

Proposition 134: Male and Female Participation in School and Collegiate Sports

Placed on the ballot by citizen initiative • Passes with a majority vote

Proposition 134 proposes amending the Colorado statutes to:

- require that all elementary through collegiate school-based athletic teams and sports be designated as male-only or female-only based on biological sex, unless the team or sport is designated as open to participation by individuals of any sex or gender;
- require schools and school districts to implement policies to ensure that students are assigned to gender-designated teams that align with their biological sex; and
- prohibit investigations of, or penalties for, a school that designates a team or sport as female-only.

What Your Vote Means

YES

A “yes” vote on Proposition 134 means that all school-based athletic teams and sports must be designated as being for biological males or biological females only, or as mixed, and requires schools and school districts to adopt policies on sex eligibility for sports.

NO

A “no” vote on Proposition 134 means that individual schools, school districts, and athletic associations may continue to set their own policies in alignment with current state and federal law about who is eligible to participate on a team or in a sport.

Summary and Analysis of Proposition 134

What does the measure do?

The measure requires that any school-based team or sport be explicitly designated as being:

- for biological males only;
- for biological females only; or
- coeducational or mixed.

Under the measure, students must compete on teams that match their biological sex or on a coeducational team. Biological females are allowed to participate on a team or sport designated for biological males if there is no equivalent female team offered for that sport. Participation on a coeducational or mixed team or sport is open to all. In addition, the measure prohibits any

government entity, licensing or accrediting organization, or athletic association from investigating or penalizing a school for designating a team or sport as being only for biological females.

How does the measure define biological males and females?

The measure defines biological sex in terms of production of reproductive cells. "Male" is defined as children or adults whose biological reproductive system is organized around the production of sperm cells. "Female" is defined as children or adults whose biological reproductive system is organized around the production of ova, or egg cells. The measure does not impose a specific method for determining or demonstrating biological sex. Individual schools or school districts must determine their own verification procedures.

What teams does the measure apply to?

The measure applies to all teams and sports organized by schools or athletic associations, including teams that compete against other schools, in-house intramural sports, and after-school programs sponsored by schools. Schools include all public, charter, private, and religious school teams and sports from elementary through high school, and all public or private colleges, universities, and community colleges. Athletic associations are defined in the measure as organizations that administer extracurricular athletic competitions for schools. The measure does not apply to youth sports and leagues that operate separately from schools.

The governing body of every school or district must adopt a policy implementing the requirements established by the measure. For public K-12 schools, if a school district does not follow the measure's requirements, the state Commissioner of Education must first notify the district of its noncompliance. If the school district does not respond to this notification with a good-faith attempt to comply, then the commissioner must take corrective action. The measure does not establish an enforcement mechanism for private K-12 schools, colleges and universities, or athletic associations that do not adhere to the measure's requirements.

How does the measure interact with state and federal anti-discrimination law?

The Colorado Anti-Discrimination Act (CADA) prohibits discrimination in employment, housing, and places of public accommodation based on a person's sex, sexual orientation, gender identity, and gender expression. Public K-12 schools, colleges, and universities may not exclude students from extracurricular activities that align with their gender identity, even if their gender identity is different from their biological sex. It is unclear at this time how the measure will impact current state law.

At the federal level, Title IX of the Education Amendments of 1972 prohibits sex-based discrimination in federally funded education programs. Courts and presidential administrations have interpreted Title IX in a variety of ways, sometimes including and sometimes excluding gender identity under the definition of "sex." On February 5, 2025, the President issued Executive Order 14201, "Keeping Men Out of Women's Sports," which directs federal agencies to interpret Title IX as prohibiting biological males from participating on teams or in sports designated as being for biological females. States that do not adhere to federal policy may face cuts in federal funding, and state laws or policies that conflict with federal law may face legal challenges from

the federal government. At least seven Colorado schools and school districts have adopted policies restricting biological males who identify as female from participating in female sports. In June 2026, the U.S. Supreme Court ruled that Title IX permits states to adopt laws that maintain separate male and female sports based on biological sex.

How do athletic associations currently address this issue?

The Colorado High School Activities Association (CHSAA), the association that oversees high school sports, recognizes a right for transgender athletes to participate in school activities. Its rules allow CHSAA to review schools' athletic eligibility decisions for transgender students. In 2025, eight schools and school districts in Colorado filed a federal lawsuit challenging CHSAA rules and CADA requirements related to classification of sports teams by sex. The group of schools and districts and CHSAA reached a settlement agreement in December 2025 that allows schools to maintain separate sports teams and facilities for biological males and biological females without being penalized or sanctioned by CHSAA. However, the portion of the lawsuit challenging CADA is still ongoing.

At the collegiate level, the National Collegiate Athletic Association (NCAA) rules state that competing in female sports is limited to student athletes who are assigned female at birth, and student athletes assigned male at birth cannot receive athletic scholarships designed for females, regardless of their gender identity. The NCAA rules do not apply to intramural collegiate sports.

Arguments For Proposition 134

- 1) Females should be able to compete against other females. Allowing biological males to participate on female teams creates an unfair advantage for the males and can prevent female athletes from achieving wins, records, podium spots, and scholarship opportunities. The measure protects the accomplishments of female athletes and creates a consistent, statewide standard for participation on female teams. Without uniform rules, female athletes across the state compete under different policies and conditions, resulting in an uneven playing field. The measure ensures that all female athletes can compete fairly no matter where they live.
- 2) Allowing biological males to participate on female teams or in female sports jeopardizes the safety and physical and emotional boundaries of female athletes. Regardless of one's gender identity, genetic differences between biological males and biological females can affect physical strength, stature, lung capacity, muscle tone, and growth. Males and females are separated in certain sports due to the physical differences between the sexes and the risk for injury. Beyond the field of play, shared locker rooms raise privacy concerns. The measure creates a reasonable policy grounded in biological sex that promotes the safety of all participants.

Arguments Against Proposition 134

- 1) The measure does not protect fairness; it turns athletic eligibility into a body inspection and manufactures new grounds for discrimination. It could subject many athletes, not just those who are transgender, to uncomfortable physical inspections. Mandating a statewide eligibility standard, but not a clear method for determining eligibility, will require schools and districts to create their own separate policies, which will likely lead to unfair and uneven treatment of student athletes across the state. Some athletes may be forced to undergo invasive or expensive testing to prove their biological sex, while others may be able to simply provide a note from a doctor. Certain athletes could even be targeted for additional testing based on their physical strength, appearance, or athletic success.
- 2) School sports should be a space where all kids can build confidence, health, and belonging and have the opportunity to learn teamwork, leadership, and goal setting. Targeting an at-risk group of students by preventing them from playing on teams with their peers and instead requiring them to play on teams that do not match their gender identity leads to harassment, shame, embarrassment, and feelings of isolation and exclusion. The measure's rigid participation standards apply to kids of all ages and abilities, affecting even young children who just want to play on teams with their friends and peers and are not competing for championships or scholarships.

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In addition, state institutions of higher education will have increased costs to adopt or update policies for interscholastic or intramural athletic programs to align with the requirements in the measure. Any costs are assumed to be paid by institutional revenue, such as tuition, fees, or athletic department revenue.

Local Government Spending

Proposition 134 will increase workload and may increase costs for schools, school districts and charter schools that offer interscholastic or intramural athletic programs to update and implement their policies. These costs are expected to be minimal. To the extent the Colorado

Legislative Council Draft

- 1 Department of Education takes remedial action for noncompliance, legal and other costs may
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schools and school districts have adopted policies restricting biological males who identify as female from participating in female sports. In June 2026, the U.S. Supreme Court ruled that states are permitted to adopt laws that ban biological males from participating in female sports, and that defining "sex" as biological sex for the purpose of separating athletic teams does not violate Title IX.

How do athletic associations currently address this issue?

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- 1) The measure does not protect fairness; it turns athletic eligibility into a body inspection and manufactures new grounds for discrimination. It could subject many athletes, not just those who are transgender, to uncomfortable physical inspections. Requiring schools and districts to create their own separate policies will likely lead to unfair and uneven treatment of student athletes across the state. Some athletes may be forced to undergo invasive or expensive testing to prove their biological sex, while others may be able to simply provide a note from a doctor. Certain athletes could even be targeted for additional testing based on their physical strength, appearance, or athletic success.
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In addition, state institutions of higher education will have increased costs to adopt or update policies for interscholastic or intramural athletic programs to align with the requirements in the measure. Any costs are assumed to be paid by institutional revenue, such as tuition, fees, or athletic department revenue.

Local Government Spending

Initiative 109 will increase workload and may increase costs for schools, school districts and charter schools that offer interscholastic or intramural athletic programs to update their policies. These costs are expected to be minimal. To the extent the Colorado Department of Education takes remedial action for noncompliance, legal and other costs may also increase for school districts.

Last Draft Comments from Interested Parties

Initiative 109

Male and Female Participation in School and Collegiate Sports

Families Not Politics, representing the opponents:

I would like to submit the attached document with suggested language changes on behalf of Families Not Politics, the registered committee in opposition to Initiative 109. Thank you for considering our suggestions.

Thanks,
Nina Krizman

Ms. Krizman also submitted Attachment A.

Elizabeth Freudenthal, representing herself:

Hello, I repeat what I submitted on your first draft: the real impact of this measure is to encode in statute a scientifically false definition of "biological sex."

Please add a more objective version of the above to "what your yes vote means."

The definition of biological sex is inaccurate, which is a problem. But the real problem is that these inaccuracies are oppressive and exclusionary. Many people identifying as cisgender have non-normative sex organs and chromosomes and this definition would exclude them from sports even though they're not trans.

Also it's illogical: a trans person who is completed medical transition, including transformation and/or removal of sex-specific organs and many years of hormone therapy would have a biological sex different from that assigned birth by almost all criteria. A trans person with wealth, access, and time to "pass" as cisgender would likely be able to play sports, whereas as someone who has only started transitioning would not.

These inequities, discrepancies and nonsensical results all stem from a perverse and inaccurate definition of biological sex, which this would encode into statute. I am extraordinarily offended that by draft 3 your team still has not included at least a basic acknowledgment that this is the measure's real effect.

Thanks,
Elizabeth

Scott Gessler, representing the proponents:

I write on behalf of the proponents, who have one comment. I ask that you include the following accurate and relevant information submitted by the Proponents.

The description includes a section entitled "How do athletic associations currently address this issue?" In that section, you accurately note Colorado state and NCAA approaches to biological males participating in female sports.

For a full perspective, however, you should include the world's most well-known and influential athletic association, the International Olympic Committee. The International Olympic Committee standard prohibits biological men from participating in women's sports. Specifically, the standards state:

Male sex (as defined in Schedule 1) confers performance advantage in all sports and events that rely on strength, power, and/or endurance;

To protect fairness in such sports and events, as well as safety particularly in contact sports (e.g. combat, collision, projectile sports), it is necessary and adequate to base eligibility for competition on biological sex.¹

Therefore, please include a statement that the International Olympic Committee prohibits biological males from competing in female sports.

Thank you for your consideration, and please feel free to contact me directly at this email or at 720-839-6637 with any questions.

Sincerely,

Scott E. Gessler

GESSLER BLUE LLC

Lillian Wangler, representing herself:

Hello,

I'm a private citizen not associated with any organization. Overall, the draft does a good job identifying the central disagreement over transgender participation in sports, but it could do more to explain the initiative as a piece of legislation. Voters need to understand not only the competing views about transgender athletes, but also the initiative's unusually broad scope, its implementation and enforcement mechanisms, its interaction with existing law, and the discretion it leaves to individual schools. Those details could materially affect how a voter evaluates the measure regardless of their views on transgender participation in sports. Here are some specific points to make the entry less about the political controversy surrounding Initiative 109 and more about what Initiative 109 actually does.

- I'd suggest a small table or clearer bullet structure that details that the measure requires teams to be designated male-only, female-only, or mixed; requires students to participate according to biological sex; allows biological females to participate on male teams if no equivalent female team exists; allows mixed teams to remain open to everyone; prohibits certain

investigations or penalties concerning female-only teams. Otherwise, voters could miss that “female students may participate on male teams if...” is an exception rather than the general rule.

- This exception should also more clearly spelled out. You could explain when it applies, who determines whether an “equivalent female team” exists, what happens if the school offers a female team but there aren't enough participants, and whether this applies to individual sports as well as team sports. If those questions are unanswered in the initiative, this should be explicitly identified for voters.
- The draft is clear that the initiative prohibits government entities, licensing/accrediting organizations, and athletic associations from investigating or penalizing a school for designating a team as female-only. What types of investigation does this prohibit? Does it prohibit investigation under existing anti-discrimination law? Does it prevent athletic associations from reviewing a school's decision? Does it apply only to the designation itself or to the implementation of the policy? This is potentially one of the most legally consequential provisions in the initiative and deserves more explanation.
- The draft says the initiative defines male and female according to whether a person's reproductive system is organized around producing sperm or ova. It then says the measure does not specify how biological sex must be demonstrated and leaves verification procedures to schools. The analysis should more clearly explain the practical implications of leaving verification procedures to individual schools and districts. Voters should understand that the initiative establishes a statewide eligibility standard without establishing a statewide method for determining eligibility.
- The initiative applies to elementary schools and intramural sports, but the arguments for it focus heavily on competitive advantages, records, scholarships, and physical differences. The draft could help voters by explaining the practical significance of that scope. It should be clearly highlighted in the analysis that the measure applies to intramural and after-school programs, it would also govern athletic activities that are not part of interscholastic competition.
- The draft says, “It is unclear at this time how the measure will impact current state law.” Voters would benefit from knowing what, specifically, is unclear. Which provisions of CADA could conflict? What happens while litigation is pending? Who would resolve conflicting requirements?
- It also reads, “In June 2026, the U.S. Supreme Court ruled that states are permitted to adopt laws that ban biological males from participating in female sports...” . “Ban biological males” is advocacy-style shorthand. The Court's own legal framing is about eligibility for women's and girls' sports based on biological sex. A more neutral wording could read something like, “On June 30, 2026, the U.S. Supreme Court held in *West Virginia v. B.P.J.* that Title IX permits schools to maintain separate girls' and women's sports teams based on biological sex and that the state laws at issue did not violate the Equal Protection Clause.”

- Another place for more neutrality is in the writing that, "States that do not adhere to federal policy may face cuts in federal funding, and state laws or policies that conflict with federal law may face legal challenges from the federal government." The Supreme Court ruling does not mean Colorado is required to enact Initiative 109. It means that the particular type of biological-sex-based athletic eligibility rule at issue is permissible under Title IX. This should be more explicit.
- The fiscal section is generic. If the total dollar amount cannot be estimated, describing the categories of work (staff training? dispute resolution? recordkeeping? compliance monitoring? policy development?) would help voters understand what "increased workload" actually means.
- The blue book should include an explicit section regarding what 109 would not change, which I think would also be best in a clear bullet structure.
- Further more, the "What Your Vote Means" section says that a NO vote allows schools, districts, and athletic associations to continue setting policies consistent with existing law. Voters would benefit from a little more explanation of what those existing policies actually are. The later CHSAA and NCAA discussion provides some information, but the reader has to piece it together. Clearly stating that a NO vote means schools retain authority under current law; CHSAA retains its applicable rules; NCAA rules continue to govern NCAA competition; and federal and state legal requirements continue to apply would be more helpful.
- It should distinguish what the measure does versus why supporters believe those effects are desirable. Saying the measure "protects the accomplishments of female athletes" is an advocacy claim, for example.

Further oppositional points to include are:

1. The rules surrounding school sports, Title IX, and athletic eligibility are changing rapidly. Colorado's athletic associations, state law, federal policy, and the courts have all been involved in ongoing disputes over these questions. The Blue Book itself notes uncertainty about how Initiative 109 would interact with existing Colorado law. Voters should be cautious about locking a detailed policy into state law while courts, athletic organizations, and schools are still working through the issue. A policy that can be adjusted by schools and athletic associations can respond to new circumstances. A statute passed by voters is much harder to change.
2. Initiative 109 requires every school and district to establish policies implementing its requirements. That means administrators will have to interpret the law, determine eligibility procedures, train staff, handle disputes, and maintain records. The state's fiscal analysis already acknowledges additional work and potential costs for schools, districts, charter schools, colleges, and the Colorado Department of Education. Is adding another layer of bureaucracy to already-burdened schools really the best way to handle this issue?
3. The fiscal analysis says local costs are expected to be "minimal", but schools and colleges will still have to spend resources updating policies and implementing the law. Colleges may pay those costs through institutional revenue, including tuition, fees, or athletic department

revenue. Every hour an administrator spends developing new eligibility procedures is an hour that cannot be spent on evaluating instruction, student services, or other priorities.

4. Furthermore, "minimal" is not enough information to make a wise fiscal decision. It is vague and relative. Would you hire a contractor who could only describe the cost of their services as "minimal"?
5. A second grader playing an after-school game is not competing for an Olympic berth or a college scholarship. Colorado should be careful about applying rules designed for high-level competition to ordinary childhood recreation.
6. Protecting girls' sports should mean expanding opportunities for girls to participate, not creating additional barriers to participation.
7. One of the supposed advantages of Initiative 109 is that it creates a statewide standard. It initiative defines male and female according to whether a person's reproductive system is organized around producing sperm or ova, but it does not establish a statewide procedure for determining that status. If biological sex is going to become the legal basis for athletic eligibility, the legislature should provide clear, workable rules for applying that definition. Instead, Initiative 109 leaves schools to work out the details themselves. A family should not need to learn a different set of bureaucratic procedures simply because their child changes schools or moves to another district. A law should settle questions, not create new ones for school administrators to answer.
8. Initiative 109 is being presented as a way to settle the controversy over athletic eligibility. But schools will still have to determine eligibility, interpret the law, and deal with disagreements about how it applies. Instead of allowing athletic associations with expertise in sports to develop and revise eligibility rules, the initiative puts school administrators on the front line of a politically and legally complicated issue. If the goal is to reduce controversy in school sports, creating more disputes for principals and athletic directors to resolve is the wrong approach.
9. Schools already have enormous responsibilities: educating students, keeping classrooms safe, managing budgets, supporting teachers, and providing extracurricular opportunities. Initiative 109 adds another responsibility: determining which biological-sex category individual students belong in for athletic purposes and establishing policies for making those determinations. Colorado should be careful about turning school administrators into enforcers of detailed biological eligibility rules when their primary responsibility is educating children.
10. When government addresses a specific problem, it should use the narrowest reasonable solution. Initiative 109 instead creates a sweeping statewide mandate affecting students who have nothing to do with the competitive situations its supporters most often cite.
11. Sports organizations have specialized knowledge about competition, safety, eligibility, and the practical administration of athletics. Their rules can be reviewed and modified as circumstances change. Initiative 109 replaces that flexibility with statutory requirements applying across Colorado. The Blue Book notes that CHSAA currently has its own eligibility framework and that the organization has already been involved in litigation and a settlement concerning these

questions. Colorado should let sports organizations do the job they were created to do instead of putting every future change in the hands of the legislature or voters.

12. Colorado should reject unnecessary government overreach, even when the goal sounds reasonable. Protecting fair competition is a legitimate goal. But a good goal does not automatically make every proposed law a good law. Initiative 109 would establish a statewide legal framework covering virtually every school sport, require schools to adopt new policies, limit the discretion of athletic associations, and leave schools to determine how biological sex will be verified. The question isn't whether fairness matters. The question is whether this much government intervention is necessary to achieve it.

Looking forward to draft 4,

Lillian Wangler

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The Colorado Anti-Discrimination Act (CADA) prohibits discrimination in employment, housing, and places of public accommodation based on a person's sex, sexual orientation, gender identity, and gender expression. Public K-12 schools, colleges, and universities may not exclude students from extracurricular activities that align with their gender identity, even if their gender identity is different from their biological sex. It is unclear at this time how the measure will impact current state law.

At the federal level, Title IX of the Education Amendments of 1972 prohibits sex-based discrimination in federally funded education programs. Courts and presidential administrations have interpreted Title IX in a variety of ways, sometimes including and sometimes excluding gender identity under the definition of "sex." On February 5, 2025, the President issued Executive Order 14201, "Keeping Men Out of Women's Sports," which directs federal agencies to interpret Title IX as prohibiting biological males from participating on teams or in sports designated as being for biological females~~in female sports~~. States that do not adhere to federal policy may face cuts in federal funding, and state laws or policies that conflict with federal law may face legal challenges from the federal government. At least seven Colorado schools and school districts have adopted policies restricting biological males ~~who identify as female~~ from participating on teams or in sports designated as being for biological females~~in female sports~~. In June 2026, the U.S. Supreme Court ruled that states are permitted to adopt laws that ban biological males from participating on teams or in sports designated as being for biological females~~in female sports~~, and that defining "sex" as biological sex for the purpose of separating athletic teams does not violate Title IX.

How do athletic associations currently address this issue?

The Colorado High School Activities Association (CHSAA), the association that oversees high

school sports, recognizes a right for transgender athletes to participate in school activities. Its rules allow CHSAA to review schools' athletic eligibility decisions for transgender students. In 2025, eight schools and school districts in Colorado filed a federal lawsuit challenging CHSAA rules and CADA requirements related to classification of sports teams by sex. The group of schools and districts and CHSAA reached a settlement agreement in December 2025 that allows schools to maintain separate sports teams and facilities for biological males and biological females without being penalized or sanctioned by CHSAA. However, the portion of the lawsuit challenging CADA is still ongoing.

At the collegiate level, the National Collegiate Athletic Association (NCAA) rules state that competing in female sports is limited to student athletes who are assigned female at birth, and student athletes assigned male at birth cannot receive athletic scholarships designed for females, regardless of their gender identity. The NCAA rules do not apply to intramural collegiate sports.

Arguments For Initiative 109

1) Females should be able to compete against other females. Allowing biological males to participate on female teams creates an unfair advantage for the males and can prevent female athletes from achieving wins, records, podium spots, and scholarship opportunities. The measure protects the accomplishments of female athletes and creates a consistent, statewide standard for participation on female teams. Without uniform rules, female athletes across the state compete under different policies and conditions, resulting in an uneven playing field. The measure ensures that all female athletes can compete fairly no matter where they live.

2) Allowing biological males to participate on female teams or in female sports jeopardizes the safety and physical and emotional boundaries of female athletes. Regardless of one's gender identity, genetic differences between biological males and biological females can affect physical strength, stature, lung capacity, muscle tone, and growth. Males and females are separated in certain sports due to the physical differences between the sexes and the risk for injury. Beyond the field of play, shared locker rooms raise privacy concerns. The measure creates a reasonable policy grounded in biological sex that promotes the safety of all participants.

Arguments Against Initiative 109

1) The measure does not protect fairness; it turns athletic eligibility into a body inspection and manufactures new grounds for discrimination. It could subject many athletes, not just those who are transgender, to uncomfortable physical inspections. Requiring schools and districts to create their own separate policies will likely lead to unfair and uneven treatment of student athletes across the state. Some athletes may be forced to undergo invasive or expensive testing to prove their biological sex, while others may be able to simply provide a note from a doctor. Certain athletes could even be targeted for additional testing based on their physical strength, appearance, or athletic success.

2) School sports should be a space where all kids can build confidence, health, and belonging and have the opportunity to learn teamwork, leadership, and goal setting. Targeting an at risk group of students by preventing them from playing on teams with their peers and instead requiring them to play on teams that do not match their gender identity leads to harassment, shame, embarrassment, and feelings of isolation and exclusion. The measure's rigid participation standards apply to kids of all ages and abilities, affecting even young children who just want to play on teams with their friends and peers and are not competing for championships or scholarships.

Information about the organizations supporting and opposing this measure is available on the

Colorado Secretary of State's website:

www.coloradosos.gov/pubs/elections/Initiatives/ballot/contacts/2026.html

Fiscal Impact of Initiative 109

State Spending

Initiative 109 will increase workload and legal costs by an indeterminate amount in the Colorado Department of Education if a school district is intentionally out of compliance with the measure and the Commissioner of Education is required to take remedial action. Legal services are provided by the Department of Law.

In addition, state institutions of higher education will have increased costs to adopt or update policies for interscholastic or intramural athletic programs to align with the requirements in the measure. Any costs are assumed to be paid by institutional revenue, such as tuition, fees, or athletic department revenue.

Local Government Spending

Initiative 109 will increase workload and may increase costs for schools, school districts and charter schools that offer interscholastic or intramural athletic programs to update their policies. These costs are expected to be minimal. To the extent the Colorado Department of Education takes remedial action for noncompliance, legal and other costs may also increase for school districts. Districts may also see increased costs associated with verifying the sex of each student athlete.

Contact List

Proposition 134

Male and Female Participation in School and Collegiate Sports

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Proposition 134

Male and Female Participation in School and Collegiate Sports

Ballot Title: Shall there be a change to the Colorado Revised Statutes creating new law restricting participation in all K-12 and collegiate school sports based on the participant's sex as determined by certain aspects of their biological reproductive system, and, in connection therewith, requiring a school, institution of higher education, or athletic association to designate each school or intramural athletic team or sport as male, female, or coeducational; only allowing participants to compete on the team or sport of their designated sex or to compete on a coeducational team; creating an exception to allow a female to participate on a male-designated team or sport if there is no female team available; prohibiting a government entity, licensing or accrediting organization, or athletic association from entertaining a complaint, opening an investigation, or taking other adverse action against a school for maintaining separate teams or sports for females; and providing the commissioner of education with the authority to enforce the proposed initiative for K-12 school districts?

Text of Measure:

Be it enacted by the people of the State of Colorado,

SECTION 1. Legislative Declaration. The people of the State of Colorado hereby find and declare;

(1) Males and females possess unique and immutable biological differences that manifest prior to birth and increase as they age and experience puberty;

(2) Biological differences between the sexes are enduring and may, in some circumstances, warrant the creation of separate social, educational, athletic, or other arrangements in order to ensure safety and to allow members of each sex to succeed and thrive;

(3) Physical differences between males and females have long made separate and sex-specific sports teams important so that female athletes can have equal opportunities to compete in sports while reducing the risk of physical injury; and

(4) Because of the physical differences between males and females, having separate athletic teams based on the biological sex of the athlete reduces the chance of injury to female athletes, promotes equality between the sexes, provides opportunities for female athletes to compete against their female peers rather than against male athletes, and allows female athletes to compete on a fair playing field for athletic accomplishments, including educational scholarships.

SECTION 2. In Colorado Revised Statutes, **add** article 60 to title 25 as follows:

25-60-101. Short Title. ARTICLE 60 OF THIS TITLE SHALL BE KNOWN AND MAY BE CITED AS THE "PROTECT WOMEN AND GIRLS SPORTS ACT."

25-60-102. Definitions: AS USED IN THIS ARTICLE 60, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(1) "ATHLETIC ASSOCIATION" MEANS A CORPORATION, ASSOCIATION, OR ORGANIZATION WHICH HAS AS ONE OF ITS PRIMARY PURPOSES THE SPONSORING OR ADMINISTRATION OF EXTRACURRICULAR INTERSCHOLASTIC ATHLETIC CONTESTS OR COMPETITIONS.

(2) "BOY" MEANS AN ADOLESCENT HUMAN MALE.

(3) "FEMALE" MEANS A PERSON WHOSE BIOLOGICAL REPRODUCTIVE SYSTEM IS ORGANIZED AROUND THE PRODUCTION OF OVA. FEMALE INCLUDES A WOMAN AND A GIRL.

(4) "GIRL" MEANS AN ADOLESCENT HUMAN FEMALE.

(5) "MALE" MEANS A PERSON WHOSE BIOLOGICAL REPRODUCTIVE SYSTEM IS ORGANIZED AROUND THE PRODUCTION OF SPERM. MALE INCLUDES A MAN AND A BOY.

(6) "MAN" MEANS AN ADULT HUMAN MALE.

(7) "POSTSECONDARY EDUCATIONAL INSTITUTION" MEANS A PUBLIC OR PRIVATE UNIVERSITY, COLLEGE, OR COMMUNITY COLLEGE LOCATED IN COLORADO THAT IS A MEMBER INSTITUTION OF AN ACCREDITING BODY RECOGNIZED BY THE UNITED STATES DEPARTMENT OF EDUCATION.

(8) "SCHOOL" MEANS ANY

(a) PUBLIC, CHARTER, PRIVATE, OR DENOMINATIONAL SCHOOL OFFERING INSTRUCTION IN ELEMENTARY OR SECONDARY GRADES OR

(b) POSTSECONDARY EDUCATIONAL INSTITUTION.

(9) "STATE AGENCY" MEANS ANY STATE BOARD, BUREAU, COMMISSION, DEPARTMENT, INSTITUTION, DIVISION, SECTION, OR OFFICER OF THE STATE, EXCEPT THOSE IN THE LEGISLATIVE BRANCH OR JUDICIAL BRANCH.

(10) "WOMAN" MEANS AN ADULT HUMAN FEMALE.

25-60-103. Men's and women's sports teams.

(1) AN INTERSCHOLASTIC OR INTRAMURAL ATHLETIC TEAM OR SPORT THAT IS SPONSORED BY A SCHOOL OR ATHLETIC ASSOCIATION SHALL BE EXPRESSLY DESIGNATED AS ONE OF THE FOLLOWING BASED ON BIOLOGICAL SEX:

(a) MALES, MEN, OR BOYS;

(b) FEMALES, WOMEN, OR GIRLS; OR

(c) COEDUCATIONAL OR MIXED.

(2)(a) AN INTERSCHOLASTIC OR INTRAMURAL ATHLETIC TEAM OR SPORT SPONSORED BY A SCHOOL OR ATHLETIC ASSOCIATION THAT IS DESIGNATED FOR FEMALES, WOMEN, OR GIRLS SHALL NOT BE OPEN TO A MALE STUDENT OR PARTICIPANT.

(b) AN INTERSCHOLASTIC OR INTRAMURAL ATHLETIC TEAM OR SPORT SPONSORED BY A SCHOOL OR ATHLETIC ASSOCIATION AND DESIGNATED FOR MALES, MEN, OR BOYS SHALL NOT BE OPEN TO A FEMALE STUDENT OR PARTICIPANT UNLESS THERE IS NO FEMALE TEAM OFFERED OR AVAILABLE FOR SUCH SPORT FOR SUCH FEMALE STUDENT OR PARTICIPANT.

(3) NOTHING IN THIS SECTION SHALL BE CONSTRUED TO RESTRICT THE ELIGIBILITY OF ANY STUDENT OR PARTICIPANT TO PARTICIPATE IN ANY INTERSCHOLASTIC OR INTRAMURAL ATHLETIC TEAMS OR SPORTS DESIGNATED AS COEDUCATIONAL OR MIXED.

(4) A GOVERNMENT ENTITY, LICENSING OR ACCREDITING ORGANIZATION, OR ATHLETIC ASSOCIATION MAY NOT ENTERTAIN A COMPLAINT, OPEN AN INVESTIGATION, OR TAKE ANY OTHER ADVERSE ACTION AGAINST A SCHOOL FOR MAINTAINING A SEPARATE INTERSCHOLASTIC OR INTRAMURAL ATHLETIC TEAM OR SPORT FOR FEMALE STUDENTS OR PARTICIPANTS.

25-60-104. Enforcement by the Commissioner of Education.

(1) THE GOVERNING BODY OF EACH SCHOOL MUST ADOPT A POLICY IMPLEMENTING THE PROVISIONS OF THIS ARTICLE.

(2) IF THE COMMISSIONER OF EDUCATION DETERMINES THAT ANY SCHOOL DISTRICT AS DEFINED IN SECTION 22-30-103(13)

75 HAS INTENTIONALLY REFUSED TO COMPLY WITH THIS ARTICLE, THE COMMISSIONER SHALL NOTIFY THE SCHOOL DISTRICT OF
76 THE NONCOMPLIANCE AND ALLOW THE SCHOOL DISTRICT A REASONABLE TIME TO COMPLY. IF THE COMMISSIONER
77 DETERMINES, AFTER SUCH TIME HAS ELAPSED, THAT THE SCHOOL DISTRICT IS NOT IN COMPLIANCE AND HAS NOT MADE A
78 GOOD-FAITH ATTEMPT TO COMPLY, THE COMMISSIONER SHALL TAKE APPROPRIATE REMEDIAL ACTION WITHIN THE
79 COMMISSIONER'S AUTHORITY.

80 **25-60-105. Protections under the Americans with Disabilities Act.** NOTWITHSTANDING ANY OTHER
81 PROVISION WITHIN THIS ARTICLE, AN INDIVIDUAL BORN WITH A DIAGNOSIS OF A DISORDER OR DIFFERENCE IN SEX
82 DEVELOPMENT MUST RECEIVE ALL LEGAL PROTECTIONS AND ACCOMMODATIONS AFFORDED UNDER FEDERAL LAW.

83 **25-60-106. Severability.** IF ANY SECTION IN THIS ACT OR ANY PART OF ANY SECTION IS DECLARED INVALID OR
84 UNCONSTITUTIONAL, THE DECLARATION SHALL NOT AFFECT THE VALIDITY OR CONSTITUTIONALITY OF THE REMAINING
85 PORTIONS.

86 **SECTION 3. Effective Date.** This measure shall become effective on January 1, 2027.

