

**ALASKA STATE LEGISLATURE
HOUSE JUDICIARY STANDING COMMITTEE**

April 8, 2024

1:07 p.m.

MEMBERS PRESENT

Representative Sarah Vance, Chair
Representative Jamie Allard, Vice Chair
Representative Ben Carpenter
Representative Craig Johnson
Representative Jesse Sumner
Representative Andrew Gray
Representative Cliff Groh

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 183

"An Act relating to school athletics, recreation, athletic teams, and sports; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 183

SHORT TITLE: DESIGNATE SEX FOR SCHOOL-SPONSORED SPORTS

SPONSOR(S): REPRESENTATIVE(S) ALLARD

04/28/23	(H)	READ THE FIRST TIME - REFERRALS
04/28/23	(H)	EDC, JUD
03/15/24	(H)	EDC AT 8:00 AM DAVIS 106
03/15/24	(H)	Heard & Held
03/15/24	(H)	MINUTE(EDC)
03/25/24	(H)	EDC RPT 2DP 3DNP 1NR 1AM
03/25/24	(H)	DP: MCKAY, ALLARD
03/25/24	(H)	DNP: HIMSCHOOT, STORY, MCCORMICK
03/25/24	(H)	NR: PRAX
03/25/24	(H)	AM: RUFFRIDGE
03/25/24	(H)	EDC AT 8:00 AM DAVIS 106
03/25/24	(H)	Moved HB 183 Out of Committee
03/25/24	(H)	MINUTE(EDC)
04/08/24	(H)	JUD AT 1:00 PM GRUENBERG 120

WITNESS REGISTER

REPRESENTATIVE JAMIE ALLARD
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented HB 183, as prime sponsor.

BARBARA EHARDT, Representative
Idaho State Legislature
Boise, Idaho

POSITION STATEMENT: Gave invited testimony during the hearing on HB 183.

LARRY WHITMORE, representing self
Juneau, Alaska

POSITION STATEMENT: Gave invited testimony during the hearing on HB 183.

RILEY GAINES, Ambassador
Independent Women's Voice
Winchester, Virginia

POSITION STATEMENT: Gave invited testimony during the hearing on HB 183.

ACTION NARRATIVE

[1:07:21 PM](#)

CHAIR VANCE called the House Judiciary Standing Committee meeting to order at 1:07 p.m. Representatives Carpenter, C. Johnson, Gray, Groh, Allard, and Vance were present at the call to order. Representative Sumner arrived as the meeting was in progress.

HB 183-DESIGNATE SEX FOR SCHOOL-SPONSORED SPORTS

[1:07:53 PM](#)

CHAIR VANCE announced that the only order of business would be HOUSE BILL NO. 183, "An Act relating to school athletics, recreation, athletic teams, and sports; and providing for an effective date."

[1:09:17 PM](#)

The committee took an at-ease.

1:09:56 PM

REPRESENTATIVE JAMIE ALLARD, Alaska State Legislature, prime sponsor, presented HB 183. She shared the sponsor statement [included in the committee packet], which read as follows [original punctuation provided]:

It is in our very recent history that women – and the men who champion them – have had to fight for women’s rights and equality in our society. Can you believe it has barely been 100 years since women were granted the right to vote? Since then, we have come a long way, with legislation supporting and protecting women’s rights and protecting us from discrimination. Our culture has embraced and advanced the notion that women deserve the same opportunities as men. And we have made leaps and bounds in opportunities available to women and girls to participate in sports.

Girls who participate in sports reap huge benefits for a lifetime. They gain confidence, good habits, strong bodies, and bones, and have a lower chance of osteoporosis, breast cancer, and depression. They have a more positive body image and higher levels of self-esteem. They grow into strong women who are leaders and role models in our communities. They carry the lessons learned far beyond the playing field. And thanks to Title IX, their right to equal opportunities in sports and education is federally protected.

Title IX states that, “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving Federal financial assistance.” We can thank our very own Senator Ted Stevens for this legislation which has protected and promoted women in sports since its passage in 1972. The impact of this legislation is profound. Before 1972, one in 27 girls participated in sports. That number is now two in five! Girls’ participation in high school sports has increased by roughly 1000 percent. It has opened the door to more sports scholarship opportunities for women and for women to turn their sport into a career. We could even say that the effects of more women in sports has rippled out

across all sectors, breaking glass ceilings and elevating women as equals in our nation and even around the world.

So, what happens when a biological male enters the ring of women's sports? Being biologically bigger, stronger, faster, their physical advantage over women is anything but equal. It takes our nearly level playing field, which we fought so hard to achieve, and reduces it to women finishing second again. Women have worked hard to get where we are today. To set us back 100 years is unacceptable.

When there were threatened changes to Title IX, Sen. Ted Stevens said: "Having lived this long with Title IX, I'm going to urge Congress not to support any changes that could have an adverse effect on the progress that has already been made under Title IX. We want more progress." Stevens was the guardian angel of women in athletics. He would not stand by and allow culture wars to rob our girls and women of the progress we have fought so hard to gain.

As a mom of two daughters, I would like to encourage the State legislature in a bipartisan effort to support "An Act relating to school athletics, recreation, athletic teams, and sports." This bill HB 183 acknowledges the biological differences and disparities between men and women and requires students to play according to their biological sex. Our girls deserve a fair playing field. They deserve the chance to win first place, scholarships, and gold medals.

Like US Senator Ted Stevens, I will be a champion for our girls and women. I have endured discrimination and have conquered obstacles, like my mom and grandmother and great-grandmother before me, so that my daughters don't have to. I don't do this for me, I do it for them. We fight for all our daughters. Expecting women to be physically equal to men is not equality. Equality is giving women the same opportunities as men. But if forced to physically compete against biological males, women will be disadvantaged once again. If men can compete as "better" versions of women, all of our progress for equality is dead.

[1:14:33 PM](#)

CHAIR VANCE opened invited testimony.

[1:14:57 PM](#)

BARBARA EHARDT, Representative, Idaho State Legislature, gave invited testimony during the hearing on HB 183. She provided her personal and professional background, noting her experience as a college athlete. She referenced several examples of biological male athletes who had transitioned, including June Eastwood and Lia Thomas. She shared her belief that "the other side" would testify about humanity and inclusivity; however, she argued that when it comes to college level sports, it's about winning. Furthermore, she stated that if one boy is allowed to compete on a girls' team, it would open the door for twelve boys to compete on a girls' team. She concluded that even 5-10 years ago, this issue was not being talked about.

[1:20:57 PM](#)

The committee took a brief at-ease at 1:20 p.m.

[1:21:43 PM](#)

LARRY WHITMORE, representing self, gave invited testimony during the hearing on HB 183. He highlighted his 70-year coaching career, adding that he was still active in coaching athletes of all ages. He stated that biological males have greater bone density, bigger hearts, lungs, and more muscle strength than biological females in addition to other aspects that make competition between men and women unfair. He asserted that track and field records prove that women cannot compete with men and recalled coaching the fastest girl in Alaska history, Starlett Jackson. Ms. Jackson's fastest time would not be fast enough to qualify as an alternate on any of the boys' relay teams. To protect Title 9 and save women's sports, he said that unfair competition must not be allowed. He shared his belief that everyone should be given the opportunity to participate and compete in scholastic sports, including transgender people. He suggested created a third division for transgender athletes to allow everyone to participate.

[1:26:23 PM](#)

RILEY GAINES, Ambassador, Independent Women's Voice, gave invited testimony during the hearing on HB 183. She recounted

her experience as a student at the University of Kentucky, when she and other Division I team members were forced to compete against Lia Thomas, formerly Will Thomas. She explained that in March 2022, she watched Ms. Thomas swim to a women's national title, beating out the most impressive and accomplished female swimmers, including Olympians and American record holders. She shared her belief that the National Collegiate Athletics Association (NCAA) had reduced the women's hard work to a photo opportunity to validate the feelings and identity of a male at their expense. In addition to losing trophies to Ms. Thomas, she explained that the women were expected to share a locker room without their consent. She reported that across the country in various sports, "males" are entering into women's athletic competitions and being granted entry into their locker rooms. To date, "males" have stolen over 879 trophies, medals, and titles from women and girls across 423 different competitions and over 28 different sports. She stated that the harm this causes is exponential, as it results in a female athlete losing out on an opportunity. She reported that males have an insurmountable 10-12 percent athletic advantage over females, which is evident in almost every sport and every level of competition and cannot be fixed by hormone therapy. She pointed out that Lia Thomas was mediocre when competing against men, and dominant when competing against women. In short, she stated her belief that allowing "males" to compete in women's sports is risky, unfair, and discriminatory. She implored the legislature to support HB 183 to protect women's sports.

CHAIR VANCE sought questions from committee members.

[1:30:23 PM](#)

REPRESENTATIVE GRAY referenced the ban on transgender women from competing in the International Chess Federation and the World Eightball Pool Federation. He asked why these bans are appropriate.

MS. GAINES reiterated her belief that any opportunity entitled to a woman deserves to go to a woman. Further, she opined that sex-based categories are a necessity and were put in place for a reason.

REPRESENTATIVE GRAY asked why there are male and female categories for chess.

MS. GAINES said that's a separate question entirely, and one that she's not suited to answer. Nonetheless, she stated that

the categories exist for a reason. She shared the example of Harriet Haynes, a transgender woman who won the European championship in pool. Kim O'Brien who placed second and conceded the match explained the advantages that males possess in eight ball, including arm size and arm length.

1:33:04 PM

REPRESENTATIVE ALLARD noted that she was a Junior Olympic (JO) athlete and competed in the 100- and 200-meter [dash], adding that her record in those events would not stand had she competed against males. She welcomed amendments that would include post-secondary education and add a safety component to the bill, in addition to an amendment that would require a birth certificate to compete in sports.

1:34:49 PM

REPRESENTATIVE GROH referenced the constitutional right to privacy and asked how [an athlete's biological sex] would be determined.

REPRESENTATIVE ALLARD pointed out that competitive sports require a physical. She shared her understanding that birth certificates are required to enroll in school, which could be used to prove an individual's biological sex.

REPRESENTATIVE GROH inquired about the requirement for an original birth certificate and asked whether it was included in the legislation.

REPRESENTATIVE ALLARD confirmed that it is in the legislation.

REPRESENTATIVE GROH asked whether inspection of genitalia would be part of the required physical examination.

REPRESENTATIVE ALLARD assumed that the doctor would know whether the child is a boy or girl and could determine that by asking questions.

1:38:18 PM

REPRESENTATIVE GROH asked whether Representative Allard was familiar with the legal memorandum ("memo") from Legislative Legal Services dated 4/19/22, which states that similar legislation would be found unlawfully discriminatory against

transgender females in violation of the equal protection clause of the Alaska Constitution.

REPRESENTATIVE ALLARD reiterated that the bill would protect women in sports. She asserted that currently, federal law is being violated in Alaska by allowing "boys and men" to compete in women's sports.

REPRESENTATIVE GROH asked which law Representative Allard was referring to.

REPRESENTATIVE ALLARD answered Title 9.

REPRESENTATIVE GROH pointed out that various court decisions had struck down similar laws across the country based on constitutional concerns.

REPRESENTATIVE ALLARD asked whether Representative Groh was saying that he wanted to continue discriminating against women and girls in sports.

REPRESENTATIVE GROH restated the question.

REPRESENTATIVE ALLARD said her focus was to get a law passed in Alaska that defends women's rights to compete in sports without biological males jeopardizing their safety, scholarships, and freedoms.

[1:40:30 PM](#)

REPRESENTATIVE CARPENTER said he felt the need to point out the absurdity of this conversation. He stated that "bait and switch tactics" to justify discriminating against women should be beneath [members]. He shared the definition of "absurdity" and pointed out that [the country] has fought hard to give women rights to compete fairly against other women, which the bill attempts to maintain.

[1:41:46 PM](#)

REPRESENTATIVE GRAY asked whether transgender people are entitled to the same constitutional rights and protections as everyone else.

REPRESENTATIVE ALLARD answered, "They are not entitled to take the place of women and girls." She said with regard to Title 9, the answer is no.

REPRESENTATIVE GRAY asked whether studies show that transgender women possess physical advantages over cis girls - or biological girls - in sports.

REPRESENTATIVE ALLARD shared her understanding that there are plenty of studies that indicate that biological men are stronger and compete better than woman in sports. She deferred to Ms. Gaines.

[1:43:25 PM](#)

MS. GAINES pointed out that the committee's entire debate has been centered on males infiltrating women's sports. If the argument is that males don't possess advantages over females, she asked why then the committee had not spent any time talking about women entering men's sports. She highlighted several differences between men and women's basketball, including the three-point line, the size of the ball, and various statistics, such as layups or dunks. She pointed out that the height of the net differs in men and women's volleyball, and the men's tee is further back than the women's tee in golf. She said all of these differences are in place for a reason because [society] has never struggled to understand that men, on average, are stronger, faster, taller, more explosive, etcetera.

[1:46:23 PM](#)

REPRESENTATIVE GRAY explained that when conducting a physical, genital exams are not routinely performed unless there is a specific concern. He asked whether it was the sponsor's intent for more genital exams to be performed to meet the criteria of the bill.

REPRESENTATIVE ALLARD responded, "That's absurd." She reiterated that she was defending the right for women to participate in sports.

REPRESENTATIVE GRAY expressed concern that even if it was not the bill sponsor's intent, the bill could leave an opening for exams to be performed to determine biological sex. Because of that, he characterized the bill as dangerous. He moved to table the bill.

REPRESENTATIVE GROH called the question.

CHAIR VANCE ruled Representative Gray out of order.

[1:49:13 PM](#)

MS. EHARDT stated that Representative Gray's concern could be addressed by including the following five questions in a physical to determine the individual's biological sex: Are you male or female? Have you ever been hospitalized or had any surgeries? Have you taken any medication? Were you born without a kidney, testicle, or organ? When was your first period, last period, and the longest time in between menstrual periods?

[1:51:24 PM](#)

The committee took a brief at-ease at 1:51 p.m.

[1:51:49 PM](#)

REPRESENTATIVE SUMNER said it was unclear why the committee was discussing physicals in relation to the bill. He directed attention to page 2, lines 15-20, indicating that the individual's birth certificate can be relied upon to establish biological sex. He asked whether a court could order a change in the gender listed on a person's birth certificate.

REPRESENTATIVE ALLARD said yes, the biological sex listed on an individual's birth certificate can be changed.

CHAIR VANCE asked whether the bill excludes those who identify as transgender from playing sports.

REPRESENTATIVE ALLARD said HB 183 does not discuss that.

[1:54:33 PM](#)

REPRESENTATIVE GRAY referred to page 2, line 18, which states that a birth certificate "may" be relied upon. He shared his understanding that the Alaska Department of Vital Records will amend the gender marker on a birth certificate if a letter from a license medical provider is presented.

REPRESENTATIVE ALLARD stated that "may" would be amended to "shall."

REPRESENTATIVE GRAY suggested if it's so easy to amend a birth certificate, this requirement may not accomplish the intent of the bill.

REPRESENTATIVE ALLARD asserted that the only accepted birth certificate would be those amended for adoption, not amended for the purpose of changing the individual's sex.

REPRESENTATIVE GRAY, in response to Ms. Ehardt, pointed out that there are several medical conditions that might delay a young female's menstruation. For that reason, he stated his belief that it might not be the best line of questioning for young people, especially with the privacy clause in the Alaska Constitution.

[1:57:40 PM](#)

REPRESENTATIVE SUMNER pointed out that a modified birth certificate would look identical to an original birth certificate on its face.

REPRESENTATIVE ALLARD said she did not know the answer. She reiterated that her intent was to require the individual's original birth certificate assigned at birth.

REPRESENTATIVE SUMNER asked whether forthcoming amendments were intended to change the birth certificate requirements.

REPRESENTATIVE ALLARD said she was willing to work with Representative Sumner on a birth certificate requirement.

[2:00:44 PM](#)

CHAIR VANCE announced that HB 183 would be held over.

[2:00:53 PM](#)

ADJOURNMENT

There being no further business before the committee, the House Judiciary Standing Committee meeting was adjourned at 2:00 p.m.