

Opponent Testimony of HB2238
For the Senate Education Committee
March 6, 2023
Daniel England
Student

Chair Baumgardner and Members of the Committee, thank you for the opportunity to provide opponent written testimony on House Bill 2238.

I am a student at the University of Kansas, a graduate of De Soto High School, a life long Kansas resident, and a trans man. As someone who has faced discrimination for being transgender in extra-curricular activities, I firmly oppose this bill.

Firstly, biological sex is not an exact binary category, and this bill does not state how intersex athletes or even people with just slightly abnormal sex characteristics will be sorted into male or female specific teams. What happens if a student has XX chromosomes but high levels of testosterone? What happens if a student has XY chromosomes, but female genitalia? Characteristics of sex can also vary somewhat by race and ethnicity. Will tests reflect this, or be based on white definitions of sex? This bill is directly harmful to intersex students, students of color, or others with ambiguous sex characteristics.

Secondly, this bill does not state how biological sex would be tested, how relevant medical information would be kept private and secure, or what happens if a student is falsely accused of being the wrong sex. Blood labs, physical exams, and DNA tests are all relatively invasive procedures, and all can inadvertently reveal much more medical information than just biological sex. How is this information going to be protected? These tests are also expensive. Who is paying for them? What happens if a student cannot afford them? Physical exams of genitalia are also at high risk of abuse, and can be very traumatic, especially to victims of sexual assault. How is the state going to prevent that? And if a student's sex is challenged, will they be pulled out of a game or athletic season? How long will it take to prove what the student's sex is? If they are falsely accused, and the team loses in their absence, or they miss out on scholarships, what options do they have for recourse? What is preventing coaches and parents from accusing high scoring players on rival teams just to get a leading edge? This bill is harmful to cisgender students, especially those who are low income, victims of sexual assault, or high performing. Thirdly, based on statistics of olympic athletes, having naturally high testosterone does not guarantee better performance. Some of the best olympic athletes have very low testosterone, including cisgender male athletes. Natural testosterone ranges in athletes also vary widely, and cisgender male and cisgender female athletes have the same range of hormonal levels. Biological sex is not a factor in athletic success.

This bill does not make sports any fairer for women, or anyone else. Instead, sports should be divided by relevant differences, such as weight class, running speed, or flexibility. This will ensure that sports are more fair, and that dominating players have the opportunity to face dominating challengers, while midrange players will still get to enjoy the sport and compete at a similar level to their own.

This bill should not be passed. I stand in full opposition to this bill. I thank you all for listening to my testimony, and urge you to oppose this bill.