

Sixty-eighth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1489

Introduced by

Representatives Koppelman, Louser, Meier, Novak, S. Olson, Steiner, VanWinkle

Senators Estenson, Myrdal, Paulson, Wobbema

1 A BILL for an Act to create and enact chapter 15-10.6 and a new section to chapter 44-08 of the
2 North Dakota Century Code, relating to requiring institutions of higher education designating
3 athletic teams and sports for male, female, or coed participation and limitations on use of
4 governmental property for athletic events.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1.** Chapter 15-10.6 of the North Dakota Century Code is created and enacted as
7 follows:

8 **15-10.6-01. Definitions.**

9 As used in this chapter:

- 10 1. "Institution" means an institution under the control of the state board of higher
11 education or a private institution of higher education whose athletic teams compete
12 against an institution under the control of the state board of higher education.
13 2. "Sex" means the biological state of being female or male, based on an individual's
14 nonambiguous sex organs, chromosomes, and endogenous hormone profile at birth.
15 3. "Student" means an individual enrolled in at least one course offered by an institution.

16 **15-10.6-02. Designation of athletic teams.**

- 17 1. An intercollegiate or intramural athletic team or sport sponsored by an institution must
18 be expressly designated as one of the following based on the sex of the intended
19 participants:
20 a. "Males", "men", or "boys";
21 b. "Females", "women", or "girls"; or
22 c. "Coed" or "mixed".
23 2. An athletic team or sport designated for "females", "women", or "girls" may not be
24 open to students of the male sex.

1 3. This section may not be construed to restrict the eligibility of a student to participate in
2 interscholastic or intramural athletic teams or sports designated as "males", "men", or
3 "boys" or designated as "coed" or "mixed".

4 **15-10.6-03. Adverse action against institution prohibition.**

5 A government entity, a licensing or accrediting organization, or an athletic association or
6 organization may not entertain a complaint, open an investigation, or take any other adverse
7 action against an institution for maintaining separate intercollegiate or intramural athletic teams
8 or sports for students of the female sex.

9 **15-10.6-04. Cause of action.**

10 1. A student who is deprived of an athletic opportunity or who suffers direct or indirect
11 harm as a result of an institution knowingly violating this chapter has a private cause of
12 action for injunctive relief, damages, and any other relief available under law against
13 the institution.

14 2. A student subject to retaliation or other adverse action by an institution or athletic
15 association or organization as a result of reporting a violation of this chapter to an
16 employee or representative of the institution or athletic association or organization, or
17 to a state or federal agency with oversight of institutions in the state has a private
18 cause of action for injunctive relief, damages, and any other relief available under law
19 against the institution or athletic association or organization.

20 3. An institution that suffers direct or indirect harm as a result of a violation of this chapter
21 has a private cause of action for injunctive relief, damages, and any other relief
22 available under law against the government entity, licensing or accrediting
23 organization, or athletic association or organization.

24 4. A civil action must be initiated within two years after the harm occurred. A person that
25 prevails on a claim brought pursuant to this section is entitled to monetary damages,
26 including for any psychological, emotional, and physical harm suffered, reasonable
27 attorneys' fees and costs, and any other appropriate relief.

28 **SECTION 2.** A new section to chapter 44-08 of the North Dakota Century Code is created
29 and enacted as follows:

1 **Use of property for athletic events.**

2 The state, a political subdivision, or an entity that receives public funding from the state or
3 from a political subdivision may not use or permit to be used an athletic facility, stadium, field,
4 structure, or other property owned by or under the control of the state, political subdivision, or
5 entity for an athletic event conducted exclusively for males or exclusively for females in which
6 an individual of the opposite sex who is under eighteen years of age or who is enrolled in high
7 school is allowed to participate. As used in this section, "sex" means the biological state of
8 being female or male, based on an individual's nonambiguous sex organs, chromosomes, and
9 endogenous hormone profile at birth.