

Department of Legislative Services
Maryland General Assembly
2026 Session

FISCAL AND POLICY NOTE
First Reader

House Bill 63

(Delegate Szeliga, *et al.*)

Ways and Means

**Education - Interscholastic and Intramural Junior Varsity and Varsity Teams
and Locker Rooms - Designation Based on Sex (Fairness in Girls' Sports Act)**

This bill requires an interscholastic or intramural athletic team or sport that is sponsored by a public or certain nonpublic high school to be expressly designated as one of the following based on biological sex: (1) a boys', male, or men's team or sport; (2) a girls', female, or women's team or sport; or (3) a coeducational or mixed team or sport. An interscholastic or intramural athletic team or sport designated for girls, females, or women may not include students of the male sex. Schools subject to the bill must expressly designate a locker room as (1) a boys', male, or men's locker room or (2) a girls', female, or women's locker room. A locker room used by an interscholastic or intramural junior varsity athletic team designated for girls, females, or women may not be used by students of the male sex. A governmental entity, a licensing or accrediting organization, or an athletic association or organization may not accept a complaint, investigate, or take any other adverse action against a school for maintaining separate interscholastic or intramural athletic teams or sports or locker rooms designated for students of the female sex. Students and schools may bring specified civil actions. **The bill takes effect July 1, 2026.**

Fiscal Summary

State Effect: None. The bill only affects local government operations.

Local Effect: Local school systems may incur additional costs related to (1) civil actions brought and (2) potentially locker room modifications under the bill, but a reliable estimate of any such effect is not feasible absent experience under the bill. Local school systems can update sports eligibility policies and guidelines using existing resources.

Small Business Effect: None.

Analysis

Bill Summary: “Student of the female sex” means a student whose biological sex is female; “student of the male sex” means a student whose biological sex is male. “Locker room” means a dedicated space where a student can change clothes and store belongings and where partial or full disrobing is expected.

A student who is deprived of an athletic opportunity or suffers any harm resulting from a violation of the bill’s provisions may bring a civil action against the student’s school. A student who is subject to retaliation or other adverse action by a school or an athletic association or organization resulting from reporting a violation of the bill’s provisions to (1) an employee or representative of the aforementioned entities, or (2) any State or federal agency with oversight of schools in the State, may bring a civil action against the school or athletic association or organization. An individual prevailing in a civil action under the bill may recover monetary damages, reasonable attorney’s fees and costs, and any other relief, including an injunction, as the court deems appropriate.

A school that suffers any harm from a governmental entity, a licensing or accrediting organization, or an athletic association or organization as a result of a violation of the bill may bring a civil action against any of those entities.

If any provision of the bill or the application of any provision of the bill to any person or circumstance is held invalid for any reason in a court of competent jurisdiction (1) the provision must be construed to give the provision the maximum effect permitted by law unless the provision is held to be absolutely invalid, and (2) the invalidity does not affect other provisions or any other application of the bill. The provisions of the bill are declared severable.

Current Law: State regulations under the Maryland State Department of Education govern the athletic programs for all high school students in Maryland public secondary schools, which are members of the Maryland Public Secondary Schools Athletic Association (MPSSAA). Local school systems may adopt rules governing their athletic programs that are more restrictive than those of MPSSAA. Under State regulations, students may not be excluded on the basis of sex from overall equal opportunity to participate in athletic programs. If a school sponsors a team in a particular sport for members of one sex but sponsors no such team for members of the opposite sex, and before July 1, 1975, overall opportunities for members of the excluded sex have been limited, the excluded sex must be allowed to try out for the team.

Under Chapter 739 of 2022, public and publicly funded schools and programs may not discriminate against a current student, a prospective student, or the parent or guardian of a

current or prospective student on the basis of race, ethnicity, color, religion, sex, age, national origin, marital status, sexual orientation, gender identity, or disability.

Under federal law – Title IX of the Education Amendments of 1972 (Title IX) – discrimination on the basis of sex in educational programs and activities is prohibited for educational institutions receiving federal funding. Every institution that receives federal financial assistance is bound by Title IX; however, an educational institution that is controlled by a religious organization is exempt from Title IX when the law’s requirements conflict with the organization’s religious tenets.

In April 2024, the U.S. Department of Education issued regulations related to Title IX, effective August 1, 2024, which in part specified that prohibited discrimination on the basis of sex includes discrimination on the basis of sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. However, in June 2024, in the case of *State of Tennessee et al. v. Miguel Cardona et al.* (Civil Action No. 2:24-072-DCR), a U.S. District Court judge granted a preliminary injunction against the regulations’ enforcement in six plaintiff states (not including Maryland). Following a July 2024 denial of the department’s motion for partial stay pending appeal, the U.S. District Court judge found on January 9, 2025, that the regulations and associated final rule are invalid because they exceed the department’s authority under Title IX, violate the U.S. Constitution, and are the result of arbitrary and capricious agency action.

The court opinion states that, “when Title IX is viewed in its entirety, it is abundantly clear that discrimination on the basis of sex means discrimination on the basis of being a male or female” and that “expanding the meaning of ‘on the basis of sex’ to include ‘gender identity’ turns Title IX on its head.” As its remedy, the District Court ruling vacates nationwide the rule and regulations that took effect August 1, 2024.

On February 5, 2025, President Donald J. Trump issued an [executive order](#), citing *Tennessee v. Cardona*, and asserting that it is the “policy of the United States to rescind all funds from educational programs that deprive women and girls of fair athletic opportunities, which results in the endangerment, humiliation, and silencing of women and girls and deprives them of privacy.” The order directs the U.S. Secretary of Education to “take all appropriate action to affirmatively protect all-female athletic opportunities and all-female locker rooms and thereby provide the equal opportunity guaranteed by Title IX.”

However, Maryland is among several states engaged in legal disputes with the federal government related to its rescinding and withholding of education funding provided to the states and local governments by Congress. A U.S. District Court granted the state of Maine a [temporary restraining order](#) in April 2025, commanding the U. S. Department of Agriculture (USDA) and its Secretary to cease terminating, freezing, or otherwise interfering with the State’s access to federal funds based on alleged Title IX violations

without following the process required by federal statute, and ordering relevant funding to be unfrozen and released. A settlement of the dispute, agreeing to similar (though not explicitly temporary) terms between USDA, the Secretary, and state of Maine was announced May 2, 2025.

Relevant cases are also pending nationwide; two were recently heard by the U. S. Supreme Court on January 13, 2026. For instance, *West Virginia v. B.P.J.* revolves around a dispute regarding West Virginia's Fairness in Women's Sports Act, which prohibits athletic teams or sports designated for females, women, or girls from being open to students of the male sex and defines "male" as an individual whose biological sex determined at birth is male. The case involves B.P.J., a high school student who (1) has publicly identified as female since the third grade; (2) takes medicine to stave off the onset of male puberty and has also begun to receive hormone therapy with estrogen; (3) expressed interest in trying out for the middle school girls' cross-country and track teams; and (4) was informed that the State law barred B.P.J.'s from participating on the girls' middle school sports team.

Although an initial order temporarily barred West Virginia from enforcing its law against B.P.J., thereby allowing B.P.J. to compete while the litigation progressed, the U.S. District Court for the Southern District of West Virginia, on January 5, 2023, issued summary judgement in the state's favor. However, the Fourth Circuit Court of Appeals held that the court erred in granting the state's motions for summary judgment and in failing to grant summary judgment to B.P.J. on her specific Title IX claim. The majority found that because "B.P.J. can show both worse treatment based on sex and resulting harm, she has established each of the disputed requirements for a Title IX claim."

In *Grimm v. Gloucester County School Board*, 972 F.3d 586 (2020), a transgender male in Virginia filed suit alleging that (among other complaints) the school board's bathroom policy, which excluded him from the boys' bathrooms, violated the Equal Protection Clause and constituted discrimination on the basis of sex in violation of Title IX. The Fourth Circuit Court of Appeals held on August 26, 2020, that the policy constitutes sex-based discrimination, in violation of the Equal Protection Clause and that the bathroom policy discriminated against the plaintiff on the basis of sex, further holding that plaintiff suffered legally cognizable harm based on the unlawful discrimination in violation of Title IX. The *Grimm* decision was recognized as recently as September 2025 as the law of the Fourth Circuit; however, other cases addressing the issue of transgender athletes in locker rooms are being considered.

Additional Information

Recent Prior Introductions: Similar legislation has been introduced within the last three years. See HB 156 of 2025; HB 47 and SB 381 of 2024; and HB 359 of 2023.

Designated Cross File: None.

Information Source(s): Baltimore City Public Schools; Anne Arundel County Public Schools; Frederick County Public Schools; Montgomery County Public Schools; St. Mary's County Public Schools; Wicomico County Public Schools; Maryland Commission on Civil Rights; Judiciary (Administrative Office of the Courts); Maryland State Department of Education; SCOTUSblog; JUSTIA; *Education Week*; *The Hill*; Federal Register; Department of Legislative Services

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sj/mcr

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