

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA §4602, sub-§5, as enacted by PL 2021, c. 366, §19, is amended to read:

5. Application. Nothing in this section:

A. Requires an educational institution to provide separate athletic or other extracurricular programs to serve a person with a physical or mental disability;

B. May be construed to affect the rights of a person with a physical or mental disability to special education programs under state or federal law;

C. Requires a religious corporation, association or society that does not receive public funding to comply with this section as it relates to sexual orientation or gender identity; ~~or~~

D. Requires an educational institution to participate in or endorse any religious beliefs or practices; to the extent that an educational institution permits religious expression, it cannot discriminate between religions in so doing; ~~or~~

E. May be construed to conflict with the provisions of Title 20-A, section 4017.

Sec. 2. 20-A MRSA §4017 is enacted to read:

§4017. Participation in interscholastic and competitive sports; privacy in facilities

1. Short title. This section may be known and cited as "the Protect Girls' Sports in Maine Act."

2. Definition. For the purposes of this section, "sex" means a person's biological status as male or female recorded at birth on the person's original birth certificate.

3. Designation of athletic teams. A public school subject to this Title, or an entity that governs interscholastic or competitive sports by public schools in the State, shall expressly designate athletic teams as one of the following:

A. "Males," "boys" or "men";

B. "Females," "girls" or "women"; or

C. "Coeducational" or "mixed."

4. Eligibility. The following provisions govern eligibility.

A. Athletic teams designated for females, girls or women must be restricted to students whose sex is female.

B. Athletic teams designated for males, boys or men must be restricted to students whose sex is male.

C. Athletic teams designated as coeducational or mixed must be open to all eligible females and males.

D. A female student may participate on an athletic team designated for males, boys or men if no athletic team designated for females, girls or women is available in that sport.

5. Privacy in facilities. A public school shall maintain separate restrooms, locker rooms, shower rooms and other private spaces for each sex. A member of one sex may not be permitted to use a facility designated for members of the opposite sex.

6. Construction with Maine Human Rights Act. Separation of athletic teams and private spaces by sex under this section does not constitute unlawful discrimination under Title 5, chapter 337.

7. Americans with Disabilities Act protections. Notwithstanding any other provision of this section to the contrary, an individual born with a biologically verifiable disorder or difference in sex development must receive all legal protections and accommodations afforded under federal law, including the federal Americans with Disabilities Act of 1990, 42 United States Code, Section 12101 et seq.

8. Civil enforcement. A student who is deprived of an athletic opportunity or suffers direct injury because of a violation of this section may bring a civil action for injunctive relief, damages and attorney's fees against a school or entity.

Sec. 3. Effective date. This Act takes effect January 1, 2027.

SUMMARY

This initiated bill requires public schools and entities that govern interscholastic or competitive sports by public schools to designate athletic teams as for males, for females or coeducational. Athletic teams designated for females must be restricted to students whose sex is female and athletic teams designated for males must be restricted to students whose sex is male. Athletic teams designated as coeducational must be open to all eligible females and males. A female student may participate on a team designated for males if no team designated for females is available in that sport. "Sex" is defined as a person's biological status as male or female recorded at birth on the person's original birth certificate.

The initiated bill requires public schools to maintain separate restrooms, locker rooms, shower rooms and other private spaces for each sex. A member of one sex may not be permitted to use a facility designated for members of the opposite sex.

The initiated bill provides that an individual born with a biologically verifiable disorder or difference in sex development must receive all legal protections and accommodations afforded under federal law, including the federal Americans with Disabilities Act of 1990.

The initiated bill provides a private right of action for a student who is deprived of an athletic opportunity or suffers direct injury because of a violation of a provision of the initiated bill.

The initiated bill provides that separation of athletic teams and private spaces by sex under the initiated bill does not constitute unlawful discrimination under the Maine Human Rights Act and that the Maine Human Rights Act may not be construed to conflict with the provisions of the initiated bill.