

## HB0172S03 compared with HB0172S02

~~{deleted text}~~ shows text that was in HB0172S02 but was deleted in HB0172S03.

inserted text shows text that was not in HB0172S02 but was inserted into HB0172S03.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

~~{Representative Jordan D. Teuscher}~~Senator Lincoln Fillmore proposes the following substitute bill:

### ~~{IMMIGRANT}~~STUDENT ATHLETE PARTICIPATION

#### AMENDMENTS

2024 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jordan D. Teuscher**

Senate Sponsor: Lincoln Fillmore

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#### LONG TITLE

##### General Description:

This bill ~~{provides that an athletic association may collect other certain documentation for a student that is homeless or not a United States citizen that confirms the student's date of birth and sex}~~amends provisions related to student athletes within the public education system.

##### Highlighted Provisions:

This bill:

- ▶ amends indemnification provisions to clarify the intent of state indemnification in public education athletics;

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- ▶ provides that an athletic association may collect documentation for a student that is homeless or not a United States citizen that confirms the student's date of birth and sex; and
- ▶ makes technical and conforming changes.

### Money Appropriated in this Bill:

None

### Other Special Clauses:

This bill provides a special effective date.

This bill provides a coordination clause.

### Utah Code Sections Affected:

AMENDS:

53G-6-904, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1

53G-6-1007, as enacted by Laws of Utah 2022, Third Special Session, Chapter 1

53G-7-1102, as last amended by Laws of Utah 2023, Chapter 340 and last amended by Coordination Clause, Laws of Utah 2023, Chapter 493

### Utah Code Sections Affected by Coordination Clause:

63G-31-201, Utah Code Annotated 1953

63G-31-402, Utah Code Annotated 1953

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section 53G-6-904 is amended to read:

#### **53G-6-904. Indemnification -- Enforcement.**

(1) The ~~[state shall defend, indemnify,]~~ attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

(a) ~~[are brought or incurred]~~ arise as a result of this part; and

(b) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

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Section 2. Section 53G-6-1007 is amended to read:

### **53G-6-1007. Indemnification -- Enforcement.**

(1) (a) The ~~[state shall defend, indemnify,]~~ attorney general shall defend and the state shall indemnify and hold harmless a person acting under color of state law to enforce this part for any claims or damages, including court costs and attorney fees, that:

~~[(a) are brought or incurred]~~

(i) arise as a result of this part; and

~~[(b)]~~ (ii) are not covered by the person's insurance policies or by any coverage agreement issued by the State Risk Management Fund.

(2) An LEA or school within the public education system with a team that competes in an interscholastic athletic activity is responsible for the enforcement of this part in relation to the LEA's or school's teams.

Section ~~4+3~~3. Section **53G-7-1102** is amended to read:

### **53G-7-1102. Public schools prohibited from membership.**

(1) A public school may not be a member of or pay dues to an association that:

(a) is not in compliance with:

(i) this part;

(ii) Title 52, Chapter 4, Open and Public Meetings Act;

(iii) Title 63G, Chapter 2, Government Records Access and Management Act; and

(iv) Title 67, Chapter 16, Utah Public Officers' and Employees' Ethics Act;

(b) does not collect each student's birth certificate ~~[and birth certificate amendment history]~~, as that term is defined in Section 53G-6-1001, or subject to Subsection (3), equivalent documentation, as described in Subsection (2)(a), to determine eligibility as a condition of the association's registration process for an athletic team, event, or category; or

(c) does not require a student to provide the ~~[athlete's]~~ student's date of birth and sex as a condition of the registration process for an athletic team, event, or category.

(2) (a) ~~[Except as provided in Subsection (3), for]~~ For a student who is ~~[homeless or]~~ not a United States citizen and who is unable to provide a birth certificate ~~[and birth certificate amendment history]~~, as that term is defined in Section 53G-6-1001, the association may collect the student's:

~~[(a)]~~ (i) state-issued identification document, including a driver's license or passport; or

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~~(b)~~ (ii) federally recognized identification document, including a document that the Department of Homeland Security issues.

(b) If a student who is not a United States citizen is unable to provide a document under Subsection (2)(a), the association may collect other reliable proof of a student's date of birth and sex, including:

(i) an affidavit from the student's parent or legal guardian attesting:

(A) to the student's date of birth and sex; and

(B) that the parent or legal guardian is unable to obtain a document described in Subsection (2)(a); and

(ii) one of the following:

(A) a religious, hospital, or physician certificate;

(B) verified school records;

(C) verified immunization records; or

(D) documentation from a social service provider.

(3) (a) Subsection (1)(b) ~~[or (2) do]~~ ~~{ }~~ does not apply to an association for a student who is a homeless child or youth, as defined in the McKinney-Vento Homeless Assistance Act, 42 U.S.C. Sec. 11431 et seq.

(b) For a student who is a homeless child or youth, including an unaccompanied homeless child or youth, an association may collect:

(i) an affidavit from the student's parent or guardian, or the student if the student is an unaccompanied homeless child or youth, indicating that the student does not meet the necessary requirements to obtain a document described in Subsection (2)(a); and

(ii) a document described in Subsection (2)(b)(ii).

(4) Nothing in this section limits or impairs an LEA's requirement to verify a student's initial review of eligibility to participate in an athletic team, event, or category under applicable state or federal law or state board rule, including the student's:

(a) residency status;

(b) age;

(c) sex, verified by the student's birth certificate ~~[and birth certificate amendment history]~~, as that term is defined in Section 53G-6-1001;

(d) academic requirements; or

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(e) school enrollment capacity.

(5) Unless otherwise specified, an association's compliance with or an association employee or officer's compliance with the provisions described in Subsection (1) does not alter:

(a) the association's public or private status; or

(b) the public or private employment status of the employee or officer.

Section ~~{2}~~4. **Effective date.**

~~{ff}~~(1) Except as provided in Subsection (2), if approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.

(2) If this bill is not approved by two-thirds of all members elected to each house, this bill takes effect May 1, 2024.

### Section 5. Coordinating H.B. 172 with H.B. 257

If H.B. 172, Student Athlete Participation Amendments, and H.B. 257, Sex-Based Designations for Privacy, Anti-bullying, and Women's Opportunities, both pass and become law, the Legislature intends that, on the effective date of H.B. 172:

(1) the following language be inserted as new Subsection (4) in Section 63G-31-201, enacted in H.B. 257:

"(4) Notwithstanding Subsections (1) through (3), this chapter does not apply to:

(a) the School Activity Eligibility Commission created in Section 53G-6-1003; or

(b) in the context of a student who has obtained the eligibility approval of the commission under Subsection 53G-6-1004(2) to participate in a gender-designated interscholastic activity that does not correspond with the sex designation on the student's birth certificate, as those terms are defined in Section 53G-6-1001."; and

(2) the following language replace the language enacted as Section 63G-31-402 in H.B. 257:

"The attorney general shall defend and the state shall indemnify and hold harmless a government entity acting under color of state law to enforce this chapter for any claims or damages, including court costs and attorney fees that:

(1) arise as a result of this chapter; and

(2) are not covered by the government entity's insurance policies or any coverage

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agreement that the State Risk Management Fund issues."