



Written by [James Murphy](#) on April 17, 2024

## Federal Appeals Court Blocks West Virginia Law Against Males Competing in Women's Sports

In a 2-1 ruling on Tuesday, the 4th U.S. Circuit Court of Appeals blocked a West Virginia law that bans biological males, or “transgender women,” from competing in sports intended for females. The Save Women's Sports Act was signed into law by Republican Governor Jim Justice in 2021 and has been under attack by transgender rights activists, most notably the American Civil Liberties Union (ACLU), ever since.

The ACLU brought suit for a boy who claimed he was being discriminated against. The boy in question, who refers to himself as Becky Pepper-Jackson, is suing for the right to compete in high-school athletic competitions as a female.



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The [Save Women's Sports Act](#) states that there are “inherent differences between men and women,” and that those “remain cause for celebration, but not for denigration of the members of either sex or for artificial constraints on an individual's opportunity.” The court found those common-sense principles violated the rights of Pepper-Jackson, who calls himself a girl.

In Tuesday's [ruling](#), Judge Toby Heytens surmised that “Offering B.P.J. a ‘choice’ between not participating in sports and participating only on boys teams is no real choice at all. The defendants cannot expect that B.P.J. will countermand her social transition, her medical treatment, and all the work she has done with her schools, teachers, and coaches for nearly half her life by introducing herself to teammates, coaches, and even opponents as a boy.”

In dissent, Judge Steven Agee wrote that “allowing transgender girls — regardless of any advantage — as participants in biological girls' sports turns Title IX on its head and reverses the monumental work Title IX has done to promote girls' sports from its inception.”

The ACLU was ecstatic over the ruling, saying it “sends a message of hope to the trans youth of West Virginia.”

“This is a tremendous victory for our client, transgender West Virginians, and the freedom of all youth to play as who they are,” said Joshua Block, an ACLU attorney. “It also continues a string of federal courts ruling against bans on the participation of transgender athletes and in favor of their equal participation as the gender they know themselves to be. This case is fundamentally about the equality of transgender youth in our schools and our communities and we're thankful the Fourth Circuit agreed.”

West Virginia Attorney General Patrick Morrisey, who is currently running for governor, blasted the ruling and promised to keep fighting for the rights of actual female athletes in the state.

“I am deeply disappointed in the court's divided decision today,” Morrisey said. “The Save Women's



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Sports Act is 'constitutionally permissible' and the law complies with Title IX."

"We must keep working to protect women's sports so that women's safety is secured and girls have a truly fair playing field," Morrisey added. "We know the law is correct and will use every available tool to defend it."

While transgender activists were in high spirits after the ruling, actual female athletes had a different take. Riley Gaines, the former University of Kentucky swimmer who was cheated out of a trophy by male swimmer Lia Thomas in 2022, posted on X, "Hey @ACLU, the girls don't want this. All of these messages are from West Virginia athletes who have had to compete against this boy. History will not look kindly on the ACLU or anyone who clearly sends a message to girls that their rights don't matter."

To further illustrate her point, Gaines shared comments from some of the actual girls who were forced to compete against Pepper-Jackson.

One read: "So he's beating us all and I've heard he says very inappropriate things to the girls and he goes in the locker room with the girls."

Twenty-four states have passed laws against females competing against biological males in sports. The West Virginia ruling could have repercussions for all of them.



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