

LEGISLATURE OF NEBRASKA
ONE HUNDRED EIGHTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 575

Introduced by Kauth, 31; Aguilar, 35; Albrecht, 17; Ballard, 21;
Bostelman, 23; Brandt, 32; Brewer, 43; Briese, 41;
Clements, 2; DeKay, 40; Dorn, 30; Dover, 19; Erdman, 47;
Halloran, 33; Hansen, B., 16; Hardin, 48; Holdcroft, 36;
Hughes, 24; Ibach, 44; Jacobson, 42; Linehan, 39;
Lippincott, 34; Lowe, 37; McDonnell, 5; Murman, 38; Riepe,
12; Sanders, 45; von Gillern, 4.

Read first time January 17, 2023

Committee:

- 1 A BILL FOR AN ACT relating to schools; to adopt the Sports and Spaces
- 2 Act; to provide an operative date; to provide severability; and to
- 3 declare an emergency.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 7 of this act shall be known and may be
2 cited as the Sports and Spaces Act.

3 Sec. 2. (1) For purposes of the Sports and Spaces Act:

4 (a) Biological female means a person who was born with female
5 anatomy with two X chromosomes in her cells;

6 (b) Biological male means a person who was born with male anatomy
7 with X and Y chromosomes in his cells; and

8 (c) School means any public, private, denominational, and parochial
9 school offering instruction in elementary or high school grades.

10 Sec. 3. (1) A school shall designate each group bathroom and locker
11 room within such school building as either for use by biological females
12 or for use by biological males.

13 (2) Except as provided in subsection (3) of this section, no school
14 shall:

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

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

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

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

24 (3) Subject to the policy of the school, (a) a biological male
25 coach, trainer, or other authorized individual or school employee may
26 enter a locker room designated for or being used at such time by one or
27 more biological females and (b) a biological female coach, trainer, or
28 other authorized individual or school employee may enter a locker room
29 designated for or being used at such time by one or more biological
30 males.

31 (4) A school or any official of a school shall not retaliate against

1 any person for reporting a violation of this section or related rules,
2 regulations, or policies.

3 (5) A student aggrieved by a violation of this section may bring a
4 civil cause of action against the school committing such violation. A
5 plaintiff who prevails in such action may be entitled to injunctive
6 relief as may be appropriate, actual damages, and reasonable attorney's
7 fees.

8 Sec. 4. (1) An interscholastic or intramural athletic team or sport
9 that is sponsored by a school shall be expressly designated as one of the
10 following based on biological sex:

11 (a) Males, men, or boys;

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

13 (c) Coed or mixed.

14 (2)(a) An athletic team or sport designated for females, women, or
15 girls shall not be open to a biological male student.

16 (b) An athletic team or sport designated for males, men, or boys
17 shall not be open to a biological female student unless there is no
18 female team available for such sport for such biological female student.

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

22 Sec. 5. No government entity, any licensing or accrediting
23 organization, or any athletic association or organization shall entertain
24 a complaint, open an investigation, or take any other adverse action
25 against a school for maintaining separate interscholastic or intramural
26 athletic teams or sports for biological female students.

27 Sec. 6. (1) Any student who is deprived of an athletic opportunity
28 or suffers any direct or indirect harm as a result of a public school
29 knowingly violating the Sports and Spaces Act shall have a private cause
30 of action for injunctive relief, damages, and any other remedy available
31 by law against the school.

1 (2) Any student who is subject to retaliation or other adverse
2 action by a school or athletic association or organization as a result of
3 reporting a violation of the Sports and Spaces Act to an employee or
4 representative of the school or athletic association or organization or
5 to any state or federal agency with oversight of schools in this state
6 shall have a private cause of action for injunctive relief, damages, and
7 any other remedy available under law against the school or athletic
8 association or organization.

9 (3) Any school that suffers any direct or indirect harm as a result
10 of a violation of the Sports and Spaces Act shall have a private cause of
11 action for injunctive relief, damages, and any other remedy available
12 under law against the government entity, licensing or accrediting
13 organization, or athletic association or organization.

14 (4) All civil actions brought under the Sports and Spaces Act must
15 be initiated within two years after the harm occurred. Persons or
16 organizations who prevail on a claim brought pursuant to the Sports and
17 Spaces Act shall be entitled to monetary damages, including for any
18 psychological, emotional, and physical harm suffered, reasonable
19 attorney's fees and costs, and any other appropriate relief.

20 Sec. 7. Each school shall adopt a policy implementing the Sports
21 and Spaces Act.

22 Sec. 8. This act becomes operative on August 1, 2023.

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

26 Sec. 10. Since an emergency exists, this act takes effect when
27 passed and approved according to law.