

**Chairman Larson and members of the Judicial committee.**

**My name is Sheila Williams.**

**I wanted to share a Sports Illustrated article that lists our state among other states with bills to try and pass discriminatory laws against Transgender athletes. We should not be puppets of bigots. We should be better than this.**

**Read Below and Vote Do not Pass on HB 1298**

## **The Next Cultural Battle: States Take Aim at Trans Athletes**

Cheered on by Donald Trump, this week Mississippi became the latest state to pass an anti-trans sports law, with fights ahead in 25 more states.

**JULIE KLIEGMAN**

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Photo by Heinz Klutmeier/Sports Illustrated; Illustration by SI Art

Emily Wilson likes basketball. Before the seventh-grader came out as transgender a year ago, she played with boys for three years at her local Boys & Girls Club in coastal Mississippi. There, she had coaching, teammates, camaraderie.

Now, at school, she's relegated to practicing her dribble in PE class. She'd love to be part of a team again next year, but her school district allows kids to play sports based only on the sex on their original birth certificate, not their gender identity, says her mother, Katy Binstead.

Organized sports could be a refuge for someone like Emily, who says she gets bullied constantly with little intervention from her teachers, to the point that Binstead is considering homeschooling her or transferring her to private school.

"They call me a f----- behind my back," Emily says of her peers. And when she misses a day of school, they tell her they were glad she was gone.

Emily, who has never considered herself a boy, does not want to try out for basketball on the boys team, like her principal has suggested. Before this week, she could at least hope that her school district would change its policy.

But now, that hope is gone: A new law passed by the state has made it illegal for her to suit up to play on her school's girls team.

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Starting July 1, the so-called Mississippi Fairness Act, signed into law on Thursday by Governor Tate Reeves, will ban trans women and girls throughout the state from playing school sports on women's and girls teams.

The Mississippi law is similar to one passed in Idaho last year; together, they represent the leading edge of a nationwide wave of legislation seeking to ban trans youth from athletics. Cheered on by former President Donald Trump—who recently spoke in support of the push—legislators in at least 26 states have proposed new laws. A bill in South Dakota is awaiting the governor's signature, and bills in Tennessee, and Montana are close to passing. Meanwhile, one in Minnesota would take the ban a step further by criminalizing the act of a transgender athlete playing in girls or women's sports: It would be a petty misdemeanor to do so.

The proposed laws evoke the “bathroom bills” of the previous decade, which sought to ban transgender people from public restrooms matching their gender identity. Those bills were widely introduced and campaigned on, but ultimately the only state to pass one was North Carolina, which faced swift backlash from organizations threatening to pull business (that included the NBA, which relocated an All-Star Game, and the NCAA, which moved out championship events). Unlike bathroom bills, these new bills are likely to pass in meaningful numbers. They also center on sports, which occupy a unique space at the emotional center of U.S. culture. So far, corporate response to Idaho and Mississippi has been muted, as has the NCAA's response.

Even though they're still heavily discriminated against, as transgender people slowly gain more prominence and more rights, activists say that bills like these—as well as others that would criminalize medical care for trans youth—are the backlash.

“We might have trans people on the cover of magazines and having their own TV shows, but that doesn't say much about the systemic ways that transphobia ... is still very much alive and well,” says CJ Jones, a Ph.D. candidate at UC Santa Barbara researching feminist studies and sport. “I think this is sort of a response to that.”

Emily, 13, says she plans to be a plaintiff should the American Civil Liberties Union sue the state of Mississippi over this law, like it did Idaho last year (a lawyer for the group says it is considering it).

“I want to do something about it,” Emily says. “Because it's not right. It doesn't matter if you're cisgender, transgender or gay. Everyone should be able to play sports if they're good at it or really want to.”

The Idaho law, passed on March 30, 2020, was set to effectively ban trans women and girls from competing in public sports before a judge granted a preliminary injunction in August that currently prevents its enforcement. Lindsay Hecox, a trans would-be cross-country runner for Boise State, had sued the state, along with the ACLU, a cisgender Jane Doe, and the northwestern feminist organization Legal Voice.

The next fight is Mississippi, then South Dakota, advocates say. But they know this is just the beginning.



Mississippi Governor Tate Reeves signed a new law on Thursday restricting trans participation in sports.

Eric Shelton/Clarion Ledger/USA Today Network

It's no coincidence that sports are proving a particularly popular and effective cudgel for legislators targeting transgender civil rights. It's a sentimental pastime to which nearly everyone has some connection. Sports and cultural issues, of course, have always been inseparable: from Muhammad Ali's anti-Vietnam War stance, to the implementation of Title IX, to Colin Kaepernick's protests against police brutality.

"People have a lot of feelings about sports competition," says Elizabeth Sharrow, an associate professor of public policy and history specializing in gender and sports at the University of Massachusetts, Amherst. "There's a lot of emotion tied up in their memories of participating as a youth. Maybe it's their memories of watching their children participate. Maybe it's their memories of being spectators."

"Sports is something that permeates almost every aspect of our lives," adds Jones, "whether or not we play sports, whether or not we watch sports, whether or not we *like* sports."

In other words, sports—and the question of whether a game is *fair*—provides the type of emotional battleground perfectly suited to a political wedge issue. Complicating matters, the science as to whether trans athletes retain a physical advantage over their cisgender competitors is still unsettled. While advocates of these anti-trans bills contend that trans women and girls are inherently bigger and stronger than their cisgender peers, those who oppose

the bills counter the advantage is overstated, if it even exists—and, in youth sports, ultimately not that important. The research on trans athletes is slim, and it can't be neatly applied to trans athletes undergoing puberty, Joanna Harper, a Loughborough University Ph.D. student researching performance analysis in trans athletes, [has told Sports Illustrated](#).

The NCAA and International Olympic Committee both have well-established policies, neither of which is as aggressive toward elite athletes as bans like Mississippi's and Idaho's are toward youth ones. Per both the NCAA and IOC, trans men are welcome to compete on the men's team, no matter what. In the NCAA, trans women can compete on the women's team after a year of hormone-suppression treatment; in the Olympics they are required to keep their testosterone levels below 10 nanomoles per liter of blood for a year.

What is settled is the severe toll being sidelined from competition takes on trans competitors' mental health. Transgender youth are more [likely to experience](#) negative mental health effects, including suicidality, when faced with gender-exclusive policies, including sports policies, according to a policy review by the Center for American Progress. Trans youth are already at greater risk of suicide and self-harm than their cisgender peers. Moreover, suicide attempts over the course of a year were more than double for trans and nonbinary youth who experienced discrimination based on their gender identity, compared with trans and nonbinary youth who did not, according to a peer-reviewed study by Trevor Project researchers in [The Journal of Adolescent Health](#).

“What I am hoping for is that trans youth get the same thing, that they get to experience that joy, that they get to experience the things that I got to experience,” says Zoey Zephyr, a 32-year-old trans woman in Montana who was a state-ranked wrestler in her high school. “I got to experience it prior to my transition. I want them to be able to experience it during and after their

transitions. I want trans girls to have a girlhood. I want trans boys to have a boyhood.”

Particularly dangerous are the components of the laws—both proposed and newly enacted—that govern how school districts should handle any “challenge” of someone’s gender. The Mississippi law does not specify a method, but the Idaho law, like many other bills, indicates that students could confirm their gender by getting a genetics test confirming XX chromosomes, a test showing their *natural* hormones fall within a certain range or a genital exam by a doctor. Experts say that these types of examinations or tests could be traumatic for children, whether they are trans or incorrectly identified by competitors as being trans.

“This doesn’t only hurt trans women and girls, but it also hurts cis [nontransgender] women and girls who don’t conform to gender stereotypes,” says Anne Lieberman, director of policy and programs at Athlete Ally, a nonprofit dedicated to promoting LGBTQ inclusivity in sports. “This is for every cis woman who’s just a tomboy, right? It sets up a very damaging and terrifying precedent for states to have to figure out how actually administratively they are going to test people and police folks’ gender if it’s called into question.”

“You’re going to subject a six-year-old to genital examinations or chromosomal testings?” asks Pidgeon Pagonis, an advocate for intersex people, meaning those born with reproductive anatomy that doesn’t neatly check either a “male” or “female” box. “Or seven- or eight- or nine-year-olds or high schoolers? That is sexual abuse.”

Passing these bills doesn’t pose the only threat to trans health—simply proposing them signals to trans kids and young adults that their humanity is up for debate, according to experts. A spokesperson for the Trevor Project, which runs a confidential suicide hotline for LGBTQ youth, says that in a

national survey conducted between October and December 2020, the group found that more than 90% of queer kids said that recent politics have negatively affected their well-being.

“[These bills are] not costless,” says Erin Buzuvis, a Western New England University law professor who specializes in gender and discrimination in athletics. “Even if you’re trying to score some political points like, ‘Oh, this would never pass, because the state would never,’ the fact that the bill is introduced is just reminding a vulnerable community that they’re not wanted and not validated.”

ACLU attorney Chase Strangio agrees: “I’m a grown 38 years old listening to these debates,” he says. “At the end of the day, you sort of feel like you need to take a shower and build up your confidence just to face the next day.”

Meanwhile, athletes—especially children—just want to play.

“I mean, we’re kids, O.K.?” says William, a 15-year-old trans boy in **North Dakota** who wants to join his tennis team for his sophomore season and asked SI to identify him by his first name only. “We’re not out there to take people’s scholarships and stuff. No, we just want to compete. We don’t have a secret agenda.”

North Dakota is one of several states whose bills would prevent trans boys and men, in addition to trans girls and women, from competing in the division that matches their gender identity. These bills, therefore, stray from the stated objective of protecting girls and women’s sports; on their face, they seem less concerned with competitive fairness than exclusion.

And while technically allowed under these bills, playing with girls is a humiliating prospect for William, he says: “That would be absurd.”



Lindsay Hecox, who would like to run for Boise State's cross-country team, is part of a lawsuit challenging an Idaho law that would prevent her from doing so.

Kohjiro Kinno/Sports Illustrated

Speaking at the Conservative Political Action Conference in February, Trump showed his support for bills like Mississippi's. "Women's sports as we know it will die," he warned, if transgender women and girls are allowed to compete. Stephen Miller, Trump's former senior adviser for policy, recently told [\*Politico\*](#) that he believes campaigning on the issue of trans women in sports will help Republicans win the 2022 midterm elections.

"We're seeing a lot of Republicans scrambling to figure out their position, what position they're going to take with respect to the party," says Heath Fogg Davis, a Temple University political science professor and the chair of the gender, sexuality and women's studies department. "It is interesting in a lot of these cases in a lot of these states, you're not seeing the request for legislation coming from the populus."

National anti-trans interest groups like the Alliance Defending Freedom are [working behind the scenes](#), and in some cases more publicly, with state

lawmakers to conceive of and write these bills, as they did the bathroom bills before them.

That raises the question: What issue are these bills trying to address? [The Associated Press](#) recently asked two dozen state legislators who have sponsored bills to cite cases from their state or district where trans girls participating in sports had led to a problem, and found that hardly any of them could. Instead, only a small handful of situations came up over and over again. Namely, the case in Connecticut where four cisgender runners sued two trans competitors for winning championship races.

Yet legislators have made attempts to ban trans women and girls from sports on the national level, as well, including bills last session from Representative Tulsi Gabbard (D-Hawaii) and [Senator Kelly Loeffler](#) (R-Ga.). This session, Senator Tommy Tuberville (R-Ala.) attempted to add an amendment to the COVID-19 relief bill that would prohibit schools that allowed trans women to compete in women's athletics from receiving federal funding. The measure, which required 60 votes, failed mostly along party lines, 49–50.

Mississippi state Senator Angela Burks Hill, the Republican who wrote the bill banning trans woman and girl athletes, says this is all about protecting cisgender women: “We have enjoyed 50 years of Title IX with women being able to compete within their own right against other females without having a disadvantage with biological males, who are physically bigger stronger, coming over and taking all their titles and scholarships,” she recently told [TV station WLOX](#). (It is widely considered offensive to refer to trans women and girls as “biological males.” Hill did not respond to SI’s requests for comment.)

June Eastwood, a 23-year-old trans runner who in 2019, at the University of Montana, became the first out trans woman to compete on an NCAA Division I team across all sports, says that legislators pushing bills like Mississippi’s are disregarding trans people altogether.

“I kind of doubt that many of the Republican legislators that are introducing these bills have a trans person in their life, or if they do I feel bad for those trans people they have in their lives,” she says.



In a Feb. 28 speech at CPAC, Trump railed against trans participation in women's sports.

Joe Raedle/Getty Images

The day President Joe Biden took office in January, he issued an executive order signaling that his administration is prepared to fight discrimination on the basis of sexual orientation and, importantly, gender identity.

“Children should be able to learn without worrying about whether they will be denied access to the restroom, the locker room, or school sports,” it read.

But that largely symbolic order alone won't stop states from passing bills targeting trans youth. We're headed for a larger “showdown,” says Buzuvis. Right now, there's a patchwork of local and state policies on the issue, but eventually it will be decided at the national level. One avenue would be if Idaho's *Hecox v. Little* makes its way to the Supreme Court. However, while that path could lead to the verdict upholding or striking down Idaho's law as unconstitutional, it's possible that other states' laws, if slightly different, could still live in a gray area.

Congress could also choose to take up the issue and pass legislation on a federal level about trans inclusion in sports. That avenue, Buzuvis says, would

likely require a compromise of sorts between those who want trans students included in sports without question and those who want them banned entirely from the group that matches their gender identity. The end result could be NCAA-like restrictions on youth sports, requiring trans kids to meet certain testosterone requirements. Different levels of restrictions could also apply to different sports, or to postseason contests, specifically.

There is another potential route for Biden: He could amend the regulations of Title IX, the civil rights law enacted in 1972 that prohibits sex-based discrimination in education, including athletics. It could explicitly include gender-based discrimination, similar to how the Supreme Court last year ruled that “sex discrimination” in Title VII includes discrimination based on gender identity. The process could take a couple of years, but couldn’t be instantly undone by the next administration.

Then the Department of Education’s Office of Civil Rights could bring enforcement actions against public schools in states that have passed bills that don’t comply with federal law, leaving those schools to decide whether to include transgender people in sports or risk losing federal funding. So this outcome, too, would likely result in a court battle.

In the meantime, the NCAA, too, could force states’ hands by moving championship games out of states that pass these bills, as it did with North Carolina in 2016 after passage of its bathroom bill. On Wednesday, nearly 550 college athletes [sent a letter](#) to NCAA president Mark Emmert and its Board of Governors demanding the governing body move all championship events out of states that pass or even consider anti-trans sports legislation.

“The NCAA continues to closely monitor state bills that impact transgender student-athlete participation,” the collegiate governing body said in a statement to SI. “The NCAA believes in fair and respectful student-athlete participation at all levels of sport.”

None of these potential remedies to the bills are certain, and nearly all would take significant time. Trans people, caught in the middle of this fraught legislative battle, seek the love of the game and all that comes with it.

“[Legislators] paint an image of a trans person as someone who can flick a light switch and decide to be trans and then a person assigned male at birth can say, ‘I’m trans now and run in the 400 meter,’ and then after that day go out and say, ‘Just kidding, but I still won,’ ” Zephyr says. “They paint this image of being trans as if it were a box you could tick to gain an advantage. It’s just not that. It’s finally getting your head above water. It’s getting to live.”

**BY**

**JULIE KLIEGMAN**

**Vote – Do Not Pass on HB 1298**