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LEGISLATURE OF NEBRASKA

ONE HUNDRED NINTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 605

Introduced by Raybould, 28.

Read first time January 22, 2025

Committee:

A BILL FOR AN ACT relating to schools; to define terms; to require each school board to adopt a policy relating to student participation as a transgender student in extracurricular activities sponsored by such school or an athletics or activities association to which such school is a member as prescribed; and to state intent.

Be it enacted by the people of the State of Nebraska,

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Section 1. (1) For purposes of this section:

(a) Biological sex means the biological sex of an individual as the male or female gender assigned at birth;

(b) Gender means the state of being male or female;

(c) Gender eligibility means a student's gender for purposes of eligibility for activities sponsored by a school or by an athletic or activities association to which a school is a member, which shall be determined by the biological sex noted on the student's birth certificate;

(d) Gender expression means external appearance, characteristics, or behaviors typically associated with a specific gender;

(e) Gender identity means an innate sense of an individual's own gender; and

(f) Transgender means having a gender identity or gender expression that differs from societal expectations based on gender assigned at birth.

(2) Each school board shall develop and adopt a policy relating to student participation in extracurricular activities as a transgender student. Such policy shall:

(a) Require a student's medical information, which may include information regarding a student's transgender status, legal name, or gender assignment at birth, be kept confidential by the school in accordance with applicable local, state, and federal privacy laws unless required to be shared by law or policy or otherwise authorized by a student and such student's family;

(b) Require the following procedures in regard to allowing participation by a transgender student in extracurricular activities sponsored by a school or an athletics or activities association to which the school is a member:

(i) That a transgender student and such student's parent contact a school administrator or athletic director, in writing, indicating that

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the student is a transgender student, having a consistent gender identity different than the biological sex on the student's birth certificate, and list the activities in which the student wishes to participate. Such writing shall be provided to the school board by the school administrator or athletic director;

(ii) That the school board determine if the student meets the eligibility standards for participation as a transgender student pursuant to the policy developed and adopted pursuant to this section and if the student is likely to meet the requirements of participation of any applicable athletics or activities association to which the school is a member; and

(iii) That, if the school board determines that the student meets the eligibility requirements of the school for participation as a transgender student in an extracurricular activity sponsored by the school or an athletics or activities association to which the school is a member, the school board submit such eligibility application to any necessary and applicable athletics or activities association required for participation by such transgender student;

(c) Require the following information be provided to the school board and authorize such information to be shared with any applicable athletics or activities association to which the school is a member if required by such association for a request by a student to participate in an extracurricular activity as a transgender student:

(i) The current school registration information of the student;

(ii) A written statement from the student and the student's parent or guardian affirming the consistent gender identity and expression to which the student self-relates;

(iii) Documentation from individuals including, but not limited to, parents, friends, and teachers affirming the actions, attitudes, dress, and manner of the student that demonstrate the student's consistent gender identification and expression;

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(iv) Written verification from an appropriate health care professional of the student's consistent gender identification and expression;

(v) Medical documentation of any hormonal therapy, sexual reassignment surgery, physiological testing, counseling, or medical or psychological interventions on behalf of the student; and

(vi) Any other relevant documentation and information provided by the student or the student's parent or guardian;

(d) Require the following review criteria be used as part of a determination by the school board as to the approval or denial by the school board of a student application to participate in an extracurricular activity as a transgender student:

(i) That the documentation required pursuant to subdivision (2)(c) has been submitted to the school board; and

(ii) For a student applying to participate in an extracurricular athletic activity as a transgender female, that creditable medical documentation of hormonal therapy, sexual reassignment surgery, or physiological testing has been submitted to the school board and establishes that the transgender female student has either completed a minimum of one year of hormone treatment related to gender transition or undergone medically confirmed gender reassignment surgery and demonstrates to the school board through a medical examination and physiological testing that the transgender female student-athlete does not possess physical or physiological advantages over biological females of the same age group;

(e) Require that any hormone supplementation or suppression therapy by a student applying for participation in an extracurricular activity as a transgender student (i) is taken under the supervision of, and monitored by, a licensed physician and (ii) does not violate any performance-enhancing supplement policy of the school board or any athletics or activities association to which the school is a member;

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(f) Require that upon approval by the school board and any applicable athletics or activities association to which the school is a member, the student may not return to such student's gender identified on the birth certificate for purposes of participation in an extracurricular activity sponsored by the school or an athletic or activities association to which the school is a member unless another evaluation is undertaken by the school board and applicable association, except that a transgender female student that has been approved for participation on a female team pursuant to such policy may participate on a male team when there is no female team available or offered by the school in such sport or a comparable sport. A transgender male student who has been approved for participation on a male team pursuant to this policy shall not be eligible for participation on a female team unless reevaluated and approved pursuant to the policy developed pursuant to this section;

(g) Require that if a student evaluated pursuant to the school board's policy is denied participation as a transgender student, the student's eligibility for extracurricular activities sponsored by the school or an athletics or activities association to which the school is a member remains with the team of the gender identified on the student's birth certificate;

(h) Require an appeals process be developed by the school board for a student evaluated pursuant to the school board's policy and require that the school board comply with the requirements of any appeals process not inconsistent with this policy that is adopted by an applicable athletics or activities association to which the school is a member;

(i) Require that a student approved to participate in an extracurricular activity as a transgender student pursuant to the policy developed and adopted pursuant to this section, use the restroom, shower, and locker room associated with the student's biological sex when necessary and appropriate or be assigned a separate restroom, shower, or locker room for use when appropriate and available; and

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(j) Require that if a school board approves an application for a student to participate in an extracurricular activity as a transgender student in an activity that also requires such transgender student eligibility be approved by an athletics or activities association to which such school is a member, the school board shall cooperate with, and submit, any documentation required by the association in order for such student to receive a determination from such association relating to the transgender student's participation eligibility.

(3) A school board shall require eligibility for an extracurricular activity separated by male and female teams to be based on the student's gender as determined by the biological sex noted on the student's birth certificate unless approved for participation as a transgender student pursuant to the policy developed and adopted under subsection (2) of this section or by a policy relating to cross-gender participation in sports.

(4) Nothing in the policy developed and adopted pursuant to subsection (2) of this section shall be construed to encourage any student to undergo hormone therapy, sex reassignment surgery, or other medical treatment resulting in a change to the student's gender.

(5) Nothing in the policy developed and adopted pursuant to subsection (2) of this section shall be construed to affect a policy relating to cross-gender participation in sports which authorizes a female to participate on a male team when there is no female team offered or available by the school in that sport or a comparable sport.