex:

- 20 (a) "Males," "men" or "boys";
- 21 (b) "Females," "women" or "girls"; or



22 (c) "Coed" or "mixed."

23 (2) Athletic teams or sports designated for "females,"
24 "women" or "girls" shall not be open to students of the male sex.

25 (3) If disputed, a student may establish his or her sex by
26 presenting a signed physician's statement which shall indicate the
27 student's sex based solely upon:

28 (a) The student's internal and external reproductive
29 anatomy;

30 (b) The student's normal endogenously produced levels
31 of testosterone; and

32 (c) An analysis of the student's genetic makeup.

33 **SECTION 3. Protection for educational institutions.** A
34 government entity, any licensing or accrediting organization, or
35 any athletic association or organization shall not entertain a
36 complaint, open an investigation, or take any other adverse action
37 against a primary or secondary school or institution of higher
38 education for maintaining separate interscholastic or intramural
39 athletic teams or sports for students of the female sex.

40 **SECTION 4. Cause of action.** (1) Any student who is
41 deprived of an athletic opportunity or suffers any direct or
42 indirect harm as a result of a violation of this act shall have a
43 private cause of action for injunctive relief, damages and any
44 other relief available under law against the primary or secondary
45 school or institution of higher education.



46 (2) Any student who is subject to retaliation or other
47 adverse action by a primary or secondary school, institution of
48 higher education, or athletic association or organization as a
49 result of reporting a violation of this act to an employee or
50 representative of the school, institution or athletic association
51 or organization, or to any state or federal agency with oversight
52 of primary or secondary schools or institutions of higher
53 education in the state shall have a private cause of action for
54 injunctive relief, damages and any other relief available under
55 law against the school, institution or athletic association or
56 organization.

57 (3) Any primary or secondary school or institution of higher
58 education that suffers any direct or indirect harm as a result of
59 a violation of this act shall have a private cause of action for
60 injunctive relief, damages and any other relief available under
61 law against the government entity, licensing or accrediting
62 organization, or athletic association or organization.

63 (4) All civil actions must be initiated within two (2) years
64 after the harm occurred. Persons or organizations who prevail on
65 a claim brought pursuant to this section shall be entitled to
66 monetary damages, including for any psychological, emotional and
67 physical harm suffered, reasonable attorneys' fees and costs, and
68 any other appropriate relief. The causes of action pursuant to
69 this section shall be in addition to any other civil or criminal
70 proceeding authorized by the laws of this state or by federal law.



71 **SECTION 5.** **Severability.** Any provision of this act held to
72 be invalid or unenforceable by its terms, or as applied to any
73 person or circumstance, shall be construed so as to give it the
74 maximum effect permitted by law, unless such holding shall be one
75 of utter invalidity or unenforceability, in which event such
76 provision shall be deemed severable herefrom and shall not affect
77 the remainder hereof or the application of such provision to other
78 persons not similarly situated or to other, dissimilar
79 circumstances.

80 **SECTION 6.** This act shall take effect and be in force from
81 and after July 1, 2021.

