

**February 13, 2023; 1:30 pm**  
House Committee on Education  
Rep. Adam Thomas, Chair

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**HB2238** – Creating the "fairness in women's sports" act to require that female student athletic teams only include members who are biologically female.

**Opponent, Written Only**

Chair Thomas and Members of the Committee,

Thank you for the opportunity to provide Opponent testimony on HB2238.

My name is Sam Sharpe, and I am a resident of District 66 in Kansas. I am also a graduate student in Biology at Kansas State University and former student athlete who competed in both high school and NCAA D3 women's athletics. I am writing this testimony because I am strongly opposed to HB2238, titled the fairness in women's sports act, because I deeply value a commitment to fairness in sport, opportunities for women, and the ability for all children to feel included in their communities, which I believe this bill does not support.

I am concerned about the text in section 2 of the bill which defines biological sex as "the biological indication of male and female in the context of reproductive potential or capacity, such as sex chromosomes, naturally occurring sex hormones, gonads and nonambiguous internal and external genitalia present at birth without regard to an individual's psychological, chosen or subjective experience of gender."

Based on this criteria, as much as 5% of the population cannot be unambiguously assigned to a male or female sex category due to being born with variations in sex characteristics that are apparent at birth or become apparent during puberty or later in life. If HB2238 aims to determine children's participation in sports based on their biological sex traits, rather than their gender, I am unsure of how children with such sex trait variations could participate.

I am also concerned about the possible methods that might be used to assess a child's sex traits in order to enforce this act. As biological sex is a multifaceted trait and there is no single test that can be done to comprehensively assess all of the traits mentioned in section 2, it is unclear how this definition can be enacted and what the consequences for students might be. Since the 1960s, elite women athletes have been subject to a variety of humiliating and traumatic procedures, including genital exams and invasive testing, in order to verify their sex status. I do not believe such procedures are compatible with creating a fair, inclusive, and supportive environment for children participating in K-12 sports. Given HB2238's specific focus

on women's sport, I am worried that this bill will cause all girls participating in sports to be subject to ongoing and damaging scrutiny of their bodies and gender presentations.

I speak to this topic not only as a biologist, but also based on my experience as an athlete and a person born with variations of sex characteristics that can not be defined as unambiguously male or female based on the definition in section 2. When I was 22, I was diagnosed with an endocrine condition which results in naturally occurring sex hormones that do not align with either the typical male or female ranges. I was not aware of this condition during the 8 years that I competed as a high school and college swimmer, and there is no evidence that my participation in these athletic competitions reduced access to fairness or opportunity for my competitors. My experience in high school athletics was an essential source of personal fulfillment and belonging, something that I think we want all children to be able to experience. It would be a much greater unfairness if I or children like myself are forced to undergo humiliating physical assessments or be barred from participation due to their sex traits.

I strongly believe that allowing children to participate in K-12 sports based on their gender, rather than attempting to comprehensively assess the sex traits of every child, is essential for maintaining fairness, privacy, and inclusion of all children. Every child should have the opportunity to participate in sports without worrying about ongoing surveillance of their gender, body, and physical development.

In conclusion, I would like to thank the committee for taking the time to consider my testimony. I reaffirm my strong opposition to HB2238, titled the fairness in women's sports act. I believe that we all want children in Kansas to have access to fair, inclusive, and supportive environments to participate in sports, and I am deeply concerned that this bill will foster bias, unjustified exclusion, and harmful scrutiny of children which cannot be compatible with these values.