

23102088D

**SENATE BILL NO. 911**

Offered January 11, 2023

Prefiled January 5, 2023

*A BILL to amend the Code of Virginia by adding sections numbered 22.1-271.9 and 23.1-408.2, relating to K-12 schools and institutions of higher education; interscholastic, intercollegiate, intramural, and club athletic teams and sports; participation on teams based on biological sex; certain requirements; civil cause of action.*

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 Patron—Cosgrove
 

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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 22.1-271.9 and 23.1-408.2 as follows:**

**§ 22.1-271.9. Interscholastic, intramural, and club athletic teams and sports; student participation; requirements.**

*A. For the purposes of this section, "biological sex" means the statement of such student's biological sex on the student's official birth certificate if the statement was filed at or near the time of the student's birth.*

*B. Each interscholastic, intramural, or club athletic team or sport sponsored by a public elementary or secondary school shall be expressly designated as one of the following based on biological sex:*

- 1. For "males," "men," or "boys";*
- 2. For "females," "women," or "girls"; or*
- 3. For "coed" or "mixed" if participation is open to both (i) males, men, or boys and (ii) females, women, or girls.*

*C. No interscholastic, intramural, or club athletic team or sport that is sponsored by a public elementary or secondary school and that is expressly designated for "males," "men," or "boys" pursuant to subsection B shall be open to any student whose biological sex at birth is female unless such school does not sponsor an equivalent team or sport that is expressly designated for "females," "women," or "girls" or as "coed" or "mixed."*

*D. No interscholastic, intramural, or club athletic team or sport that is sponsored by a public elementary or secondary school and that is expressly designated for "females," "women," or "girls" pursuant to subsection B shall be open to any student whose biological sex at birth is male.*

*E. No interscholastic, intramural, or club athletic team or sport that is sponsored by a public elementary or secondary school shall compete against any interscholastic, intramural, or club athletic team or sport that is sponsored by any private elementary or secondary school unless such private school complies with the applicable provisions of this section, mutatis mutandis.*

*F. 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 any provision of this section or (ii) is subject to retaliation or another adverse action by a school or athletic association or organization as a result of reporting a violation of any provision of this section to an employee or representative of a school or athletic association or organization, or to any state or federal agency with oversight of schools in the Commonwealth, shall have a cause of action against the school or athletic association or organization, provided that such cause of action is initiated within two years of such deprivation, harm, retaliation, or adverse action.*

*G. Any public elementary or secondary school that suffers any direct or indirect harm as a result of a violation of any provision of this section by any governmental entity, licensing or accrediting organization, or athletic association or organization may initiate a cause of action against such entity, organization, or association, provided that such cause of action is initiated within two years of such harm.*

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

*A. For the purposes of this section, "biological sex" means the statement of such student's biological sex on the student's official birth certificate if the statement was filed at or near the time of the student's birth.*

*B. Each intercollegiate, intramural, or club athletic team or sport that is sponsored by a public institution of higher education shall be expressly designated as one of the following based on biological sex:*

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59 1. For "males," "men," or "boys";  
60 2. For "females," "women," or "girls"; or  
61 3. For "coed" or "mixed" if participation is open to both (i) males, men, or boys and (ii) females,  
62 women, or girls.  
63 C. No intercollegiate, intramural, or club athletic team or sport that is sponsored by a public  
64 institution of higher education and that is expressly designated for "males," "men," or "boys" pursuant  
65 to subsection B shall be open to any student whose biological sex at birth is female unless such  
66 institution does not sponsor an equivalent team or sport that is expressly designated for "females,"  
67 "women," or "girls" or as "coed" or "mixed."  
68 D. No intercollegiate, intramural, or club athletic team or sport that is sponsored by a public  
69 institution of higher education and that is expressly designated for "females," "women," or "girls"  
70 pursuant to subsection B shall be open to any student whose biological sex at birth is male.  
71 E. No intercollegiate, intramural, or club athletic team or sport that is sponsored by a public  
72 institution of higher education shall compete against any intercollegiate, intramural, or club athletic  
73 team or sport that is sponsored by any private institution of higher education unless such private  
74 institution of higher education complies with the applicable provisions of this section, *mutatis mutandis*.  
75 F. Any student who (i) is deprived of an athletic opportunity or suffers any direct or indirect harm  
76 as a result of a school knowingly violating any provision of this section or (ii) is subject to retaliation  
77 or another adverse action by a public institution of higher education or athletic association or  
78 organization as a result of reporting a violation of any provision of this section to an employee or  
79 representative of the institution or athletic association or organization, or to any state or federal agency  
80 with oversight over public institutions of higher education in the Commonwealth, shall have a cause of  
81 action against the institution or athletic association or organization, provided that such cause of action  
82 is initiated within two years of such deprivation, harm, retaliation, or adverse action.  
83 G. Any public institution of higher education that suffers any direct or indirect harm as a result of a  
84 violation of any provision of this section by any governmental entity, licensing or accrediting  
85 organization, or athletic association or organization may initiate a cause of action against such entity,  
86 organization, or association, provided that such cause of action is initiated within two years of such  
87 harm.