A BILL

To prohibit certain discrimination against athletes on the basis of sex by intercollegiate athletic associations, and for other purposes.

Be it enacted by the Senate and House of Representa-
tives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Fair Play for Women

Act”.

SEC. 2. FINDINGS.

Congress finds the following:

(1) 50 years ago, Congress passed title IX of
the Education Amendments of 1972 (referred to in
this section as “title IX”), helping to transform par-
participation in and support for women’s sports by barring discrimination on the basis of sex in all schools that receive Federal funding, including in their athletic programs.

(2) Since the passage of title IX, millions more women and girls have had the opportunity to compete in interscholastic athletics. At the high school level, athletic participation opportunities have increased from nearly 300,000 in 1972 to more than 3,400,000 in 2019. At the collegiate level, opportunities have increased from nearly 30,000 in 1972 to 215,000 in 2020 on teams sponsored by institutions who are members of the National Collegiate Athletic Association (referred to in this section as the “NCAA”).

(3) Despite progress, women and girls still face unequal opportunities. At the high school level, girls have over 1,000,000 fewer athletic opportunities than boys, with schools providing girls with 43 percent of all athletic opportunities while girls represent nearly half of all students. At the collegiate level, colleges would need to provide women with an additional 148,000 sports opportunities to match the same ratio of sports opportunities per student as is offered to men.
(4) Girls of color are often most impacted by inequitable opportunities. At high schools predominantly attended by white students, girls have 82 percent of the opportunities that boys have to play sports, while at high schools predominantly attended by students of color, girls have only 67 percent of the opportunities that boys have to play sports.

(5) The magnitude of current gaps in intercollegiate participation opportunities is likely undercounted, as investigations of intercollegiate athletics data have found that the majority of NCAA member institutions inflate the number of women participating in sports by double- and triple-counting women athletes who participate in more than one sport more often than the institutions double- and triple-count their male counterparts, counting male practice players on women’s teams as women athletes, and packing women’s teams with extra players who never end up competing.

(6) Women and girls in sports also face unequal treatment. They are frequently provided worse facilities, equipment, and uniforms than men and boys, and they receive less financial support and publicity from their schools, as women receive $240,000,000 less than men in athletic-based scholarships annu-
ally. For every dollar colleges spend on recruiting, travel, and equipment for men’s sports, they spend 58 cents, 62 cents, and 73 cents, respectively, for women’s sports.

(7) Amid ongoing inequitable treatment, athletes and athletics-related staff too often are unaware of the rights and obligations that are described in or come from title IX. In surveys of children and their parents, the majority report not knowing what title IX is. A study conducted by the Government Accountability Office in 2017 found that the majority of high school athletic administrators were unaware of who their title IX coordinator was or felt unsupported by their title IX coordinator. In collegiate sports, the majority of coaches report that they never received formal training about title IX as part of the preparation for their jobs.

SEC. 3. PURPOSES.

The purposes of this Act are to—

(1) address inequitable and discriminatory treatment of women and girls in sports in elementary and secondary schools, as well as institutions of higher education; and

(2) improve the collection and transparency of data pertaining to participation in and support for
women’s and girls’ sports at schools receiving Federal financial assistance.

SEC. 4. DISCRIMINATION BY INTERCOLLEGIATE ATHLETIC ASSOCIATIONS.

(a) IN GENERAL.—No intercollegiate athletic association shall, on the basis of sex, subject any athlete to discrimination with respect to intercollegiate athletics, including discrimination through—

(1) the rules it sets for intercollegiate athletics;

(2) the sports required for association membership or the sports sponsored for association competitions or supported with association championships;

(3) the location, facilities, or amenities provided for association competitions or championships;

(4) the provision or arrangement for the provision of goods or services (including benefits) for association competitions or championships; or

(5) the distribution of revenues or other benefits to association members or institutions under the authority of the association.

(b) PRIVATE RIGHT OF ACTION.—A covered institution of higher education that is a member of or under the authority of an intercollegiate athletic association, or an individual who applies to participate, participates, or previously participated in intercollegiate athletics, at a cov-
cred institution of higher education that is a member of or under the authority of an intercollegiate athletic association, may bring an action in any Federal or State court of competent jurisdiction against the intercollegiate athletic association to remedy a violation of this section. The court may award such legal or equitable relief as may be appropriate for such a violation. The legal relief may include compensatory damages for emotional distress, humiliation, or pain and suffering.

(c) Training.—Each intercollegiate athletic association shall ensure that each employee of the association receives, at least once per year, training on the provisions of this section, including the rights delineated under this section and the procedures for bringing actions under this section.

(d) Definitions.—In this section:

(1) Covered institution of higher education.—The term “covered institution of higher education” means an entity described in section 908(2)(A) of the Education Amendments of 1972 (20 U.S.C. 1687(2)(A)).

(2) Intercollegiate athletic association.—The term “intercollegiate athletic association” means any conference, association, or other group or organization, established by or comprised
of 2 or more covered institutions of higher education, that—

(A) governs competitions among, or otherwise exercises authority over intercollegiate athletics at, such institutions of higher education who are members of or under the authority of the intercollegiate athletic association; and

(B) is engaged in commerce or an industry or activity affecting commerce.

SEC. 5. EXPANDING EQUITY IN ATHLETICS DISCLOSURE REQUIREMENTS.

(a) INSTITUTIONS OF HIGHER EDUCATION.—Section 485(g) of the Higher Education Act of 1965 (20 U.S.C. 1092(g)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking clause (i) and inserting the following:

“(i) The total number of participants, by team.”;

(B) in subparagraph (C)—

(i) by striking “The total amount” and inserting the following: “(i) The total amount”; and

(ii) by adding at the end the following:
“(ii) For each men’s and women’s sport—

“(I) the total amount of athletically related student aid;

“(II) the total number of athletically related scholarships, and the average amount of such scholarships;

“(III) the total number of athletically related scholarships that fund the full cost of tuition at the institution;

“(IV) the total number of athletically related scholarships that fund the full cost of attendance for the athlete;

“(V) the total number of athletically related scholarships awarded for a period equal to or less than one year; and

“(VI) the total number of athletically related scholarships awarded for a period equal to or greater than 4 academic years.”;

(C) in subparagraph (E), by inserting “and disaggregated by each men’s sport and each women’s sport” before the period at the end;

(D) in subparagraph (G), by inserting “(which, for purposes of this subparagraph, in-
cludes compensation, bonuses, benefits, and buyouts paid to coaches and reportable by the institution or related entities, including booster clubs and foundations)” before “of the head coaches of men’s teams”;

(E) in subparagraph (H), by inserting “(which, for purposes of this subparagraph, includes compensation, bonuses, benefits, and buyouts paid to coaches and reportable by the institution or related entities, including booster clubs and foundations)” before “assistant coaches of men’s teams”;

(F) in subparagraph (I)—

(i) by striking clause (i) and inserting the following: “(i) The revenues from the institution’s intercollegiate athletics activities, in the aggregate and disaggregated by each men’s sport and each women’s sport, including—

“(I) total revenues; and

“(II) each category of revenues described in clause (ii).”; and

(ii) in clause (ii), by striking “, and advertising, but revenues” and all that follows through the period at the end and in-
serting "", advertising, and, to the extent practicable, student activities fees and alumni contributions.");

(G) by striking clause (i) of subparagraph (J) and inserting the following: "(i) The expenses made by the institution for the institution's intercollegiate athletics activities, in the aggregate and disaggregated by each men's sport and each women's sport, including—

"(I) total expenses; and

"(II) each category of expenses as described in clause (ii)."; and

(H) by adding at the end the following:

"(K) The numbers of participants who participate in 1, 2, or 3 intercollegiate sports at the institution, in the aggregate and disaggregated by each men's sport and each women's sport.

"(L) The total number of male players that practice on women's teams, in the aggregate and disaggregated by each women's sport.

"(M) Information regarding race and ethnicity for athletes and coaches (including assistant coaches), in the aggregate and
disaggregated by each men’s sport and each women’s sport.

“(N) A certification that the institution has verified the information submitted in the report under this paragraph.

“(O) With respect to the sports participation opportunities requirements under title IX of the Education Amendments of 1972—

“(i) a certification that the institution complies with such requirements by showing—

“(I) substantial proportionality;

“(II) a history and continuing practice of expanding sports participation opportunities; or

“(III) full and effective accommodation of athletics interests; and

“(ii) an identification of the method of compliance described in subclauses (I) through (III) of clause (i) that the institution uses.”;

(2) in paragraph (2), by striking “For the purposes of paragraph (1)(G)” and inserting “For the purposes of subparagraphs (G) and (H) of paragraph (1)”;}
(3) by striking paragraph (4) and inserting the following:

“(4) SUBMISSION; REPORT; INFORMATION AVAILABILITY.—

“(A) INSTITUTIONAL REQUIREMENTS.—

Each institution of higher education described in paragraph (1) shall—

“(i) by October 15 of each year, provide the information contained in the report required under such paragraph for such year to the Secretary; and

“(ii) by not later than February 15 of each year, publish such information on a public Internet website of the institution in a searchable format.

“(B) PUBLIC AVAILABILITY.—By not later than February 15 of each year, the Secretary shall make the reports and information described in subparagraph (A) for the immediately preceding academic year available to the public, which shall include posting the reports and information on a public Internet website of the Department in a searchable format.”;

(4) by redesignating paragraph (5) as paragraph (6);
(5) by inserting after paragraph (4) the follow-

"(5) Reports by the Secretary.—

"(A) In general.—By not later than 2 years after the date of enactment of the Fair Play for Women Act, and every 2 years there-

after, the Secretary shall prepare and publish a report on gender equity using the information submitted under this subsection.

"(B) Contents.—The report required under subparagraph (A) shall, in the aggregate for all institutions of higher education described in paragraph (1) and disaggregated by each indi-

vidual institution—

"(i) identify participant gaps, if any, by indicating the number of participants that need to be added in order for partici-

pants of the underrepresented sex at the institution to match the proportion of enrolled full-time undergraduate students of the underrepresented sex at the institution; and

"(ii) identify funding gaps, if any, by showing the percentage differences, com-

pared to proportions of male and female
enrollment at the institution, in expenditures for athletically related student aid, recruiting, promotion, and publicity in intercollegiate athletics; and

“(iii) identify any trends evident in such data that address relevant inequities in intercollegiate athletics participation and financial support.”; and

(6) in paragraph (6), as redesignated by paragraph (4)—

(A) by striking “DEFINITION.—For the purposes of this subsection, the term” and inserting the following: “DEFINITIONS.—For purposes of this subsection:

“(A) OPERATING EXPENSES.—The term”; and

and

(B) by adding at the end the following:

“(B) PARTICIPANT.—The term ‘participant’ means an athlete in a sport who—

“(i)(I) is receiving the institutionally sponsored support normally provided to athletes competing at the institution involved on a regular basis during the sport’s season;
“(II) is participating in organized practice sessions and other team meetings and activities on a regular basis during the sport’s season; and

“(III) is listed on the eligibility or squad list maintained for the sport; or

“(ii) due to injury, does not meet the requirements of clause (i) but continues to receive financial aid on the basis of athletic ability in the sport.

“(C) Season.—The term ‘season’, when used with respect to a team sport, means the period beginning on the date of a team’s first intercollegiate competitive event in an academic year and ending on the date of the team’s final intercollegiate competitive event in such academic year.”.

(b) Elementary School and Secondary School Athletic Programs.—

(1) In general.—Subpart 2 of part F of title VIII of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7901 et seq.) is amended by adding at the end the following:
“SEC. 8549D. DISCLOSURE OF STATISTICS ON EQUALITY IN
ELEMEN TARY AND SECONDARY EDUCATION
ATHLETIC PROGRAMS.

“(a) Definition of Participant.—

“(1) In General.—In this section, the term
‘participant’ means an athlete in a sport who partici-
pates in the sport in interscholastic competitive
events, organized practice sessions, and other team
meetings and activities on a regular basis during the
sport’s season.

“(2) Definition of Season.—For purposes of
paragraph (1), the term ‘season’, when used with re-
spect to a team sport, means the period beginning
on the date of a team’s first interscholastic athletic
competition in an academic year and ending on the
date of the team’s final interscholastic athletic com-
petition in such academic year.

“(b) In General.—The Secretary shall collect annu-
ally, from each coeducational elementary school and sec-
ondary school that receives Federal financial assistance
and has an interscholastic athletic program, a report that
includes the following information for the immediately pre-
ceding academic year:

“(1) The total number of male and female stu-
dents that attended the school, fully disaggregated
and cross-tabulated by sex and race or ethnicity.
“(2) A listing of the school’s teams that competed in athletic competition and for each such team the following data:

“(A) The season in which the team competed.

“(B) The total number of male and female participants, fully disaggregated and cross-tabulated by sex and race or ethnicity and level of competition.

“(C) The total expenditures for the team from all sources, including school funds and funds provided by any other entities, such as booster organizations, including the following data:

“(i) The travel expenditures.

“(ii) The equipment expenditures (including any equipment replacement schedule).

“(iii) The uniform expenditures (including any uniform replacement schedule).

“(iv) The expenditures for facilities, including medical facilities, locker rooms, fields, and gymnasiums.
“(v) The total number of trainers and medical personnel, and for each trainer or medical personnel an identification of such individual’s—

“(I) sex; and

“(II) employment status (including whether such individual is assigned to the team full-time or part-time, and whether such individual is a head or assistant trainer or medical services provider) and duties other than providing training or medical services.

“(vi) The expenditures for publicity for competitions.

“(vii) The total salary expenditures for coaches, including compensation, benefits, and bonuses, the total number of coaches, and for each coach an identification of such coach’s—

“(I) sex; and

“(II) employment status (including whether such coach is assigned to the team full-time or part-time, and whether such coach is a head or as-
sistant coach) and duties other than coaching.

“(D) The total number of competitive events (in regular and nontraditional seasons) scheduled, and for each an indication of what day of the week and time the competitive event was scheduled.

“(E) Whether such team participated in postseason competition, and the success of such team in any postseason competition.

“(c) Disclosure to Students and Public.—A school described in subsection (b) shall—

“(1) by October 15 of each year, make available to students, potential students, and parents of students and potential students, upon request, and to the public, the report and information required of the school under such subsection for such year; and

“(2) ensure that all students and parents at the school are informed of their right to request such report and information.

“(d) Submission; Information Availability.—On an annual basis, each school described in subsection (b) shall provide the report required under such subsection, and the information contained in such report, to the Secretary not later than 15 days after the date that
the school makes such report and information available under subsection (e).

“(e) DUTIES OF THE SECRETARY.—The Secretary shall—

“(1) ensure that reports and information submitted under subsection (d) are available on the same public website, and searchable in the same manner, as the reports and information made available under section 485(g)(4)(B) of the Higher Education Act of 1965; and

“(2) not later than 180 days after the date of enactment of the Fair Play for Women Act—

“(A) notify all elementary schools and secondary schools in all States regarding the availability of the reports and information under subsection (e); and

“(B) issue guidance to all such schools on how to collect and report the information required under this section.”.

(2) CONFORMING AMENDMENT.—The table of contents in section 2 of the Elementary and Secondary Education Act of 1965 is amended by inserting after the item relating to section 8549C the following:

“Sec. 8549D. Disclosure of statistics on equality in elementary and secondary education athletic programs.”.
SEC. 6. ADMINISTRATIVE ENFORCEMENT THROUGH CIVIL PENALTIES.

Section 902 of the Education Amendments of 1972 (20 U.S.C. 1682) is amended—

(1) by inserting ``(a)'' before ``Each Federal'';

and

(2) by adding at the end the following:

``(b)(1) The Secretary of Education shall determine, at the beginning of each year, each covered institution of higher education that was found during the prior year to be in noncompliance with a requirement of this title as part of an administrative proceeding under subsection (a).

``(2) If the Secretary determines under paragraph (1) that a covered institution of higher education was in such noncompliance during the prior year, the Secretary may impose a civil penalty on the institution.

``(3) If the Secretary determines under paragraph (1) that a covered institution of higher education was in such noncompliance during 2 or more of the prior 5 years, the Secretary shall—

``(A) require the institution to submit, not later than 120 days after receiving notice of the determination, a plan for coming into compliance with all requirements of this title; and

``(B) make the report publicly available.''.

SEC. 7. PRIVATE RIGHT OF ACTION.

Section 903 of the Education Amendments of 1972 (20 U.S.C. 1683) is amended—

(1) by inserting “(a)” before “Any depart-
ment”; and

(2) by adding at the end the following:

“(b) RIGHT OF ACTION.—An individual who applies
to participate, participates, or previously participated in
an education program or activity covered under this title,
offered by a covered institution of higher education, may
bring an action in any Federal or State court of competent
jurisdiction against the institution, alleging a violation of
this title. The court may award such legal or equitable
relief as may be appropriate for such a violation. The legal
relief may include compensatory damages for emotional
distress, humiliation, or pain and suffering.”.

SEC. 8. TRAINING AND INFORMATION FOR ATHLETES.

Title IX of the Education Amendments of 1972 (20
U.S.C. 1681 et seq.) is amended—

(1) by repealing section 906;

(2) by redesignating section 905 (20 U.S.C.
1685) as section 906; and

(3) by inserting after section 904 the following:

“SEC. 905. TRAINING AND INFORMATION.

“(a) TRAINING.—

“(1) COVERED SCHOOL SYSTEMS.—
“(A) EMPLOYEES.—Each covered school system shall ensure that each title IX coordinator, and that each employee who works with athletics or teaches physical education or health, for the school system receives, at least once per year, training on the rights under this title of students at elementary schools or secondary schools, and procedures for submitting complaints of violations of this title to the Office for Civil Rights of the Department of Education.

“(B) ELEMENTARY AND SECONDARY SCHOOL ATHLETES.—Each covered school system shall ensure that—

“(i) a title IX coordinator for the system provides training to athletes at elementary schools or secondary schools in the system on the rights of the athletes under this title, and procedures for submitting complaints of violations of this title to the Office for Civil Rights of the Department of Education; and

“(ii) each such athlete receives that training at least once per year.
“(C) DEFINITIONS.—In this paragraph, the terms ‘elementary school’ and ‘secondary school’ have the meanings given the terms in section 8101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

“(2) COVERED INSTITUTIONS OF HIGHER EDUCATION.—

“(A) EMPLOYEES.—Each covered institution of higher education shall ensure that each employee of the athletic department of the institution receives, at least once per year, training on the rights under this title of students at covered institutions of higher education, and procedures for submitting complaints of violations of this title to the Office for Civil Rights of the Department of Education.

“(B) POSTSECONDARY SCHOOL ATHLETES.—Each covered institution of higher education shall ensure that—

“(i) an expert in matters relating to this title, who is not an employee of the institution’s athletic department, provides training to athletes at the institution on the rights of the athletes under this title, and procedures for submitting complaints
of violations of this title to the Office for Civil Rights of the Department of Education; and

“(ii) each such athlete receives that training at least once per year.

“(b) DATABASE.—The Secretary of Education shall establish and maintain a database of title IX coordinators, which shall be separate from the civil rights coordinators data maintained by the Office for Civil Rights of the Department of Education. The database shall include, at a minimum, the name, phone number, and email address for each title IX coordinator. The Secretary shall make the information in the database available to the public with, and by the same means as, reports made available under section 485(g)(4)(B) of the Higher Education Act of 1965 (20 U.S.C. 1092(g)(4)(B)).”.

SEC. 9. OTHER DEFINITIONS.

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) is amended—

(1) by redesignating section 909 as section 907A and moving that section 907A so as to follow section 907; and

(2) by adding at the end the following:

“SEC. 909. OTHER DEFINITIONS.

“In this title:
“(1) Covered institution of higher education.—The term ‘covered institution of higher education’ means an entity described in section 908(2)(A).

“(2) Covered school system.—The term ‘covered school system’ means an entity described in section 908(2)(B).

“(3) Title IX coordinator.—The term ‘title IX coordinator’ means the individual who coordinates the efforts of a covered school system to comply with, and carry out the system’s responsibilities under, this title.”.

SEC. 10. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to imply that intercollegiate athletic associations (as defined in section 2)—

(1) are not covered by title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.); or

(2) were not covered by that title on the day before the date of enactment of this Act.