
SUBSTITUTE SENATE BILL 6547

State of Washington

60th Legislature

2008 Regular Session

By Senate Government Operations & Elections (originally sponsored by Senators Kohl-Welles, Benton, Fairley, Delvin, Murray, Kastama, McDermott, Swecker, Keiser, Jacobsen, Regala, Franklin, McAuliffe, Fraser, Prentice, Shin, Rasmussen, Kline, and Spanel)

READ FIRST TIME 02/08/08.

1 AN ACT Relating to prohibiting discrimination on the basis of sex
2 in public community athletics programs; adding new sections 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; and adding a new section to chapter 43.110 RCW;

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

8 NEW SECTION. **Sec. 1.** The definitions in this section apply
9 throughout this chapter unless the context clearly requires otherwise.

10 (1) "Community athletics program" means any athletic program that
11 is organized for the purposes of training for and engaging in athletic
12 activity and competition and that is in any way operated, conducted,
13 administered, supported, or enabled by a city, town, county, district,
14 or public school district other than those offered by the school and
15 created solely for the students by the school.

16 (2) "District" means any metropolitan park district, park and
17 recreation service area, or park and recreation district.

18 (3) "Park and recreation facilities and resources" include park
19 facilities, athletic fields, athletic courts, gymnasiums, recreational

1 rooms, restrooms, concession stands, and storage spaces; lands and
2 areas accessed through permitting, leasing, or other land use
3 arrangements, or otherwise accessed; sports and recreation equipment;
4 devices used to promote athletics such as scoreboards, banners, and
5 advertising; and the expenditure of moneys in conjunction with
6 athletics.

7 NEW SECTION. **Sec. 2.** (1) No city, town, county, or district may
8 discriminate against any person on the basis of sex in the operation,
9 conduct, or administration of community athletics programs for youth or
10 adults or in the allocation of park and recreation facilities and
11 resources that support these programs. It shall be the policy of
12 cities, towns, counties, districts, and public school districts to
13 authorize or grant permits or other permissions to third parties for
14 the use of such facilities or resources for community athletics
15 programs if the third party's program does not discriminate against any
16 person on the basis of sex.

17 (a) In civil actions brought under this section or under other
18 applicable antidiscrimination laws alleging discrimination in community
19 youth athletics programs, courts shall consider the following factors,
20 among others, in determining whether discrimination exists:

21 (i) Whether the selection of community athletics programs offered
22 effectively addresses the athletic interests and abilities of both
23 males and females;

24 (ii) The provision of money, equipment, and supplies;

25 (iii) Scheduling of games and practice times;

26 (iv) Opportunities to receive coaching;

27 (v) Assignment and compensation of coaches and game officials;

28 (vi) Access to lands and areas accessed through permitting,
29 leasing, or other land-use arrangements, or otherwise accessed;

30 (vii) Selection of the season for a sport;

31 (viii) Location of the games and practices;

32 (ix) Locker rooms;

33 (x) Practice and competitive facilities;

34 (xi) Publicity; and

35 (xii) Officiation by umpires, referees, or judges who have met
36 training and certification standards.

1 (b) Certification of nondiscrimination shall be provided by the
2 third-party contractor.

3 (c)(i) If the city, town, county, district, or public school
4 district determines that the third-party contractor has failed to
5 comply with this section, the contractor shall be required to prepare
6 and submit a corrective plan and timeline for full implementation prior
7 to receiving any future permits or leases.

8 (ii) If the city, town, county, district, or public school district
9 determines that the corrective plan prepared adequately addresses and
10 provides for future compliance with this section, the plan and
11 implementation timeline shall be approved and future permits or leases
12 may be issued under the stipulation that the corrective plan shall be
13 implemented according to the timeline provided.

14 (2) It is the intent of the legislature in enacting this section
15 that participants shall be accorded opportunities for participation in
16 community athletics programs on an equal basis, both in quality and
17 scope, regardless of the sex of the athletes.

18 (3) A court may find that a violation of a single factor listed in
19 subsection (1)(a) of this section constitutes unlawful discrimination
20 if the resulting harms are so substantial as to deny equal
21 participation opportunities in community athletics programs to athletes
22 of one sex.

23 (4) In making the determination under subsection (1)(a)(i) of this
24 section, a court shall assess whether the community athletics program
25 has effectively addressed the athletic interests and abilities of both
26 males and females in any one of the following ways:

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

30 (b) Where the members of one sex have been and continue to be
31 underrepresented in community athletics programs, by showing a history
32 and continuing practice of program expansion and allocation of
33 resources that are demonstrably responsive to the developing interests
34 and abilities of the members of that sex;

35 (c) Where the members of one sex are underrepresented in community
36 athletics programs, by demonstrating that the interests and abilities
37 of the members of that sex have been fully and effectively addressed by
38 the present program and allocation of resources.

1 (5) Each city, town, county, or district operating a community
2 athletics program or issuing permission to a third party for the
3 operation of such program on its facilities shall designate at least
4 one employee to coordinate its efforts to comply with and carry out its
5 responsibilities under this section, including the investigation of any
6 written complaints alleging noncompliance with this section. The
7 employee designated under this subsection may be the same person
8 designated to issue permits to third-party contractors.

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

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

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

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

33 The antidiscrimination provisions of section 2 of this act apply to
34 programs and facilities operated under this chapter.

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

1 The antidiscrimination provisions of section 2 of this act apply to
2 programs and facilities operated under this chapter.

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

5 The antidiscrimination provisions of section 2 of this act apply to
6 programs and facilities operated under this chapter.

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

9 The antidiscrimination provisions of section 2 of this act apply to
10 programs and facilities operated under this chapter.

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

13 The antidiscrimination provisions of section 2 of this act apply to
14 programs and facilities operated under this chapter.

15 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.110 RCW
16 to read as follows:

17 A work group is established to study reporting guidelines that will
18 enable effective compliance monitoring of community athletics programs
19 in order to accomplish the intent of section 2 of this act. The work
20 group shall also study appropriate alternate or additional remedies for
21 violations of this section. The appropriate committees of the house of
22 representatives and the senate shall convene the work group which shall
23 consist of interested stakeholders including: Representatives from
24 cities, towns, counties, districts, school districts, gender equity
25 support groups, and third-party community athletics programs that
26 contract to use municipal facilities and resources. The work group
27 shall submit a report of its findings to the appropriate committees of
28 the legislature by September 1, 2009.

29 NEW SECTION. **Sec. 9.** Sections 1 and 2 of this act are each added
30 to chapter 49.60 RCW.

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