

AMENDMENT #88

OFFERED IN THE HOUSE  
TO: CSHB 183(JUD)

BY REPRESENTATIVE JOSEPHSON

1 Page 2, lines 9 - 10:

2 Delete ", a postsecondary institution,"

3

4 Page 2, lines 15 - 20:

5 Delete all material and insert:

6 "(b) A student who participates at the varsity level in an athletic team or sport  
7 designated female, women, or girls must be female. A rebuttable presumption exists  
8 that a participant's individual expression of gender is determinative of whether a  
9 participant may join a team designated female, women, or girls, regardless of the  
10 gender assigned to the participant at birth.

11 (c) The presumption established in (b) of this section may be rebutted if a  
12 complaint is filed by at least two people who are either participants on or coaches to  
13 an athletic team on which the challenged participant plays or is attempting to play or  
14 on an athletic team against which the challenged participant plays or will play. A  
15 complaint from within the same school district as the challenged participant shall be  
16 heard by the governing body of the school district. A complaint from outside the same  
17 school district as the challenged participant shall be heard by the Alaska School  
18 Activities Association. To overcome the presumption, the body hearing the complaint  
19 must determine that the totality of the circumstances weighs against allowing the  
20 participant to compete in an athletic team or sport designated female, women, or girls.  
21 A complaint made under this subsection shall be confidential and addressed in an  
22 executive session of the body hearing the complaint. If the complaint is made during  
23 the regular season, the presumption shall be rebutted by a finding made upon clear and

1 convincing evidence. If the complaint is made during division or state playoff or  
 2 championship games, the presumption shall be rebutted by a finding made upon  
 3 compelling evidence. In making the determination, the governing body of the school  
 4 district or the Alaska School Activities Association shall consider

5 (1) whether the participant's demonstrated athletic prowess creates a  
 6 performance gap between the participant and other participants that on its face would  
 7 be unfair to the other participants, as determined by the participant's history of

8 (A) athletic excellence while competing as a male; or

9 (B) athletic domination while competing as a female;

10 (2) evidence that the team the participant wishes to join would be  
 11 markedly less successful overall if the participant is not permitted to join the team;

12 (3) whether the participant's size would create unsafe conditions for  
 13 fellow participants by increasing risk of injury to the other participants far above the  
 14 ordinary risk of injury for that sport;

15 (4) the personal significance of the participation to the challenged  
 16 participant; and

17 (5) whether or not the participant intends to or has begun the process  
 18 of living as a woman or girl, either socially or medically.

19 (d) The presumption established in (b) of this section may not be rebutted if a  
 20 participant

21 (1) agrees not to attain a ranking through participation or competition  
 22 in an individual sport in which the participant may otherwise fully participate; or

23 (2) provides evidence that the participant was born intersex.

24 (e) A party to a complaint made under (b) of this section has a right to appeal  
 25 the determination to the Alaska School Activities Association. A party may appeal a  
 26 decision of the Alaska School Activities Association to the superior court based on an  
 27 abuse of discretion.

28 (f) An athletic team that includes transgender participants shall be expanded  
 29 by one position for each transgender participant on the team."  
 30

31 Page 3, following line 2:

1 Insert a new subsection to read:

2 "(c) A participant whose participation in a varsity level athletic team or sport  
3 designated female, women, or girls was challenged under AS 14.18.150 and who is a  
4 cisgender woman or girl may bring a private cause of action against the governing  
5 body of the school district and the Alaska School Activities Association. A formal and  
6 public letter of apology to the participant from the governing body may mitigate  
7 damages awarded under this subsection."  
8

9 Reletter the following subsections accordingly.

10  
11 Page 3, following line 16:

12 Insert new paragraphs to read:

13 "(1) "cisgender" means an individual's sense of personal identity and  
14 gender corresponds to the sex assigned to the individual at birth;

15 (2) "intersex" means an individual born with both male and female sex  
16 organs or other sexual characteristics;

17 (3) "participant" means a student who participates, or is attempting to  
18 participate, on a school-sponsored athletic team or sport;"  
19

20 Renumber the following paragraphs accordingly.

21  
22 Page 3, lines 17 - 18:

23 Delete "an elementary, junior high, or secondary school or a postsecondary institution"

24 Insert "a high school"  
25

26 Page 3, line 21, following "program":

27 Insert ";

28 (6) "transgender" means an individual's sense of personal identity and  
29 gender does not correspond to the sex assigned to the individual at birth"