**South Carolina General Assembly**

123rd Session, 2019-2020

**H. 5363**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Trantham, G.R. Smith, McCravy, Burns, Long, Haddon, Hardee, Crawford, Robinson, Magnuson, Thayer, V.S. Moss, Hiott, Bailey, Jones, Jefferson, Chumley, Martin, Huggins, Bryant, Pope, Bannister, Clemmons, Daning, Erickson, Forrest, Gilliam, Hill, Hosey, Kimmons, Lowe, D.C. Moss, Oremus, Willis, Taylor, Hixon and Bennett

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Introduced in the House on March 9, 2020

Currently residing in the House Committee on **Judiciary**

Summary: Athletics

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/9/2020 House Introduced and read first time ([House Journal‑page 2](file:///h:\hj\20200309.docx))

3/9/2020 House Referred to Committee on **Judiciary** ([House Journal‑page 2](file:///h:\hj\20200309.docx))

3/9/2020 House Member(s) request name added as sponsor: Taylor, Hixon

3/11/2020 House Member(s) request name added as sponsor: Bennett

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**VERSIONS OF THIS BILL**

[3/9/2020](file:///p:\pprever\2019-20\5363_20200309.docx)

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 59‑1‑500 SO AS TO ENSURE CONTINUED INCLUSIVITY OF FEMALES IN THE SPORTS ARENA BY PROVIDING THAT CERTAIN TEAMS OR SPORTS MUST BE DESIGNATED BASED ON BIOLOGICAL SEX, TO PROVIDE THAT TEAMS OR SPORTS DESIGNATED FOR FEMALES, WOMEN, OR GIRLS MAY BE RESTRICTED TO STUDENTS OF THE FEMALE SEX, TO PROVIDE FOR CERTAIN PROTECTIONS FOR EDUCATIONAL INSTITUTIONS, AND TO PROVIDE FOR CERTAIN CAUSES OF ACTION.

Whereas, the General Assembly finds that there are inherent physical differences between males and females, and that these differences remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual’s opportunity; and

Whereas, continued inclusion of females and female teams in the sports arena is in the state’s interest. Now, therefore,

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Article 5, Chapter 1, Title 59 of the 1976 Code is amended by adding:

“Section 59‑1‑500. (A) Interscholastic or intramural athletic teams or sports that are sponsored by a public primary or secondary school, a public institution of higher education, or any school or institution of higher education whose athletic teams compete against a public school or institution of higher education must be expressly designated as one of the following based on biological sex:

(1) ‘males’, ‘men’, or ‘boys’;

(2) ‘females’, ‘women’, or ‘girls’; or

(3) ‘coed’ or ‘mixed’.

(B) Athletic teams or sports designated for females, women, or girls may not be open to students of the male sex.

(C) If disputed, a student may establish his or her sex by presenting a signed physician’s statement which must indicate the student’s sex based solely upon:

(1) the student’s internal and external reproductive anatomy;

(2) the student’s normal endogenously produced levels of testosterone; and

(3) if the above factors are inconclusive, an analysis of the student’s genetic makeup.

(D) Each primary or secondary school or institution of higher education subject to this section shall adopt procedures for timely resolving such disputes consistent with this section.

(E) A governmental entity, any licensing or accrediting organization, or any athletic association or organization may not entertain a complaint, open an investigation, or take any other adverse action against a primary or secondary school or institution of higher education for maintaining separate interscholastic or intramural athletic teams or sports for students of the female sex, or require a primary or secondary school or institution of higher education to adopt any policy or practice that conflicts with the requirements of this section.

(F)(1) Any student who is deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available under law against the primary or secondary school or institution of higher education.

(2) Any student who is subject to retaliation or other adverse action by a primary or secondary school, institution of higher education, or athletic association or organization as a result of reporting a violation of this section to an employee or representative of the school, institution, or athletic association or organization, or to any state or federal agency with oversight of primary or secondary schools or institutions of higher education in the State has a private cause of action for injunctive relief, damages, and any other relief available under law against the school, institution, or athletic association or organization.

(3) Any primary or secondary school or institution of higher education that suffers any direct or indirect harm as a result of a violation of this section has a private cause of action for injunctive relief, damages, and any other relief available under law against the governmental entity, licensing or accrediting organization, or athletic association or organization.

(4) All civil actions must be initiated within two years after the harm occurred. Persons or organizations who prevail on a claim brought pursuant to this section are entitled to monetary damages, including for any psychological, emotional, and physical harm suffered, reasonable attorneys’ fees and costs, and any other appropriate relief.”

SECTION 2. If any section, subsection, paragraph, subparagraph, sentence, clause, phrase, or word of this act is for any reason held to be unconstitutional or invalid, such holding shall not affect the constitutionality or validity of the remaining portions of this act, the General Assembly hereby declaring that it would have passed this act, and each and every section, subsection, paragraph, subparagraph, sentence, clause, phrase, and word thereof, irrespective of the fact that any one or more other sections, subsections, paragraphs, subparagraphs, sentences, clauses, phrases, or words hereof may be declared to be unconstitutional, invalid, or otherwise ineffective.

SECTION 3. This act takes effect upon approval by the Governor.

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