# Sixty-eighth Legislative Assembly of North Dakota In Regular Session Commencing Tuesday, January 3, 2023

#### HOUSE BILL NO. 1489

(Representatives Koppelman, Louser, Meier, Novak, S. Olson, Steiner, VanWinkle) (Senators Estenson, Myrdal, Paulson, Wobbema)

AN ACT to create and enact chapter 15-10.6 of the North Dakota Century Code, relating to requiring institutions of higher education designating athletic teams and sports for male, female, or coed participation.

# BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

#### 15-10.6-01. Definitions.

# As used in this chapter:

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

# 15-10.6-02. Designation of athletic teams.

- 1. An intercollegiate or intramural athletic team or sport sponsored by an institution must be expressly designated as one of the following based on the sex of the intended participants:
  - a. "Males", "men", or "boys";
  - b. "Females", "women", or "girls"; or
  - c. "Coed" or "mixed".
- 2. An athletic team or sport designated for "females", "women", or "girls" may not be open to students of the male sex.
- 3. This section may not be construed to restrict the eligibility of a student to participate in interscholastic or intramural athletic teams or sports designated as "males", "men", or "boys" or designated as "coed" or "mixed".

# 15-10.6-03. Adverse action against institution prohibition.

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

# 15-10.6-04. Cause of action.

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

- 2. A student subject to retaliation or other adverse action by an institution or athletic association or organization as a result of reporting a violation of this chapter to an employee or representative of the institution or athletic association or organization, or to a state or federal agency with oversight of institutions in the state has a private cause of action for injunctive relief, damages, and any other relief available under law against the institution or athletic association or organization.
- 3. An institution that suffers direct or indirect harm as a result of a violation of this chapter has a private cause of action for injunctive relief, damages, and any other relief available under law against the government entity, licensing or accrediting organization, or athletic association or organization.
- 4. A civil action must be initiated within two years after the harm occurred. A person that prevails on a claim brought pursuant to this section is entitled to monetary damages, including for any psychological, emotional, and physical harm suffered, reasonable attorneys' fees and costs, and any other appropriate relief.

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	Speaker of the House			President of the Senate	
	Chief C	lerk of the House		Secretary of the Senate	
				Representatives of ls of that body as Hou	
House Vote:	Yeas 75	Nays 18	Absent 1		
Senate Vote:	Yeas 40	Nays 7	Absent 0		
Received by the Governor atM. on Approved atM. on					
				Governor	
Filed in this offi	ice this	day of			, 2023,
at o'	clock	M.		Secretary of State	