

1 AN ACT relating to athletics.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 156.070 is amended to read as follows:

- 4 (1) The Kentucky Board of Education shall have the management and control of the  
5 common schools and all programs operated in these schools, including  
6 interscholastic athletics, the Kentucky School for the Deaf, the Kentucky School for  
7 the Blind, and community education programs and services.
- 8 (2) The Kentucky Board of Education may designate an organization or agency to  
9 manage interscholastic athletics in the common schools, provided that the rules,  
10 regulations, and bylaws of any organization or agency so designated shall be  
11 approved by the board, and provided further that any administrative hearing  
12 conducted by the designated managing organization or agency shall be conducted in  
13 accordance with KRS Chapter 13B.
- 14 (a) The state board or its designated agency shall assure through promulgation of  
15 administrative regulations that if a secondary school sponsors or intends to  
16 sponsor an athletic activity or sport that is similar to a sport for which  
17 National Collegiate Athletic Association, *National Association of*  
18 *Intercollegiate Athletics, or National Junior College Athletic Association*  
19 members offer an athletic scholarship, the school shall sponsor the athletic  
20 activity or sport for which a scholarship is offered. The administrative  
21 regulations shall specify which athletic activities are similar to sports for  
22 which National Collegiate Athletic Association members offer scholarships.
- 23 (b) Beginning with the 2003-2004 school year, the state board shall require any  
24 agency or organization designated by the state board to manage interscholastic  
25 athletics to adopt bylaws that establish as members of the agency's or  
26 organization's board of control one (1) representative of nonpublic member  
27 schools who is elected by the nonpublic school members of the agency or

1 organization from regions one (1) through eight (8) and one (1) representative  
2 of nonpublic member schools who is elected by the nonpublic member  
3 schools of the agency or organization from regions nine (9) through sixteen  
4 (16). The nonpublic school representatives on the board of control shall not be  
5 from classification A1 or D1 schools. Following initial election of these  
6 nonpublic school representatives to the agency's or organization's board of  
7 control, terms of the nonpublic school representatives shall be staggered so  
8 that only one (1) nonpublic school member is elected in each even-numbered  
9 year.

10 (c) The state board or any agency designated by the state board to manage  
11 interscholastic athletics shall not promulgate rules, administrative regulations,  
12 or bylaws that prohibit pupils in grades seven (7) to eight (8) from  
13 participating in any high school sports except for high school varsity soccer  
14 and football, or from participating on more than one (1) school-sponsored  
15 team at the same time in the same sport. The Kentucky Board of Education, or  
16 an agency designated by the board to manage interscholastic athletics, may  
17 promulgate administrative regulations restricting, limiting, or prohibiting  
18 participation in high school varsity soccer and football for students who have  
19 not successfully completed the eighth grade.

20 (d) 1. The state board or any agency designated by the state board to manage  
21 interscholastic athletics shall allow a member school's team or students  
22 to play against students of a non-member at-home private school, or a  
23 team of students from non-member at-home private schools, if the non-  
24 member at-home private schools and students comply with this  
25 subsection.

26 2. A non-member at-home private school's team and students shall comply  
27 with the rules for student athletes, including rules concerning:

- 1 a. Age;
- 2 b. School semesters;
- 3 c. Scholarships;
- 4 d. Physical exams;
- 5 e. Foreign student eligibility; and
- 6 f. Amateurs.
- 7 3. A coach of a non-member at-home private school's team shall comply
- 8 with the rules concerning certification of member school coaches as
- 9 required by the state board or any agency designated by the state board
- 10 to manage interscholastic athletics.
- 11 4. This subsection shall not allow a non-member at-home private school's
- 12 team to participate in a sanctioned:
- 13 a. Conference;
- 14 b. Conference tournament;
- 15 c. District tournament;
- 16 d. Regional tournament; or
- 17 e. State tournament or event.
- 18 5. This subsection does not allow eligibility for a recognition, award, or
- 19 championship sponsored by the state board or any agency designated by
- 20 the state board to manage interscholastic athletics.
- 21 6. A non-member at-home private school's team or students may
- 22 participate in interscholastic athletics permitted, offered, or sponsored by
- 23 the state board or any agency designated by the state board to manage
- 24 interscholastic athletics.
- 25 (e) Every local board of education shall require an annual medical examination
- 26 performed and signed by a physician, physician assistant, advanced practice
- 27 registered nurse, or chiropractor, if performed within the professional's scope

1 of practice, for each student seeking eligibility to participate in any school  
 2 athletic activity or sport. The Kentucky Board of Education or any  
 3 organization or agency designated by the state board to manage interscholastic  
 4 athletics shall not promulgate administrative regulations or adopt any policies  
 5 or bylaws that are contrary to the provisions of this paragraph.

6 (f) Any student who turns nineteen (19) years of age prior to August 1 shall not  
 7 be eligible for high school athletics in Kentucky. Any student who turns  
 8 nineteen (19) years of age on or after August 1 shall remain eligible for that  
 9 school year only. An exception to the provisions of this paragraph shall be  
 10 made, and the student shall be eligible for high school athletics in Kentucky if  
 11 the student:

- 12 1. Qualified for exceptional children services and had an individual  
 13 education program developed by an admissions and release committee  
 14 (ARC) while the student was enrolled in the primary school program;
- 15 2. Was retained in the primary school program because of an ARC  
 16 committee recommendation; and
- 17 3. Has not completed four (4) consecutive years or eight (8) consecutive  
 18 semesters of eligibility following initial promotion from grade eight (8)  
 19 to grade nine (9).

20 (g) *The state board or any agency designated by the state board to manage*  
 21 *interscholastic athletics shall promulgate administrative regulations or*  
 22 *bylaws that provide that:*

23 *1. A member school shall designate all athletic teams, activities, and*  
 24 *sports as one (1) of the following categories:*

25 *a. "Boys";*

26 *b. "Coed"; or*

27 *c. "Girls";*

- 1            2. a. An athletic activity or sport designated as "girls," shall not be  
2                                    open to a person born as a member of the male sex;  
3                                    b. Nothing in this section shall be construed to restrict the  
4                                    eligibility of any student to participate in an athletic activity or  
5                                    sport designated as "boys" or "coed"; and  
6            3. Neither the state board, nor any agency designated by the state board  
7                                    to manage interscholastic athletics, nor any school district, nor any  
8                                    member school shall entertain a complaint, open an investigation, or  
9                                    take any other adverse action against a school for maintaining  
10                                   separate interscholastic or intramural athletic teams, activities, or  
11                                   sports for students of the female sex.

- 12        (h) 1. The state board or any agency designated by the state board to manage  
13                                    interscholastic athletics shall promulgate administrative regulations that  
14                                    permit a school district to employ or assign nonteaching or noncertified  
15                                    personnel or personnel without postsecondary education credit hours to  
16                                    serve in a coaching position. The administrative regulations shall give  
17                                    preference to the hiring or assignment of certified personnel in coaching  
18                                    positions.  
19                                    2. A person employed in a coaching position shall be a high school  
20                                    graduate and at least twenty-one (21) years of age and shall submit to a  
21                                    criminal background check in accordance with KRS 160.380.  
22                                    3. The administrative regulations shall specify post-hire requirements for  
23                                    persons employed in coaching positions.  
24                                    4. The regulations shall permit a predetermined number of hours of  
25                                    professional development training approved by the state board or its  
26                                    designated agency to be used in lieu of postsecondary education credit  
27                                    hour requirements.

1           5. A local school board may specify post-hire requirements for personnel  
2           employed in coaching positions in addition to those specified in  
3           subparagraph 3. of this paragraph.

4 (3) (a) The Kentucky Board of Education is hereby authorized to lease from the State  
5           Property and Buildings Commission, or others, whether public or private, any  
6           lands, buildings, structures, installations, and facilities suitable for use in  
7           establishing and furthering television and related facilities as an aid or  
8           supplement to classroom instruction, throughout the Commonwealth, and for  
9           incidental use in any other proper public functions. The lease may be for any  
10          initial term commencing with the date of the lease and ending with the next  
11          ensuing June 30, which is the close of the then-current fiscal biennium of the  
12          Commonwealth, with exclusive options in favor of the board to renew the  
13          same for successive ensuing bienniums, July 1 in each even year to June 30 in  
14          the next ensuing even year; and the rentals may be fixed at the sums in each  
15          biennium, if renewed, sufficient to enable the State Property and Buildings  
16          Commission to pay therefrom the maturing principal of and interest on, and  
17          provide reserves for, any revenue bonds which the State Property and  
18          Buildings Commission may determine to be necessary and sufficient, in  
19          agreement with the board, to provide the cost of acquiring the television and  
20          related facilities, with appurtenances, and costs as may be incident to the  
21          issuance of the bonds.

22          (b) Each option of the Kentucky Board of Education to renew the lease for a  
23          succeeding biennial term may be exercised at any time after the adjournment  
24          of the session of the General Assembly at which appropriations shall have  
25          been made for the operation of the state government for such succeeding  
26          biennial term, by notifying the State Property and Buildings Commission in  
27          writing, signed by the chief state school officer, and delivered to the secretary

1 of the Finance and Administration Cabinet as a member of the commission.  
2 The option shall be deemed automatically exercised, and the lease  
3 automatically renewed for the succeeding biennium, effective on the first day  
4 thereof, unless a written notice of the board's election not to renew shall have  
5 been delivered in the office of the secretary of the Finance and Administration  
6 Cabinet before the close of business on the last working day in April  
7 immediately preceding the beginning of the succeeding biennium.

8 (c) The Kentucky Board of Education shall not itself operate leased television  
9 facilities, or undertake the preparation of the educational presentations or  
10 films to be transmitted thereby, but may enter into one (1) or more contracts to  
11 provide therefor, with any public agency and instrumentality of the  
12 Commonwealth having, or able to provide, a staff with proper technical  
13 qualifications, upon which agency and instrumentality the board, through the  
14 chief state school officer and the Department of Education, is represented in  
15 such manner as to coordinate matters of curriculum with the curricula  
16 prescribed for the public schools of the Commonwealth. Any contract for the  
17 operation of the leased television or related facilities may permit limited and  
18 special uses of the television or related facilities for other programs in the  
19 public interest, subject to the reasonable terms and conditions as the board and  
20 the operating agency and instrumentality may agree upon; but any contract  
21 shall affirmatively forbid the use of the television or related facilities, at any  
22 time or in any manner, in the dissemination of political propaganda or in  
23 furtherance of the interest of any political party or candidate for public office,  
24 or for commercial advertising. No lease between the board and the State  
25 Property and Buildings Commission shall bind the board to pay rentals for  
26 more than one (1) fiscal biennium at a time, subject to the aforesaid renewal  
27 options. The board may receive and may apply to rental payments under any

1            lease and to the cost of providing for the operation of the television or related  
 2            facilities not only appropriations which may be made to it from state funds,  
 3            from time to time, but also contributions, gifts, matching funds, devises, and  
 4            bequests from any source, whether federal or state, and whether public or  
 5            private, so long as the same are not conditioned upon any improper use of the  
 6            television or related facilities in a manner inconsistent with the provisions of  
 7            this subsection.

8        (4) The state board may, on the recommendation and with the advice of the chief state  
 9        school officer, prescribe, print, publish, and distribute at public expense such  
 10        administrative regulations, courses of study, curriculums, bulletins, programs,  
 11        outlines, reports, and placards as each deems necessary for the efficient  
 12        management, control, and operation of the schools and programs under its  
 13        jurisdiction. All administrative regulations published or distributed by the board  
 14        shall be enclosed in a booklet or binder on which the words "informational copy"  
 15        shall be clearly stamped or printed.

16        (5) Upon the recommendation of the chief state school officer or his designee, the state  
 17        board shall establish policy or act on all matters relating to programs, services,  
 18        publications, capital construction and facility renovation, equipment, litigation,  
 19        contracts, budgets, and all other matters which are the administrative responsibility  
 20        of the Department of Education.

21        ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO  
 22        READ AS FOLLOWS:

23        (1) Any student:

24            (a) Who is deprived of an athletic opportunity or suffers any direct or indirect  
 25            harm; or

26            (b) Who is subject to retaliation or other adverse action by a school, the state  
 27            board, or agency designated by the state board to manage interscholastic



1           athletics;  
 2           as a result of a violation of an administrative regulation or bylaw promulgated in  
 3           accordance with subsection (2)(g) of Section 1 of this Act shall have a private  
 4           cause of action for injunctive relief, monetary damages, and any other relief  
 5           available under law against the school in violation.

6           (2) A civil action under this section must be initiated within two (2) years after the  
 7           date the harm occurred.

8           (3) For the purposes of this section, monetary damages shall include any  
 9           psychological, emotional, and physical harm suffered, reasonable attorney's fees  
 10           and costs, and any other appropriate relief.

11           ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
 12 READ AS FOLLOWS:

13           (1) (a) A public postsecondary education institution or private postsecondary  
 14           education institution shall designate all intercollegiate and intramural  
 15           athletic teams, activities, sports, and events that are sponsored or authorized  
 16           by the institution as one (1) of the following categories:

- 17           1. "Men's";
- 18           2. "Coed"; or
- 19           3. "Women's."

20           (b) 1. A public postsecondary education institution or private postsecondary  
 21           education institution shall prohibit a person born as a member of the  
 22           male sex from competing on any intercollegiate or intramural athletic  
 23           team or in any intercollegiate or intramural athletic activity, sport, or  
 24           event designated as "women's."

25           2. Nothing in this section shall be construed to restrict the eligibility of  
 26           any student to participate in an athletic activity or sport designated as  
 27           "men's" or "coed."

- 1 (2) A government entity, licensing or accrediting organization, or athletic association  
2 or organization shall not entertain a complaint, open an investigation, or take  
3 any other adverse action against a postsecondary education institution for  
4 maintaining a separate interscholastic or intramural athletic team, activity, sport,  
5 or event for members of the female sex.
- 6 (3) Any student who:
- 7 (a) Is deprived of an athletic opportunity or suffers any direct or indirect harm  
8 as a result of a violation of subsection (1) of this section; or
- 9 (b) Is subject to retaliation or other adverse action by a postsecondary  
10 institution as a result of reporting a violation of subsection (1) of this  
11 section;
- 12 shall have a private cause of action for injunctive relief, damages, and any other  
13 relief available under law against the postsecondary institution in violation.
- 14 (4) A civil action under this section must be initiated within two (2) years after the  
15 harm occurred.
- 16 (5) For the purposes of this section, monetary damages shall include any  
17 psychological, emotional, and physical harm suffered, reasonable attorney's fees  
18 and costs, and any other appropriate relief.
- 19 ➔Section 4. This Act may be cited as the "Save Women's Sports Act."