

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Introduced

Senate Bill 296

FISCAL
NOTE

BY SENATOR CLINE

[Introduced January 10, 2020; referred
to the Committee on Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-9A-27, relating to requiring, for an official or unofficial school-sanctioned
 3 athletic or sporting event, that each athlete's participation in the athletic or sporting event
 4 be based on the athlete's biological sex as indicated on the athlete's original birth
 5 certificate issued at the time of birth; providing for ineligibility of public funding; providing
 6 for civil actions to be taken against school officials; providing that civil trial be conducted
 7 in the same manner as the court would conduct a criminal trial; providing that official found
 8 to have permitted an athlete's participation in an athletic or sporting event that is not based
 9 on the athlete's biological sex as indicated on the athlete's original birth certificate issued
 10 at the time of birth be removed from his or her official position and be ineligible to hold
 11 public office or a position as a school administrator or principal for a period of five years;
 12 providing for a civil penalty; and defining a term.

Be it enacted by the Legislature of West Virginia:

ARTICLE 9A. PUBLIC SCHOOL SUPPORT.

§18-9A-27. Funding for sporting events to be based on an athlete's biological sex at time of birth; civil action; penalties.

1 (a) Each elementary and secondary school in this state that receives any type of public
 2 funding from this state or a local government, or both, shall require, for an official or unofficial
 3 school-sanctioned athletic or sporting event, that each athlete participating in the athletic or
 4 sporting event participates with and competes against other athletes based on the athlete's
 5 biological sex as indicated on the athlete's original birth certificate issued at the time of birth. A
 6 school shall not accept any birth certificate for purposes of participation in an athletic or sporting
 7 event that has been revised or amended with respect to the sex of an athlete.

8 (b) An elementary school or secondary school that violates subsection (a) of this section
 9 is immediately ineligible to continue to receive public funds of any type from this state or a local
 10 government. If a board of education and a court of competent jurisdiction, through the issuance

11 of a declaratory order, find that the school is in compliance with this section, public funding shall
12 be restored.

13 (c)(1) A prosecuting attorney shall bring a civil action in circuit court against a state or local
14 official who willfully and intentionally commits an act that violates, or that is designed or intended
15 to violate or frustrate, this section. In conducting a trial under this subdivision the court shall
16 conduct the trial in the same manner as the court would conduct a criminal trial, and the official
17 against whom the civil action is brought has the same rights as a person charged with a criminal
18 offense for purposes of conducting the trial.

19 (2) The civil penalty for a violation of this section may be no more than \$10,000.

20 (3) Upon a finding that a state or local official has willfully and intentionally committed an
21 act that violates, or that is designed or intended to violate or frustrate this section, the office of the
22 official is immediately vacated, and the former official is not eligible to hold public office or a
23 position as a school administrator or principal for a period of five years.

24 (d) As used in this section, "local official" includes a school administrator and principal.

NOTE: The purpose of this bill is to require, for an official or unofficial school-sanctioned athletic or sporting event, that each athlete's participation in the athletic or sporting event be based on the athlete's biological sex as indicated on the athlete's original birth certificate issued at the time of birth. The bill provides for ineligibility of public funding. The bill provides for civil actions to be taken against school officials. The bill provides that the civil trial be conducted in the same manner as the court would conduct a criminal trial. The bill provides that the official found to have permitted an athlete's participation in an athletic or sporting event that is not based on the athlete's biological sex as indicated on the athlete's original birth certificate issued at the time of birth be removed from his or her official position and be ineligible to hold public office or a position as a school administrator or principal for a period of five years. The bill provides for a civil penalty. The bill defines a term.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.