



Written by [James Murphy](#) on March 10, 2023

## West Virginia Asks SCOTUS to Uphold Law Protecting Women's Sports From "Trans" Athletes

On Thursday, West Virginia Attorney General Patrick Morrisey filed an application with the U.S. Supreme Court, asking it to vacate an injunction against the state's Save Women's Sports Act. The law would make it illegal for biological males to compete in women's sports, even if they identify as female.

In 2021, the West Virginia legislature passed, and Governor Jim Justice signed into law, the Save Women's Sports Act, and the law has faced legal challenges from the ACLU and Lambda Legal ever since. In July of 2021, a judge temporarily blocked enforcement of the law. In January of 2023, Judge Joseph R. Goodwin of the Southern District of West Virginia ruled that the law was "constitutionally permissible," striking down the injunction.



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"I have no doubt that H.B. 3293 aimed to politicize participation in school athletics for transgender students," Goodwin said. "Nevertheless, there is not a sufficient record of legislative animus. Considering the law under the intermediate scrutiny standard, I find that it is substantially related to an important government interest."

As to the issue that the law was meant to address, "While some females may be able to outperform some males, it is generally accepted that, on average, males outperform females athletically because of inherent physical differences between the sexes," Goodwin wrote. "This is not an overbroad generalization, but rather a general principle that realistically reflects the average physical differences between the sexes."

But in late February, the U.S. Court of Appeals for the Fourth Circuit reengaged the temporary injunction against the law in a 2-1 decision. This prompted AG Morrisey, along with the Alliance Defending Freedom (ADF), to ask for the Supreme Court's intervention.

"This simple law (Save Women's Sports Act) demands that girls and women get their fair share of opportunities in sports," Morrisey said. "The recent injunction decision from the United States Court of Appeals for the Fourth Circuit is a minor setback, but we remain confident in the merits of our defense. We are resolute in protecting opportunities for women and girls in sports because when biological males win in a women's event — as has happened time and again — female athletes lose their opportunity to shine."

In his filing, Morrisey said that the injunction "harms biologically female athletes, too, who will continue to be displaced as long as biological males join women's sports teams. In that way, the majority's



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cursory decision undermines equal protection — it doesn't advance it."

The ADF, which [partnered](#) with Morrisey in asking the Supreme Court to intervene, agreed.

"What the Fourth Circuit did was not only wrong, as it relates to protecting fairness and equal opportunities for female athletes. But it's also wrong as a matter of law and how they went about it. And stopping the valid law without any factual or legal basis," said ADF attorney Christiana Keifer.

The ACLU is fighting the law on behalf of a biologically male middle-school student who was not allowed to join a female cross-country team. But that youth is merely a prop for the left-wing cadre of attorneys to push the transgender agenda.

"We told lawmakers around the country that we would see them in court if they passed legislation attacking trans youth, and today we are making good on that promise," said ACLU attorney Joshua Block when introducing the lawsuit. "Transgender youth in West Virginia who want to be on a team and challenge themselves should have the opportunity to do so, just like any other student."

Of course, all children do have that opportunity as long as they participate in accordance with their biological sex.

West Virginia is the 19th state to pass a law protecting the integrity of women's sports. Many of the laws were passed in reaction to a Connecticut case in which that state's high-school athletics governing body allowed two biological males to compete in and dominate female track and field events from 2017-2019.

Female track athlete Selina Soule [challenged](#) the Connecticut Interscholastic Athletic Conference's decision to allow those males to compete and claimed she was ostracized by her school and coaches for even raising the issue. Further, she claims she lost scholarship opportunities and a spot in the New England regional championship because of the male participation in her sport.

"Girls like Selina should never be forced to be spectators in their own sports. But unfortunately, that is exactly what's taking place when you allow biological males to compete in sports that have been set aside and specifically designed for women like Selina," said Christiana Holcomb of the ADF.

Groups such as the ACLU claim to be all about equal rights for women until someone who can claim an even greater aggrieved status, such as a biological male who claims to be female, comes along. At that point, women become expendable.



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