

SESSION OF 2023

SUPPLEMENTAL NOTE ON HOUSE BILL NO. 2427

As Amended by House Committee on Education

Brief*

HB 2427, as amended, would require each school district board of education to adopt a policy requiring that separate overnight accommodations be provided for students of each genetic sex during school district sponsored travel that requires overnight stays. The bill also would establish definitions for this purpose and address retaliation against a student for reporting a violation.

Definitions

The bill would establish definitions for two terms:

- “Genetic sex” to mean:
 - For any individual with at least one “Y” chromosome at the 23rd loci, the expression of such chromosome shall be considered male; and
 - All other individuals shall be considered female; and
- “School district sponsored travel” to mean any travel that is necessary for students to attend, participate, or compete in any event or activity that is sponsored or sanctioned by a school operated by the school district, including, but not limited to, any travel that is organized:

*Supplemental notes are prepared by the Legislative Research Department and do not express legislative intent. The supplemental note and fiscal note for this bill may be accessed on the Internet at <http://www.kslegislature.org>

- By any club or other organization recognized by the school;
- Through any communication facilitated by the school, such as email; or
- Through fundraising activities conducted, in whole or in part, by school district employees or on school district property.

Reporting; Retaliation

The bill would provide a private cause of action against the school district for any student who is subject to retaliation or adverse actions by a school district or its employees as a result of reporting a violation relating to the overnight accommodations policy. The bill would require such civil actions to be initiated within two years after the harm occurred. Students prevailing in such action would be entitled to monetary damages, including for psychological, emotional, and physical harm suffered; reasonable attorney fees and costs; and other appropriate relief.

Background

The bill was introduced by the House Committee Federal and State Affairs at the request of Representative Garber. The bill was referred to the House Committee on Education on February 16, 2023.

House Committee on Education

In the House Committee hearing, **proponent** testimony was provided by five private citizens. The proponents generally indicated the bill is necessary to keep all children safe and give clear and defined guidance as to accommodations on school-sponsored overnight trips.

Written-only proponent testimony was provided by Senator Steffen, representatives of the Kansas Catholic Conference and Kansas Family Voice, and 17 private citizens.

Opponent testimony was provided by representatives of the Kansas Association of School Boards, Kansas National Education Association, and United School Administrators of Kansas. Opponents generally indicated the bill would prevent local districts and parents from having the opportunity to make decisions on a case-by-case basis, and could cause potential legal issues for school districts (e.g., requirements created by the bill and anticipated federal rules on Title IX and sexual discrimination).

Written-only opponent testimony was provided by representatives of ACLU-Kansas and Equality Kansas.

The House Committee amended the bill to:

- Replace references to “biological sex” with “genetic sex”; and
- Establish a definition for “genetic sex.”

Fiscal Information

According to the fiscal note prepared by the Division of the Budget on the bill, as introduced, the Kansas State Department of Education indicates the bill would have a negligible fiscal financial effect on school districts.

The Office of Judicial Administration (OJA) states the bill has the potential for increasing litigation in the courts. If it does, the OJA indicates there would be a fiscal effect on the operations of the court system. However, it is not possible to estimate the number of additional court cases that would arise; therefore, a fiscal effect cannot be estimated. In any case, the fiscal effect would most likely be accommodated

within the existing schedule of court cases and would not require additional resources. The agency also indicates the bill could result in the collection of docket fees in those cases filed, which would be deposited to the State General Fund.

Any fiscal effect associated with the bill is not reflected in *The FY 2024 Governor's Budget Report*.

Education; school districts; school sponsored travel; overnight accommodations for students; genetic sex