

ENGROSSED LEGISLATIVE BILL 89

Introduced by Kauth, 31; at the request of the Governor; Andersen, 49; Clements, 2; Clouse, 37; DeKay, 40; Dorn, 30; Dover, 19; Hallstrom, 1; Hansen, 16; Hardin, 48; Holdcroft, 36; Ibach, 44; Lippincott, 34; Lonowski, 33; McKeon, 41; Murman, 38; Sanders, 45; Sorrentino, 39; Storer, 43; Storm, 23; Strommen, 47; Meyer, 17.

A BILL FOR AN ACT relating to public health and welfare; to adopt the Stand With Women Act; and to provide for severability.

Be it enacted by the people of the State of Nebraska,

Section 1. Sections 1 to 7 of this act shall be known and may be cited as the Stand With Women Act.

Sec. 2. The Legislature finds and declares that:

(1) Males and females possess unique and immutable differences that manifest prior to birth and increase as they age and experience puberty;

(2) Differences between the sexes are enduring and may, in some circumstances, warrant the creation of separate social, educational, athletic, or other spaces in order to ensure safety and to allow members of each sex to succeed and thrive;

(3) Physical differences between males and females have long made separate and sex-specific sports teams important so that female athletes can have equal opportunities to compete in sports while reducing the risk of physical injury;

(4) Physical advantages for males relevant to sports include, on average, a larger body size with more skeletal muscle mass, a lower percentage of body fat, and a greater maximal delivery of anaerobic and aerobic energy;

(5) Even at young ages, males typically score higher than females on cardiovascular endurance, muscular strength, muscular endurance, and speed and agility. These differences become more pronounced during and after puberty as males produce higher levels of testosterone. On average, male athletes are bigger, faster, stronger, and more physically powerful than their female counterparts. This results in a significant sports performance gap between the sexes;

(6) Testosterone provides benefits in relation to athletic performance;

(7) Studies have shown that the benefits that natural testosterone provides to male athletes are not significantly diminished through the use of testosterone suppression. Testosterone suppression in males does not result in a level playing field between male and female athletes; and

(8) Because of the physical differences between males and females, having separate athletic teams based on the sex of the athlete reduces the chance of injury to female athletes, promotes equality between the sexes, provides opportunities for female athletes to compete against their female peers rather than against male athletes, and allows female athletes to compete on a fair playing field for scholarships and other athletic accomplishments.

Sec. 3. For purposes of the Stand With Women Act:

(1) Athletic association means a corporation, association, or organization which has as one of its primary purposes the sponsoring or administration of extracurricular interscholastic athletic contests or competitions;

(2) Boy means an adolescent human male;

(3) Female means an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that at some point produces, transports, and utilizes eggs for fertilization. Female includes a woman and a girl;

(4) Girl means an adolescent human female;

(5) Male means an individual who naturally has, had, will have, or would have, but for a congenital anomaly or intentional or unintentional disruption, the reproductive system that at some point produces, transports, and utilizes sperm for fertilization. Male includes a man and a boy;

(6) Man means an adult human male;

(7) Postsecondary educational institution means a university, college, or community college located in Nebraska that is a member institution of an accrediting body recognized by the United States Department of Education;

(8) Private school means any private, denominational, or parochial school offering instruction in elementary or high school grades;

(9) Public school means any public school offering instruction in elementary or high school grades;

(10) Sex means an individual's sex, either male or female; and

(11) Woman means an adult human female.

Sec. 4. (1) For an interscholastic athletic team or sport sponsored by a public school, a private school whose students or teams compete against a public school in an interscholastic sport, or a private school that is a member of an athletic association, the team or sport shall be expressly designated as one of the following based on sex:

(a) Males, men, or boys;

(b) Females, women, or girls; or

(c) Coed or mixed.

(2)(a) For an interscholastic athletic team or sport sponsored by a public school, a private school whose students or teams compete against a public school in an interscholastic sport, or a private school that is a member of an athletic association, a team or sport designated for females, women, or girls shall not be open to a male student.

(b) For an interscholastic athletic team or sport sponsored by a public school, a private school whose students or teams compete against a public school in an interscholastic sport, or a private school that is a member of an athletic association, a team or sport designated for males, men, or boys shall not be open to a female student unless there is no female team offered or available for such sport for such female student.

(3) For an interscholastic athletic team or sport sponsored by a public postsecondary educational institution, a private postsecondary educational institution whose students or teams compete against a public postsecondary educational institution, or a private postsecondary educational institution that is a member of an athletic association, the team or sport shall be expressly designated as one of the following based on sex:

(a) Males, men, or boys;

(b) Females, women, or girls; or

(c) Coed or mixed.

(4)(a) For an interscholastic athletic team or sport sponsored by a public postsecondary educational institution, a private postsecondary educational institution whose students or teams compete against a public postsecondary educational institution, or a private postsecondary educational institution that is a member of an athletic association, a team or sport designated for females, women, or girls shall not be open to a male student.

(b) For an interscholastic athletic team or sport sponsored by a public postsecondary educational institution, a private postsecondary educational institution whose students or teams compete against a public postsecondary educational institution, or a private postsecondary educational institution that is a member of an athletic association, a team or sport designated for males, men, or boys shall not be open to a female student unless there is no female team offered or available for such sport for such female student.

(5) In order to participate in an interscholastic athletic team or sport that is designated for males, men, or boys or designated for female, women, or girls and that is sponsored by (a) a public school or a public postsecondary educational institution or (b) a private school or a private postsecondary educational institution subject to the Stand With Women Act, a student shall provide to such school or postsecondary educational institution confirmation of such student's sex on a document signed by a doctor or signed under the authority of a doctor.

(6) Nothing in this section shall be construed to restrict the eligibility of any student to participate in any interscholastic athletic teams or sports designated as coed or mixed.

Sec. 5. A government entity, licensing or accrediting organization, or athletic association shall not entertain a complaint, open an investigation, or take any other adverse action against a public or private school or a public or private postsecondary educational institution for maintaining any separate interscholastic athletic team or sport for female students.

Sec. 6. The governing body of each public school and public postsecondary

educational institution and each private school and private postsecondary educational institution subject to the Stand With Women Act shall adopt a policy implementing the Stand With Women Act. Such policy shall include provisions regarding the conduct of visitors and the public.

Sec. 7. An individual born with a diagnosis of a disorder or difference in sex development shall have the relevant legal protections and accommodations afforded under the federal Americans with Disabilities Act of 1990, as amended.

Sec. 8. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

PRESIDENT OF THE LEGISLATURE

*THIS IS TO CERTIFY that the within LB 89 was passed by the One Hundred Ninth
Legislature of Nebraska at its First Session on the day
of 20.....*

CLERK OF THE LEGISLATURE

Approved:

..... 20....., o'clockM.

GOVERNOR