

LEGISLATURE OF NEBRASKA
ONE HUNDRED NINTH LEGISLATURE
FIRST SESSION

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.

Read first time January 10, 2025

Committee:

- 1 A BILL FOR AN ACT relating to public health and welfare; to adopt the
- 2 Stand With Women Act; to provide for severability.
- 3 Be it enacted by the people of the State of Nebraska,

1 **Section 1.** Sections 1 to 10 of this act shall be known and may be
2 cited as the Stand With Women Act.

3 **Sec. 2.** The Legislature finds and declares that:

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

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

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

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

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

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

30 (7) Because of the physical differences between males and females,
31 having separate athletic teams based on the biological sex of the athlete

1 reduces the chance of injury to female athletes, promotes equality
2 between the sexes, provides opportunities for female athletes to compete
3 against their female peers rather than against male athletes, and allows
4 female athletes to compete on a fair playing field for scholarships and
5 other athletic accomplishments;

6 (8) Providing for separate restrooms and locker rooms for females
7 and males advances the important governmental objective of protecting the
8 privacy of individuals and shielding students' bodies from the opposite
9 sex; and

10 (9) Inconsistencies in court rulings and policy initiatives with
11 respect to the definitions of sex, male, female, man, and woman have led
12 to endangerment of single-sex spaces and resources, necessitating
13 clarification of certain terms.

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

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

19 (2) Boy means an adolescent human male;

20 (3) Designate means to post signage at or near the entrance to the
21 restroom or locker room that is readily visible and states that the
22 restroom or locker room is either for use by females or for use by males;

23 (4) Female means a person whose biological reproductive system is
24 organized around the production of ova. Female includes a woman and a
25 girl;

26 (5) Girl means an adolescent human female;

27 (6) Male means a person whose biological reproductive system is
28 organized around the production of sperm. Male includes a man and a boy;

29 (7) Man means an adult human male;

30 (8) Postsecondary educational institution means a public or private
31 university, college, or community college located in Nebraska that is a

1 member institution of an accrediting body recognized by the United States
2 Department of Education;

3 (9) School means any (a) public, private, denominational, or
4 parochial school offering instruction in elementary or high school grades
5 or (b) postsecondary educational institution;

6 (10) State agency means any department, agency, board, bureau, or
7 commission of the state or any other entity whose primary function is to
8 act as an instrumentality or agency of the state; and

9 (11) Woman means an adult human female.

10 **Sec. 4.** (1) The governing body of a school shall designate each
11 group restroom and locker room within each school building as either for
12 use by females or for use by males.

13 (2) Except as provided in subsections (3) and (4) of this section,
14 the governing body of a school shall not:

15 (a) Allow a male to use a restroom facility designated for use by
16 females;

17 (b) Allow a female to use a restroom facility designated for use by
18 males;

19 (c) Allow a male to enter or use a locker room designated for and
20 being used at such time by one or more females; or

21 (d) Allow a female to enter or use a locker room designated for and
22 being used at such time by one or more males.

23 (3) This section shall not apply to:

24 (a) An individual entering a restroom under the following
25 circumstances:

26 (i) Entrance for custodial, maintenance, or inspection purposes; or

27 (ii) Entrance to render emergency assistance; or

28 (b) A parent or caregiver bringing a minor child or an individual
29 with a disability that is of the opposite sex of such parent or caregiver
30 into a restroom designated for such parent's or caregiver's biological
31 sex.

1 (4) This section shall not apply to an individual entering a locker
2 room under the following circumstances:

3 (a) Entrance for custodial, maintenance, or inspection purposes;

4 (b) Entrance to render emergency assistance; or

5 (c) Entrance by a coach, athletic trainer, or other authorized
6 official or school employee.

7 (5) The governing body of a school or any school official or
8 employee of a school shall not retaliate against any person for reporting
9 a violation of this section or related rules, regulations, or policies.

10 **Sec. 5.** (1) An interscholastic or intramural athletic team or sport
11 that is sponsored by a school or athletic association shall be expressly
12 designated as one of the following based on biological sex:

13 (a) Males, men, or boys;

14 (b) Females, women, or girls; or

15 (c) Coed or mixed.

16 (2)(a) An interscholastic or intramural athletic team or sport
17 sponsored by a school or athletic association and designated for females,
18 women, or girls shall not be open to a male student.

19 (b) An interscholastic or intramural athletic team or sport
20 sponsored by a school or athletic association and designated for males,
21 men, or boys shall not be open to a female student unless there is no
22 female team offered or available for such sport for such female student.

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

26 **Sec. 6.** A government entity, licensing or accrediting organization,
27 or athletic association shall not entertain a complaint, open an
28 investigation, or take any other adverse action against a school for
29 maintaining any separate interscholastic or intramural athletic team or
30 sport for female students.

31 **Sec. 7.** (1) The governing body of each school shall adopt a policy

1 implementing the Stand With Women Act.

2 (2) If the Commissioner of Education determines that any school
3 district as defined in section 79-101 has intentionally refused, in a
4 material manner, to comply with the Stand With Women Act, the
5 commissioner shall notify the school district of the noncompliance and
6 allow the school district a reasonable time to comply. If the
7 commissioner determines, after such time has elapsed, that the school
8 district is not in compliance and has not made a good-faith attempt to
9 comply, the commissioner shall take appropriate remedial action within
10 the commissioner's authority, up to and including qualifying such
11 noncompliance as a violation of the rules and regulations for the
12 accreditation of schools.

13 **Sec. 8.** Each state agency in the adoption and promulgation of
14 administrative rules and regulations, the enforcement of administrative
15 decisions, and the adjudication of disputes by administrative agencies
16 shall define a person's sex as such person's biological sex, meaning
17 either a male or female.

18 **Sec. 9.** (1) A state agency shall designate each group restroom
19 within any facility operated or used by such state agency as either for
20 use by females or for use by males.

21 (2) Except as provided in subsection (3) of this section, no state
22 agency shall:

23 (a) Allow a male to use a restroom facility designated for use by
24 females; or

25 (b) Allow a female to use a restroom facility designated for use by
26 males.

27 (3) This section shall not apply to:

28 (a) An individual entering a restroom under the following
29 circumstances:

30 (i) Entrance for custodial, maintenance, or inspection purposes; or

31 (ii) Entrance to render emergency assistance; or

1 (b) A parent or caregiver bringing a minor child or an individual
2 with a disability that is of the opposite sex of such parent or caregiver
3 into a restroom designated for such parent's or caregiver's biological
4 sex.

5 **Sec. 10.** An individual born with a diagnosis of a disorder or
6 difference in sex development shall have the relevant legal protections
7 and accommodations afforded under the federal Americans with Disabilities
8 Act of 1990, as amended.

9 **Sec. 11.** If any section in this act or any part of any section is
10 declared invalid or unconstitutional, the declaration shall not affect
11 the validity or constitutionality of the remaining portions.