
SUBSTITUTE HOUSE BILL 3001

State of Washington 60th Legislature 2008 Regular Session

By House Judiciary (originally sponsored by Representatives Rolfes, Nelson, Simpson, Williams, Appleton, Eddy, VanDeWege, Kenney, Roberts, and Upthegrove)

READ FIRST TIME 02/05/08.

1 AN ACT Relating to prohibiting discrimination on the basis of sex
2 in public community athletics programs; adding a new section to chapter
3 49.60 RCW; adding a new section to chapter 35.21 RCW; adding a new
4 section to chapter 35.61 RCW; adding a new section to chapter 35A.21
5 RCW; adding a new section to chapter 36.68 RCW; adding a new section to
6 chapter 36.69 RCW; creating a new section; and providing an effective
7 date.

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

9 NEW SECTION. **Sec. 1.** A new section is added to chapter 49.60 RCW
10 to read as follows:

11 (1) No city, town, county, or district may discriminate against any
12 person on the basis of sex in the operation, conduct, or administration
13 of community athletics programs for youth or adults or in the
14 allocation of park and recreation facilities and resources that support
15 these programs. Cities, towns, counties, districts, and public school
16 districts shall not authorize or grant permits or other permissions to
17 third parties for the use of such facilities or resources for community
18 athletics programs if the third party's program discriminates against
19 any person on the basis of sex.

1 (2) The definitions in this subsection apply throughout this
2 section.

3 (a) "Community athletics program" means any athletic program that
4 is organized for the purposes of training for and engaging in athletic
5 activity and competition and that is in any way operated, conducted,
6 administered, supported, or enabled by a city, town, county, district,
7 or public school district other than those offered by the school and
8 created solely for the students by the school.

9 (b) "District" means any metropolitan park district, park and
10 recreation service area, or park and recreation district.

11 (c) "Park and recreation facilities and resources" include park
12 facilities, athletic fields, athletic courts, gymnasiums, recreational
13 rooms, restrooms, concession stands, and storage spaces; lands and
14 areas accessed through permitting, leasing, or other land use
15 arrangements, or otherwise accessed; sports and recreation equipment;
16 devices used to promote athletics such as scoreboards, banners, and
17 advertising; and the expenditure of moneys in conjunction with
18 athletics.

19 (3) It is the intent of the legislature in enacting this section
20 that participants shall be accorded opportunities for participation in
21 community athletics programs on an equal basis, both in quality and
22 scope, regardless of the sex of the athletes.

23 (4) In civil actions brought under this section or under other
24 applicable antidiscrimination laws alleging discrimination in community
25 youth athletics programs, courts shall consider the following factors,
26 among others, in determining whether discrimination exists:

27 (a) Whether the selection of community athletics programs offered
28 effectively accommodates the athletic interests and abilities of both
29 males and females;

30 (b) The provision of money, equipment, and supplies;

31 (c) Scheduling of games and practice times;

32 (d) Opportunities to receive coaching;

33 (e) Assignment and compensation of coaches and game officials;

34 (f) Access to lands and areas accessed through permitting, leasing,
35 or other land-use arrangements, or otherwise accessed;

36 (g) Selection of the season for a sport;

37 (h) Location of the games and practices;

38 (i) Locker rooms;

1 (j) Practice and competitive facilities;

2 (k) Publicity; and

3 (l) Officiation by umpires, referees, or judges who have met
4 training and certification standards.

5 (5) A court may find that a violation of a single factor listed in
6 subsection (4) of this section constitutes unlawful discrimination if
7 the resulting harms are so substantial as to deny equal participation
8 opportunities in community athletics programs to athletes of one sex.

9 (6) In making the determination under subsection (4)(a) of this
10 section, a court shall assess whether the community athletics program
11 has effectively accommodated the athletic interests and abilities of
12 both males and females in any one of the following ways:

13 (a) By showing that the community athletics program opportunities
14 for both males and females are provided in numbers substantially
15 proportionate to their respective numbers in the community;

16 (b) Where the members of one sex have been and continue to be
17 underrepresented in community athletics programs, by showing a history
18 and continuing practice of program expansion and allocation of
19 resources that are demonstrably responsive to the developing interests
20 and abilities of the members of that sex;

21 (c) Where the members of one sex are underrepresented in community
22 athletics programs, by demonstrating that the interests and abilities
23 of the members of that sex have been fully and effectively accommodated
24 by the present program and allocation of resources.

25 (7) Beginning January 1, 2018, a community athletics program may no
26 longer rely on subsection (6)(b) of this section to show that it has
27 accommodated the athletic interests and abilities of both sexes.

28 (8) Each city, town, county, or district operating a community
29 athletics program or issuing permission to a third party for the
30 operation of such program on its facilities shall designate at least
31 one employee to coordinate its efforts to comply with and carry out its
32 responsibilities under this section, including the investigation of any
33 written complaints alleging noncompliance with this section. The
34 employee designated under this subsection may be the same person
35 designated to issue permits to third-party contractors. The city,
36 town, county, or district operating a community athletics program shall
37 annually make an effort to notify its users of the name, office
38 address, and office telephone number of the employee or employees

1 appointed pursuant to this subsection, and of the rights entitled to
2 them under this act. Such notification shall be published on the
3 appropriate city, town, county, or district web site.

4 (9) Each city, town, county, or district operating a community
5 athletics program or issuing permission to a third party for the
6 operation of such program on its facilities shall adopt and publish
7 grievance procedures providing for prompt and equitable resolution of
8 written complaints, including complaints brought by a parent or
9 guardian on behalf of her or his minor child who is a participant in a
10 community athletics program, alleging any action that would be a
11 violation of this section. Public school districts issuing permission
12 to a third party for the operation of a community athletics program on
13 its facilities shall also follow the provisions of this subsection and
14 may modify and use existing school district policies and procedures to
15 the extent that is possible.

16 (10) This section shall not be construed to invalidate any existing
17 consent decree or any other settlement agreement entered into by a
18 city, town, county, or district to address equity in athletic programs.

19 (11) This section and any ordinances, regulations, or resolutions
20 adopted pursuant to this section by a city, town, county, district, or
21 public school district may be enforced against a city, town, county,
22 district, or public school district by a civil action for injunctive
23 relief or damages or both, including reasonable attorneys' fees and
24 costs to the prevailing party. These remedies shall be independent of
25 any other rights and remedies.

26 NEW SECTION. **Sec. 2.** A work group is established to study
27 reporting guidelines that will enable effective compliance monitoring
28 of community athletics programs in order to accomplish the intent of
29 section 1 of this act. The work group shall also study appropriate
30 alternate or additional remedies for violations of this section. The
31 chair of the house judiciary committee shall convene the work group
32 which shall consist of interested stakeholders, including:
33 Representatives from cities, towns, counties, districts, school
34 districts, and third-party community athletics programs that contract
35 to use municipal facilities and resources. The work group shall submit
36 a report on its findings by September 1, 2009.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 35.21 RCW
2 to read as follows:

3 The antidiscrimination provisions of section 1 of this act apply to
4 programs and facilities operated under this chapter.

5 NEW SECTION. **Sec. 4.** A new section is added to chapter 35.61 RCW
6 to read as follows:

7 The antidiscrimination provisions of section 1 of this act apply to
8 programs and facilities operated under this chapter.

9 NEW SECTION. **Sec. 5.** A new section is added to chapter 35A.21 RCW
10 to read as follows:

11 The antidiscrimination provisions of section 1 of this act apply to
12 programs and facilities operated under this chapter.

13 NEW SECTION. **Sec. 6.** A new section is added to chapter 36.68 RCW
14 to read as follows:

15 The antidiscrimination provisions of section 1 of this act apply to
16 programs and facilities operated under this chapter.

17 NEW SECTION. **Sec. 7.** A new section is added to chapter 36.69 RCW
18 to read as follows:

19 The antidiscrimination provisions of section 1 of this act apply to
20 programs and facilities operated under this chapter.

21 NEW SECTION. **Sec. 8.** This act takes effect January 1, 2009.

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