



Testimony of Vajra Ma, Chair, Women's Human Rights Campaign USA

Before the Montana House Judiciary Committee

On House Bill No. 112

SUPPORT

January 18, 2021

Thank you, Mr. Chairman and members of the Committee for allowing me the opportunity to provide written testimony in support of House Bill No. 112.

The Women's Human Rights Campaign (WHRC) is a global nonpartisan group of volunteer women dedicated to protecting women's sex-based rights. Our volunteers include academics, writers, organizers, activists, lawyers, and health practitioners. The [Declaration on Women's Sex Based Rights](#) was created by the founders of WHRC to lobby nations to maintain language protecting women and girls on the basis of sex rather than "gender" or "gender identity." The Declaration re-affirms women and girls' sex-based rights, and challenges the discrimination we experience from the replacement of the category of sex with that of "gender identity."

I am the chair of WHRC USA, the U.S. chapter of WHRC. My interest in the legislation before the Committee today, HB 112, also known as the Save Women's Sports Act, is based upon Article 7 of our Declaration, "Reaffirming women's rights to the same opportunities as men to participate actively in sports and physical education." This is in keeping with Article 10 (g) of the United Nations Convention on the Elimination of All Forms of Discrimination Against Women, which provides that Parties shall ensure "[t]he same Opportunities to participate actively in sports and physical education" for girls and women as for boys and men.

Article 7 of our Declaration is consistent with Title IX of the Education Amendments of 1972, which 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 education program or activity receiving Federal financial assistance," further specifying in Section 106.41 (b) of

its implementation regulations that “a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport.”

For the reasons stated in HB 112, introduced by Rep. John Fuller and under consideration by the Judiciary Committee today, namely that significant differences in the average bone density, bone strength, heart size, lung volume, hemoglobin levels, and muscle development of men and women, among other physical differences, result in men being able to generate higher speed and power during physical activity, WHRC USA maintains that the provision of single-sex sports is necessary if women and girls are to have opportunities that are on a par with those of men and boys. Many of these advantages remain even after a man or boy takes hormones for the purpose of treating a body dysmorphia. Even if it were not true that men and boys have physiological advantages over women and girls, women and girls should have the right to say no to men and boys in their spaces under any circumstances.

The ability of girls and women to compete in athletics matters in concrete, material ways. Participation in high school athletics is the basis upon which athletes are recruited onto college teams, and girls and young women depend upon participation in athletics to be eligible for scholarships. If boys are permitted to compete in girls’ sports, there is a likelihood that top spots will go to boys. This is clear sex discrimination against women and girls, in violation of Title IX.

Worldwide, we are seeing a marked increase in men entering women’s sports on the basis of so-called “gender identity,” a linguistic mechanism by which men and boys claim the identity of women and girls. This claim has no basis in material reality and is contrary to Article 1 of WHRC’s Declaration on Women’s Sex-Based Rights, which states that “the inclusion of men who claim to have a female ‘gender identity’ into the category of women in law, policies and practice constitutes discrimination against women by impairing the recognition of women’s sex-based human rights.”

Cases of male intrusion into women’s sports have made headlines from Canada to New Zealand, but, sadly, the Committee need not look so far abroad to find examples of unfair practices. Idaho State University student athletes Madison Kenyon and Mary Marshall both note that a male University of Montana runner, under the guise of “gender identity,” has frequently placed among the top finishers in track events against Kenyon, Marshall, and other female runners. It is to the credit of the Treasure State that its legislature is taking this matter seriously and seeking to prevent future instances.

By passing HB 112, Montana would guarantee the sex-based rights of women and girls and ensure fairness for all student athletes. WHRC USA strongly endorses this legislation.