



Senate Judiciary Committee
600 E. Boulevard Ave
Bismarck, ND 58505

March 15, 2021

Re: Human Rights Campaign Opposition to H.B. 1298

Dear Chair Larson and Members of the Committee,

The Human Rights Campaign (HRC), on behalf of its three million members and supporters nationwide, thanks you for the opportunity to submit testimony to help inform your deliberation on H.B. 1298. We strongly oppose this legislation and it is our hope that the committee will not advance it.

Transgender students, like all students, can benefit from participating in sports, and allowing them to participate in athletic activities consistent with their gender identity in no way disadvantages their fellow students. Attempting to separate transgender youth from their peers is impractical, unfair, and unnecessary. Finally, similar legislation passed by Idaho last year has been enjoined by a federal court on the grounds that it is discriminatory and unconstitutional.

Many are rightly protective of the legacy of women's sports in this country. Importantly, advocates for women and girls in sports – such as the National Women's Law Center, the Women's Sports Foundation, Women Leaders in College Sports, and others – efforts to exclude transgender students from participating in sports. That's because while there are real issues facing women's sports, including a lack of resources devoted to supporting them, transgender participation in athletics is not one of them.

Rather, bills like these are a reincarnation of the narrative underpinning anti-transgender bathroom bills like North Carolina's infamous HB2 – they use fear-based arguments that suggest transgender girls identify as such only to take advantage of female students, despite overwhelming evidence to the contrary. A widely-cited situation in Connecticut involves two transgender athletes out of an estimated 150,000 transgender youth across the country.¹ Further,

¹ Herman, Jody L. et al. "Age of Individuals Who Identify As Transgender in the United States". Williams Institute, January 2017. <https://williamsinstitute.law.ucla.edu/publications/age-trans-individuals-us/>

collegiate and professional athletics associations have adopted policies, informed by experts, to ensure fair competition by adults. This bill is simply a solution in search of a problem.

This bill will suffer the same fate as Idaho's H.B. 500, a similar bill that passed into law last year: immediate challenge in court. The preliminary injunction granted by the District Court is currently on appeal to 9th Circuit. The District Court decisively rejected the arguments by the state - which are emulated in the justifications for this bill - concluding that "the incredibly small percentage of transgender women athletes in general, coupled with the significant dispute regarding whether such athletes actually have physiological advantages over cisgender women when they have undergone hormone suppression in particular, suggest the Act's categorical exclusion of transgender women athletes has no relationship to ensuring equality and opportunities for female athletes in Idaho."

There is no reason for North Dakota to embark on a similarly futile path. It is simply not true that transgender girls and women pose any risk to women's sports. A small percentage of people identify as being transgender, many transgender youth are not interested in playing sports, and those who do play want to play for the same reasons other youth like sports: because sports are fun. Prior to puberty, transition is an entirely social process – transgender children do not receive any medical transition-related care. For transgender youth on the verge of puberty, medical treatment generally consists of puberty-blocking hormones which prevent the youth from going through puberty in a way that would provoke dysphoria. Further, it is clear from the experience of 20 states who already allow transgender kids to compete in sports consistent with their gender identity that the participation of transgender girls in high school athletics does not result in the consequences that proponents of this legislation allege.

Participation in sports is essential for young athletes to be able to stay fit, develop healthy habits, and learn the virtues of practice and teamwork. The history of sports in this country has been about opening up true, meaningful opportunities to participate in sports – and allowing transgender people to participate in sports furthers that goal, not threatens it. For these reasons, we request that you reject this harmful and discriminatory bill.

Sincerely,



Cathryn Oakley
State Legislative Director and Senior Counsel
Human Rights Campaign