

WOLD JOHNSON, P.C.
ATTORNEYS & COUNSELORS AT LAW

JOHN V. BOULGER*
MARK A. BEAUCHENE
BENJAMIN E. THOMAS*
BRIAN P. TOAY*
ERIN D. LARSGAARD*
ERIC B. THOMAS*

THOMAS C. WOLD - RETIRED
J. PHILIP JOHNSON - RETIRED

*ALSO LICENSED IN MINNESOTA

400 GATE CITY BUILDING
500 SECOND AVENUE NORTH
POST OFFICE BOX 1680
FARGO, NORTH DAKOTA 58107

TELEPHONE
(701) 235-5515

FAX
(701) 232-2585

March 16, 2021

North Dakota Senate Judiciary Committee

Re: HB 1298
Submission in Opposition

Dear Senators:

I am writing in opposition to HB 1298 as it would destroy youth sports in North Dakota.

I come before you wearing many "hats" and will speak to each and how each is negatively impacted if HB 1298 were to become law.

First, I am a practicing attorney in Fargo for over fifteen (15) years. I review and interpret statutes on a daily basis and have successfully argued cases involving statutory interpretation in front of both the North Dakota and Minnesota Supreme Courts. I have carefully reviewed HB 1298 and considered the impact it would have on youth sports in North Dakota. The language used in HB 1298 is extremely broad and impacts virtually every youth athletic event in this state – including all high school sports.

Next, I am a father of a high school athlete. My daughter swims for the Fargo North Spartan swim team. HB 1298 prohibits any team that allows transgender athletes from competing in any "publicly funded facility." As you know, the North Dakota High School Activities Association allows transgender athletes to compete if they undergo strict protocols. Therefore, HB 1298 prohibits **all** high school sports from using any public high school facility for competitions. This would include all high school pools where my daughter would compete. As written, HB 1298 would effectively end all high school sports including swimming.

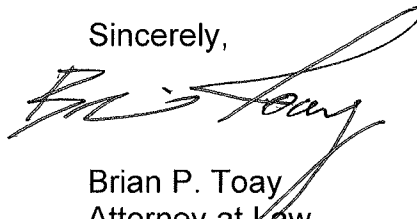
Third, I am the Age Group Chair for North Dakota Swimming. That means that I review and sanction any club swim meets that occur in North Dakota. North Dakota Swimming is a member of USA Swimming and is bound by the rules set forth by USA Swimming. USA Swimming has a very strict program that does allow transgender athletes to compete in certain situations. Before I can sanction a meet to occur in North Dakota, I have to ensure that the USA Swimming Rules are in place and will be enforced.

Nearly every swimming pool used for club meets in North Dakota is a publicly funded facility – such as the Bismarck Aquatic Center and the Hulbert Aquatic Center in West Fargo. Some of the meets held at these facilities are a massive draw to their communities bringing in 400-600 swimmers from throughout the Midwest. The Hulbert Aquatic Center (a publicly-funded facility) is quickly being recognized as the premier facility in the Midwest and has been chosen to host more and more prestigious national meets. If HB 1298 were to pass, we would not be able to host any USA Swimming sanctioned swim meets in the State of North Dakota because those meets would need to be held at one of the many fantastic publicly funded pools. There are no other national swimming organizations that North Dakota Swimming could join. Therefore, HB 1298 would effectively kill youth swimming in North Dakota as we would have nowhere to compete or host meets.

Finally, I am the meet manager for my children's club swim team, the FM Gators. As meet manager, I manage all of the meets that we host throughout the year. The Gators pride ourselves on our fall meet held the weekend before Thanksgiving. This meet has grown in size and popularity over the years and brings in approximately 400 swimmers from throughout North Dakota, Minnesota, and South Dakota. In hosting this large meet, the Gators receive awesome assistance from the FM Conventions and Visitor's Bureau. The FMCVB will help in making signage for the meet, arranging hotel deals for the athlete families, and providing other "swag" for the swimmers. The FMCVB receives public funding. Therefore, under HB 1298, they could no longer provide us any assistance with any of our meets as those meets would allow transgender athletes to compete under the strict regulations already put in place by USA Swimming. In addition to our fall meet, we host several other meets throughout the year. These meets are held at (1) Davies High School Pool, (2) Fargo North Pool, or (3) Island Park Pool. These 3 facilities are publicly funded. Therefore, under HB 1298 we would no longer be able to host these meets. Without these meets, the Gators would lose the source of revenue we use pay for our operations, and the kids would all lose the opportunity to compete.

I am just one person with a couple kids that like to swim. Yet I can fill over 2 pages outlining the various ways this horribly-drafted Bill would impact my family. The NDHSAA and USA Swimming have already addressed the subject matter outlined in this Bill. These governing bodies are in the best position to determine how to address this issue. In a State that prides itself on a lack of State Government regulation, this Bill needs to fail. Thank you for your consideration.

Sincerely,



Brian P. Toay
Attorney at Law
(BToay@woldlaw.com)