

Sports ETA

SPORTS EVENTS & TOURISM ASSOCIATION

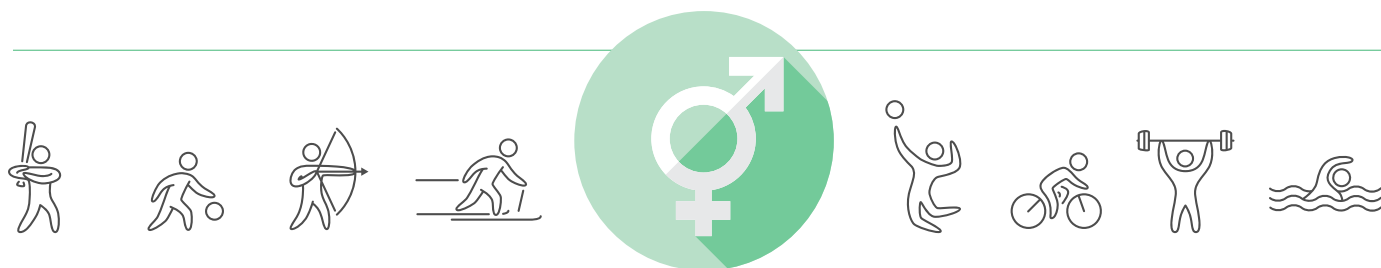
January 2023

Current Status and Economic Impact of Transgender Bill Legislation

By Jackie Reau, Game Day

1 | The Participation of Transgender People in Competitive Sports

The participation of transgender and transsexual people in competitive sports is a controversial issue, particularly where athletes who have gone through male puberty are notably successful in women's sport, or represent a significant increased injury risk to female-by-birth competitors.



As of April 2022 less than three dozen student-athletes who identify as transgender have participated in NCAA divisions or community college sports [outsports.com](https://www.outsports.com). Resistance to transwomen competing in women's sports generally focuses on physiological attributes such as height and weight, or performance metrics such as speed and strength—and whether sustained testosterone suppression can adequately reduce any natural advantages of male body characteristics within a given women's sport.

Access regulations requiring that transathletes compete against athletes of the same assigned sex at birth and requiring sex verification testing have been used. Proponents of such regulations regard them as necessary to ensure fair competition, while opponents regard them as discriminatory. As of July 2022, 19 states have banned or limited the participation of trans girls and women in publicly funded sports [apnews.com](https://www.apnews.com). Some states also have bans on trans boys and men [si.com](https://www.si.com).

While it is difficult to determine the number of transgender people in the United States, a recent Gallup survey released this year estimated that about 0.6 percent of the country's adults identify as transgender.

Resistance to transwomen competing in women's sports

Physiological Attributes



Performance Metrics



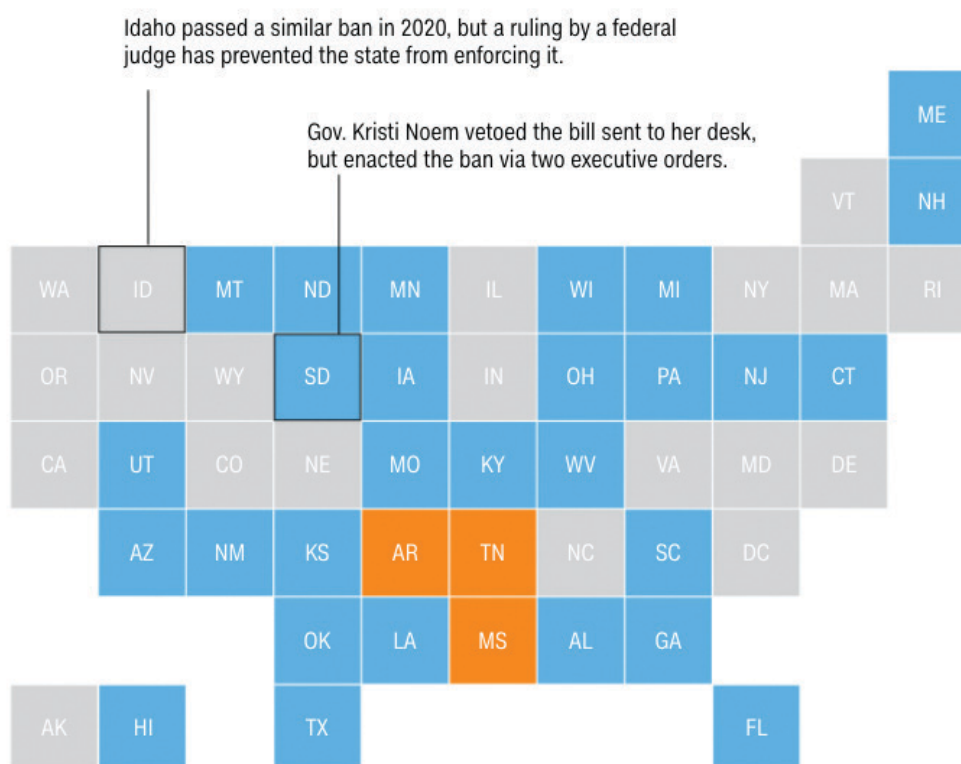
2 | The Political Debate

Thirty-three states have introduced more than 100 bills related to transgender athlete participation across the country, with advocacy groups calling 2021 a record-breaking year for such legislation. Many of these bills are rapidly making their way through state legislatures. On April 6, Arkansas became the first state to outlaw providing gender-affirming treatment to minors, a move that the American Civil Liberties Union said would “send a terrible and heartbreaking message” to transgender youth across the country.

On the national front, legislation in Congress that critics say would roll back protections for transgender people is already in the works. In particular, House Republicans have introduced a bill to block federal funding to colleges where transgender women are allowed to participate in sports with cisgender women [nbcnews.com](https://www.nbcnews.com).

States that have introduced bills this session that ban transgender athletes from participating in sports consistent with their gender identities

Where governors have signed these bills into law



Source: CNN



April 6, 2021

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January 20, 2021

President Joseph R. Biden signed an Executive Order Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation.



The flurry of bills come as part of a Republican response to an executive order signed by President Joe Biden on his first day in office, called “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation.” The order broadly expanded transgender protections in employment law to schools and other areas of government oversight, but did not create any new guidelines when it came to school sports. (*Forbes*)

On January 20, 2021, President Joseph R. Biden signed an Executive Order Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation. The order prohibits discrimination based on gender identity or sexual orientation, affirming a Supreme Court ruling from last year that said work places could not fire people for being gay or transgender.

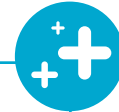
Expanded Transgender Protections



Employment Law



Schools



**Other Areas of
Government Oversight**

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International Olympic Committee Position

The International Olympic Committee (IOC) published a consensus statement in 2015 approving the eligibility of those who transition from male to female in the female category, and vice versa, under a series of conditions. The IOC publication stated the reevaluation of guidelines was necessary to ensure insofar as possible that transathletes are not excluded from the opportunity to participate in sporting competition. The previous guidelines required surgical anatomical changes as a pre-condition to participation. In the revised 2015 guidelines, IOC stated “surgical anatomical changes....are not necessary to preserve fair competition and may be inconsistent with developing legislation and notions of human rights.”

After the Tokyo Olympics, the International Olympic Committee updated its transgender policy, taking the position that it is up to each international sports body to set its own rules for transgender athletes' inclusion www.usnews.com. That comes as the international swimming body FINA decided in June to ban athletes who have been through any part of male puberty from elite women's competition nytimes.com.

In January, the NCAA updated its own transgender sports policy to reflect the sport-by-sport position taken by the IOC, with participation for each sport to be determined by the policy for the national governing body of that sport. If there is no NGB policy for a sport, it would then be determined by the policy for that sport's international federation ncaa.org.



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Photo by Bogdan Lazar

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The NCAA Position



In mid-April, the NCAA announced it would not hold championship events in states that have transgender bans on youth sports, which could result in wide-reaching effects since bills have been introduced in more than 30 states this year, according to the ACLU, and in two cases have already been signed into law by governors in Mississippi and Tennessee.

The NCAA Board of Governors' statement reiterated that it will select championship sites that are "safe, healthy and free of discrimination," following the passage of four laws, and dozens more bills under consideration, that bar transgender women from competing against cisgender women in K-12 and intercollegiate sports. Last fall the Human Rights Commission asked the NCAA to not hold its basketball Final Four tournament in states with anti-transgender laws hrc.org.



The NCAA pulled basketball tournament games out of North Carolina in 2017 in response to a bill that required transgender people to use restrooms according to their sex at birth and not their gender identity. The law was later repealed.

"The NCAA Board of Governors firmly and unequivocally supports the opportunity for transgender student-athletes to compete in college sports," the statement said. "Our clear expectation as the association's top governing body is that all student-athletes will be treated with dignity and respect. We are committed to ensuring that NCAA championships are open for all who earn the right to compete in them."

Nearly 550 college athletes have stood up to anti-transgender legislation by demanding the NCAA pull championships from states with anti-trans sports legislation. At the height of March Madness, NCAA President Mark A. Emmert spoke out against the slate of discriminatory, anti-transgender bills in state legislatures across the country and committed to hosting championship games in locations that "provide an environment that is safe, healthy, and free of discrimination

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CrossFit

Beginning in 2019, CrossFit began allowing transgender athletes to compete in its annual tournament, the CrossFit Games, starting next year, in a reversal of a policy that had subjected the global fitness brand to criticism from the LGBT community. "This is the right thing to do," CrossFit chair and founder Greg Glassman said. "CrossFit believes in the potential, capacity, and dignity of every athlete. We are proud of our LGBT community, including our transgender athletes, and we want you here with us." In the 2018 CrossFit Games, athletes were required to compete in the category of their sex assigned at birth.

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The Economic Impact on States that Restrict Transgender Women in Sports

According to *USA Today*, the ramifications of these discriminatory bills on states' economic and financial health are also well-documented. A UCLA study found that the social, economic and health effects of stigma and discrimination against LGBTQ+ people negatively impact Texas' economy by tens of millions of dollars each year. Another study by the Texas Association of Business estimated that discriminatory legislation could result in an estimated economic loss to Texas' gross domestic product ranging from \$964 million to \$8.5 billion.

This month, USA Cycling announced that they will change the venue for the 2021 USA Cycling Marathon Mountain Bike National Championship after the organization learned of an anti-transgender bill being considered in the host state's legislature. The legislation would have barred transgender youth from participating in school sports consistent with their gender identity, according to USAC, although they did not say which state the championship was slated to host. The legislation in the unnamed state was passed into law. Subsequently, USAC is currently reviewing new venue options, which they have deemed as "feasible."

Ellen Staurowsky, a sports media professor at Ithaca College and national expert on social justice in sport, said the NCAA's threat of pulling championships has had real impact on policy decisions by state lawmakers. Staurowsky noted that a slight change last year to the NCAA's Confederate flag policy, which said that championships would not be played "in states where the symbol has a prominent presence," effectively pressured Mississippi legislators and Governor Tate Reeves to remove the Confederate battle emblem from the state's flag.

As we know, the final four games of the NCAA Division I men's basketball tournament can bring in between \$250 million and \$300 million for a host city in a good year. A city hosting the women's tournament can reap between \$100 million and \$125 million, and other sports championships -- there are about 90 events total -- can have significant economic impact.

According to [Transathlete.com](https://transathlete.com), there are 16 states that have friendly policies that help facilitate full inclusion of trans/non-binary/GNC (gender non-conforming) students in high school athletics. A requirement for medical 'proof' and/or invasive disclosures are in place in guidance in 14 states. Additionally, there are 10 states that did not issue statewide guidance on best practices that should be implemented in schools, allow schools to create policies on their own, or rely on a single person to make decisions on a case-by-case basis. The wide disparity in policies and laws governing the participation of transgender students in athletics and physical education reflect the depth of misunderstanding about gender identity and the benefits of allowing transgender K-12 students to participate in sports according to their affirmed gender identity.

NCAA Division I Basketball Tournament hosting final 4 games

Men's
\$250-\$300 million



Women's
\$100-\$125 million

6

Companies and Advocacy Organizations Take A Stand

So far, 106 companies have signed the Business Statement Opposing Anti-LGBTQ State Legislation stating their clear opposition to harmful legislation aimed at restricting the access of LGBTQ people in society. Companies objecting to these bills include: Amazon, American Airlines, Altria, Apple, AT&T, AirBnB, Dell, Facebook, Google, Hilton, IBM, IKEA, Microsoft, Nike, Paypal, Peloton, Pfizer, Uber, and Verizon.

Additional Organizations Releasing Statements on the Issue include:

Women's Sports Foundation

"The false rhetoric taking hold is a distraction to the real threats to girls and women in sports, such as lack of Title IX understanding and compliance; inequity in compensation, resources, sponsorship, and media attention; harassment and abuse of female athletes and women working in sports, the list goes on."

National Women's Law Center

"Additionally, history and modern experiences show how [Idaho's anti-trans law] will disproportionately harm Black and Brown women and girls. Black and Brown women and girls are routinely targeted, shamed, and dehumanized for not conforming to society's expectations of femininity ... By allowing coaches, administrators, and other athletes to become the arbiters of who "looks like" a girl or a woman, [this law] will rely on and perpetuate racist and sexist stereotypes."

National Coalition for Women and Girls in Education:

"NCWGE supports the right of transgender and non-binary students to learn in a safe, nondiscriminatory environment; to use names, pronouns, and identification documents consistent with their gender identity; to have full and equal access to sex-separated activities and facilities consistent with their gender identity, including athletics teams, bathrooms, and locker rooms; and to have their privacy protected in all education records, in accordance with Title IX, the reasoning in the Supreme Court's Bostock decision, and President Biden's Jan. 20, 2021 executive order." In 2021 the Department of Education upheld that Title IX protects transgender students from discrimination [ed.gov](https://www.ed.gov).

To mark the 50th anniversary of Title IX, the Biden administration in June proposed widening Title IX protection to include transgender athletes apnews.com.

In July of this year, a federal court judge blocked that portion of Title IX that the Education Department said protected transgender students [politico.com](https://www.politico.com).



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CONCLUSION

We expect states to continue to introduce legislation on both sides of the issue for the foreseeable future. While the new laws — and court challenges — will be debated for years to come, destinations need to be aware of their state's regulations and the financial ramifications. Rights holders need to be aware of the host state's stance on the issue as they plan future events and how they will form selection criteria their destination.

