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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-SECOND SESSION

H. F. No. 4282

03/14/2022 Authored by Gruenhagen, Lucero, Boe and Heintzeman
The bill was read for the first time and referred to the Committee on Education Policy

1.1 A bill for an act
1.2 relating to education; requiring school-sponsored sports teams be designated by
1.3 biological sex; proposing coding for new law in Minnesota Statutes, chapters
1.4 121A; 136F; 137.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. 121A.045 SPORTS TEAMS BASED ON BIOLOGICAL SEX.

1.7 Subdivision 1. Requirement. (a) An interscholastic, intercollegiate, intramural, or club
1.8 athletic team, sport, or athletic event that is sponsored or sanctioned by a school district or
1.9 charter school must be designated as one of the following, based on the biological sex at
1.10 birth of the participating students:

1.11 (1) females or girls;

1.12 (2) males or boys; or

1.13 (3) coeducational or mixed.

1.14 (b) Only female students, based on their biological sex, may participate in any team,
1.15 sport, or athletic event designated as being for females or girls. For purposes of this section,
1.16 biological sex is either female or male and the sex listed on the student's official birth
1.17 certificate may be relied upon if the certificate was issued at or near the time of the student's
1.18 birth. The failure to comply with this section is a limited waiver of sovereign immunity for
1.19 relief authorized under this section.

1.20 (c) No school district or charter school may be liable to any student for its compliance
1.21 with this subdivision.

2.1 Subd. 2. **Student cause of action.** (a) If a student suffers direct or indirect harm as a  
 2.2 result of a violation of subdivision 1, that student has a private cause of action for injunctive,  
 2.3 mandamus, and declaratory relief against the school district or charter school that caused  
 2.4 the harm.

2.5 (b) If a student is subjected to retaliation or other adverse action by the school district  
 2.6 or charter school as a result of reporting a violation of subdivision 1 to an employee or  
 2.7 representative of the school district or charter school, that student has a private cause of  
 2.8 action for injunctive, mandamus, and declaratory relief against the school district or charter  
 2.9 school. Notwithstanding any law to the contrary, no governmental entity may investigate  
 2.10 a complaint or take any adverse action against a school district or charter school or any  
 2.11 employee or board member for complying with subdivision 1.

2.12 (c) A civil action under this subdivision must be initiated within two years from the date  
 2.13 the alleged harm occurred. Any party prevailing on a claim brought under this subdivision  
 2.14 is entitled to reasonable attorney fees and costs.

2.15 Subd. 3. **School cause of action.** If a school district or charter school suffers any direct  
 2.16 or indirect harm as a result of a violation of subdivision 1, the school district or charter  
 2.17 school has a private cause of action for injunctive, mandamus, and declaratory relief against  
 2.18 the governmental entity, licensing or accrediting organization, or activities association or  
 2.19 organization. A civil action under this subdivision must be initiated within two years from  
 2.20 the date the alleged harm occurred. Any party prevailing on a claim brought under this  
 2.21 subdivision is entitled to reasonable attorney fees and costs.

2.22 Subd. 4. **Litigation representation and financial responsibility.** (a) For any lawsuit  
 2.23 brought or any complaint filed against a school district or charter school or an employee,  
 2.24 board, or board member as a result of compliance with subdivision 1, the attorney general  
 2.25 shall provide legal representation at no cost to that entity or individual.

2.26 (b) In addition to the expenses of representation, the state shall assume financial  
 2.27 responsibility for any other expense related to the lawsuit or complaint and incurred by a  
 2.28 school district or charter school or an employee, board, or a board member, including any  
 2.29 award for attorney fees and costs for which that entity or individual would be otherwise  
 2.30 responsible.

2.31 Sec. 2. **[136F.57] SPORTS TEAMS BASED ON BIOLOGICAL SEX.**

2.32 Subdivision 1. **Requirement.** (a) An interscholastic, intercollegiate, intramural, or club  
 2.33 athletic team, sport, or athletic event that is sponsored or sanctioned by an institution of

3.1 higher education under the control of the Board of Trustees must be designated as one of  
3.2 the following, based on the biological sex at birth of the participating students:

3.3 (1) females or women;

3.4 (2) males or men; or

3.5 (3) coeducational or mixed.

3.6 (b) Only female students, based on their biological sex, may participate in any team,  
3.7 sport, or athletic event designated as being for females or women. For purposes of this  
3.8 section, biological sex is either female or male and the sex listed on the student's official  
3.9 birth certificate may be relied upon if the certificate was issued at or near the time of the  
3.10 student's birth. The failure to comply with this section is a limited waiver of sovereign  
3.11 immunity for relief authorized under this section.

3.12 (c) No institution of higher education may be liable to any student for its compliance  
3.13 with this subdivision.

3.14 Subd. 2. **Student cause of action.** (a) If a student suffers direct or indirect harm as a  
3.15 result of a violation of subdivision 1, that student has a private cause of action for injunctive,  
3.16 mandamus, and declaratory relief against the institution of higher education under the control  
3.17 of the Board of Trustees that caused the harm.

3.18 (b) If a student is subjected to retaliation or other adverse action by the institution of  
3.19 higher education as a result of reporting a violation of subdivision 1 to an employee or  
3.20 representative of the institution of higher education, that student has a private cause of action  
3.21 for injunctive, mandamus, and declaratory relief against the institution of higher education.  
3.22 Notwithstanding any law to the contrary, no governmental entity may investigate a complaint  
3.23 or take any adverse action against an institution of higher education or any employee or  
3.24 board member for complying with subdivision 1.

3.25 (c) A civil action under this subdivision must be initiated within two years from the date  
3.26 the alleged harm occurred. Any party prevailing on a claim brought under this subdivision  
3.27 is entitled to reasonable attorney fees and costs.

3.28 Subd. 3. **Institution cause of action.** If an institution of higher education under the  
3.29 control of the Board of Trustees suffers any direct or indirect harm as a result of a violation  
3.30 of subdivision 1, the institution of higher education has a private cause of action for  
3.31 injunctive, mandamus, and declaratory relief against the governmental entity, licensing or  
3.32 accrediting organization, or activities association or organization. A civil action under this  
3.33 subdivision must be initiated within two years from the date the alleged harm occurred.

4.1 Any party prevailing on a claim brought under this subdivision is entitled to reasonable  
 4.2 attorney fees and costs.

4.3 Subd. 4. **Litigation representation and financial responsibility.** (a) For any lawsuit  
 4.4 brought or any complaint filed against an institution of higher education under the control  
 4.5 of the Board of Trustees or an employee, board, or board member as a result of compliance  
 4.6 with subdivision 1, the attorney general shall provide legal representation at no cost to that  
 4.7 entity or individual.

4.8 (b) In addition to the expenses of representation, the state shall assume financial  
 4.9 responsibility for any other expense related to the lawsuit or complaint and incurred by an  
 4.10 institution of higher education or an employee, board, or a board member, including any  
 4.11 award for attorney fees and costs for which that entity or individual would be otherwise  
 4.12 responsible.

4.13 Sec. 3. **[137.75] SPORTS TEAMS BASED ON BIOLOGICAL SEX.**

4.14 Subdivision 1. **Requirement.** (a) An interscholastic, intercollegiate, intramural, or club  
 4.15 athletic team, sport, or athletic event that is sponsored or sanctioned by an institution of  
 4.16 higher education under the control of the Board of Regents must be designated as one of  
 4.17 the following, based on the biological sex at birth of the participating students:

4.18 (1) females or women;

4.19 (2) males or men; or

4.20 (3) coeducational or mixed.

4.21 (b) Only female students, based on their biological sex, may participate in any team,  
 4.22 sport, or athletic event designated as being for females or women. For purposes of this  
 4.23 section, biological sex is either female or male and the sex listed on the student's official  
 4.24 birth certificate may be relied upon if the certificate was issued at or near the time of the  
 4.25 student's birth. The failure to comply with this section is a limited waiver of sovereign  
 4.26 immunity for relief authorized under this section.

4.27 (c) No institution of higher education may be liable to any student for its compliance  
 4.28 with this subdivision.

4.29 Subd. 2. **Student cause of action.** (a) If a student suffers direct or indirect harm as a  
 4.30 result of a violation of subdivision 1, that student has a private cause of action for injunctive,  
 4.31 mandamus, and declaratory relief against the institution of higher education under the control  
 4.32 of the Board of Regents that caused the harm.

5.1 (b) If a student is subjected to retaliation or other adverse action by the institution of  
5.2 higher education as a result of reporting a violation of subdivision 1 to an employee or  
5.3 representative of the institution of higher education, that student has a private cause of action  
5.4 for injunctive, mandamus, and declaratory relief against the institution of higher education.  
5.5 Notwithstanding any law to the contrary, no governmental entity may investigate a complaint  
5.6 or take any adverse action against an institution of higher education or any employee or  
5.7 board member for complying with subdivision 1.

5.8 (c) A civil action under this subdivision must be initiated within two years from the date  
5.9 the alleged harm occurred. Any party prevailing on a claim brought under this subdivision  
5.10 is entitled to reasonable attorney fees and costs.

5.11 Subd. 3. **Institution cause of action.** If an institution of higher education under the  
5.12 control of the Board of Regents suffers any direct or indirect harm as a result of a violation  
5.13 of subdivision 1, the institution of higher education has a private cause of action for  
5.14 injunctive, mandamus, and declaratory relief against the governmental entity, licensing or  
5.15 accrediting organization, or activities association or organization. A civil action under this  
5.16 subdivision must be initiated within two years from the date the alleged harm occurred.  
5.17 Any party prevailing on a claim brought under this subdivision is entitled to reasonable  
5.18 attorney fees and costs.

5.19 Subd. 4. **Litigation representation and financial responsibility.** (a) For any lawsuit  
5.20 brought or any complaint filed against an institution of higher education under the control  
5.21 of the Board of Regents or an employee, board, or board member as a result of compliance  
5.22 with subdivision 1, the attorney general shall provide legal representation at no cost to that  
5.23 entity or individual.

5.24 (b) In addition to the expenses of representation, the state shall assume financial  
5.25 responsibility for any other expense related to the lawsuit or complaint and incurred by an  
5.26 institution of higher education or an employee, board, or a board member, including any  
5.27 award for attorney fees and costs for which that entity or individual would be otherwise  
5.28 responsible.