

Transgender Athlete Participation

Background Information Prepared for the Utah Legislature's Health and Human Services Interim Committee by the Office of Legislative Research and General Counsel June 14, 2021

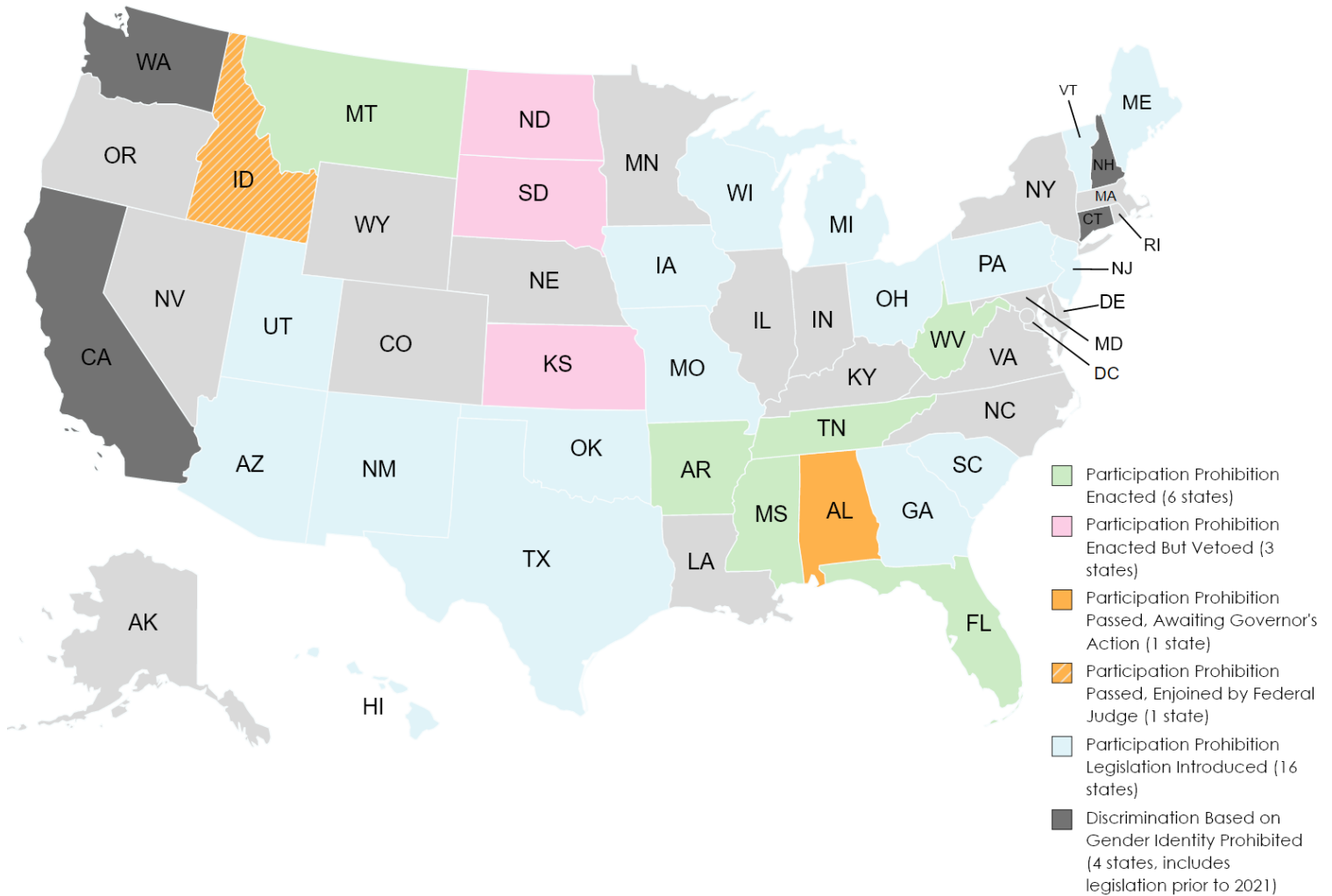
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Transgender Athlete Participation: Summary of State Policies

Source: National Conference of State Legislatures

(Autumn Rivera email to Mark Andrews, Office of Legislative Research and General Counsel, 5/6/21)



The chart above was produced by Office of Legislative Research and General Counsel based on information from NCSL below and updated to reflect actions by state legislatures as of June 12, 2021.

“Last year, Idaho became the first state to pass [legislation](#) preventing transgender women and girls from participating in high school and college women’s sports. Implementation of the law is currently enjoined by a federal district court ruling and awaits consideration by the 9th Circuit Court of Appeals. At question in the case is whether laws such as the one passed in Idaho violate the Constitution’s equal protection clause.

This year, [at least 31 states](#) have introduced bills to exclude transgender youth from participating in athletics—up from 29 bills in 2020 and two in 2019. For example, in March, the Mississippi Legislature enacted [Senate Bill 2536](#). The Mississippi Fairness Act

requires athletes at public schools and universities to compete according to their sex assigned at birth, as opposed to the one with which they identify.

Similarly, the [Tennessee](#) and [Arkansas](#) legislatures passed laws requiring student athletes to participate in sports teams associated with the sex listed on their original birth certificate. Both Mississippi and Arkansas's bills specify transgender girls, while Tennessee's bill applies to all transgender youth. All three of the above bills have been signed into law, as have similar pieces of legislation in [Alabama](#) and [West Virginia](#). Bills in [Florida](#) and [Montana](#) have passed the legislature and are awaiting gubernatorial action, while governors in [South Dakota](#), [Kansas](#) and [North Dakota](#) have vetoed legislation that would block transgender athletes from competition.

On the other side of the ledger, at least four states - [California](#), [Connecticut](#), [New Hampshire](#) and [Washington](#) - have passed laws in recent years that prohibit discrimination in school athletics on the basis of gender identity. In these states, schools must allow transgender students to participate on the basis of their gender identity, irrespective of sex assigned at birth.

Most states have historically allowed state athletics associations to determine policy on this issue. State association policies typically fall into three categories:

1. Transgender students participate according to their gender identity, irrespective of sex assigned at birth or medical treatment. States with these policies often require students to present verification that their gender identity is bona fide, through affidavits or testimony from medical professionals or school staff.
(Examples: [Arizona](#), [Massachusetts](#), [Minnesota](#), [South Dakota](#))
2. Athletic participation is determined by the sex on a student's birth certificate. Some states with this policy provide exceptions for students who have undergone sex reassignment or had sex changes placed on their birth certificate. (Examples: [Alabama](#), [Indiana](#), [New Mexico](#))
3. Transgender students may participate according to their gender identity if they first undergo and document hormone treatment, surgery, or other physical transition. Some states apply these rules only to transgender girls who wish to play on a girls' team.
(Examples: [Delaware](#), [Missouri](#), [Ohio](#), [Wisconsin](#))

Some state policies do not fit neatly into the above categories. Some states, like [Pennsylvania](#), defer to the determinations of principals and school districts in determining transgender student eligibility and policy surrounding the issue. [Maine](#) permits students to participate according to their gender identity rather than their sex assigned at birth so long as doing so will not create an unfair athletic advantage relative to other student-athletes. A few states, like [New York](#), offer nonbinding guidance for districts to follow, which may lead to divergent policy across districts.

I recently wrote an article for our [State Legislatures Newsroom](#) on this topic that should be online within the next week (from which some of the above information is excerpted). Enacted legislation on this and other topics will appear in our [education web database](#)."

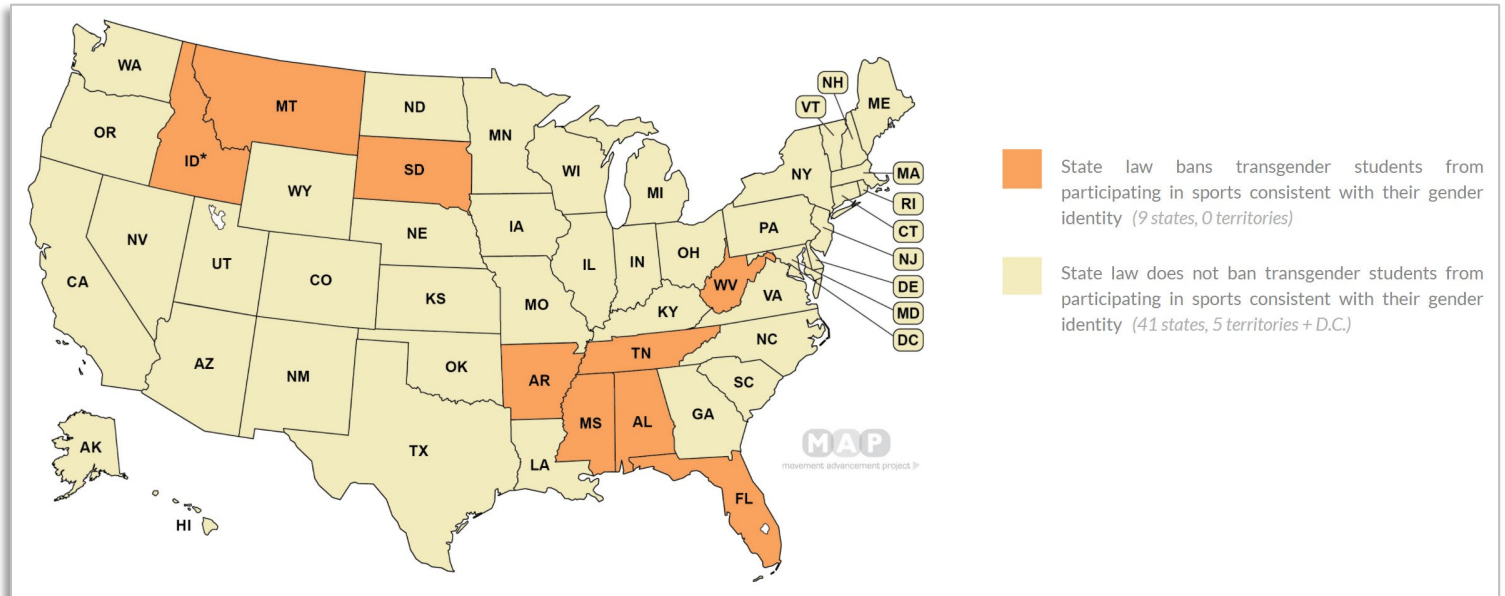
ST	BILL	TITLE/SUMMARY	STATUS
AL	HB 391	Relating to public K-12 schools; to provide that no public K-12 school may participate in, sponsor, or provide coaching staff for interscholastic athletic events at which athletes are allowed to participate in competition against athletes who are of a different biological gender, unless the event specifically includes both biological genders.	Enacted
AR	SB 354	This creates the "Fairness in Women's Sports Act". Which requires student athletes to participate in sports teams associated with the sex listed on their original birth certificate.	Enacted
	SB 450	Creates the "Gender Integrity Reinforcement Legislation For Sports (girls) Act"; and creates a legal cause of action for a violation the above act.	Enacted
AZ	SB 1637	Requires that each interscholastic, intercollegiate, intramural or club athletic team or sport that is sponsored by an educational institution must designate students based on biological sex	Pending
CA	AB 1266	Includes provisions that: "a pupil shall be permitted to participate in sex segregated school programs and activities, including athletic teams and competitions, and use facilities consistent with his or her gender identity, irrespective of the gender listed on the pupil's records."	Enacted (2014)
CT	SB 324	To provide civil immunity for interscholastic athletic organizations and the sanctioning bodies of private youth organizations when such entities adopt policies that require an athletic participant to compete on a team that matches the gender identity on his or her birth certificate.	Pending
	HB 6128	Prohibits student athletes who were born males from participating in women's interscholastic athletic events.	Pending
FL	SB 1028	Creates the "Fairness in Women's Sports Act"	Pending, Passed in both chambers awaiting Governor
GA	HB 276	Relates to education, so as to provide that it shall be unlawful for a public school, an institution of the University System of Georgia, or a private school whose students or teams compete against a public school to operate, sponsor, or facilitate athletic programs or activities that permit a person whose gender is male to participate in an athletic program or activity that is designated for females, provides for a definition, provides for remedies for violations, waives certain immunities.	Pending
	HB 372	Provides a definition for the term "gender"; to provide for the classification of athletic events or activities based on gender.	
	SB 266	Provides that it shall be unlawful for a public school or a private school whose students or teams compete against a public school to operate, sponsor, or facilitate athletic programs or activities that permit a person whose gender is male to participate in an athletic program or activity that is designated for females	Pending Pending

ST	BILL	TITLE/SUMMARY	STATUS
HI	HB 1304	Prohibits biologically born males from competing in any athletic program offered by a public high school that is designated for women or girls.	Pending
IA	HF 184	Sport teams will be based on biological sex.	Pending
KS	SB 55	Creating the fairness in women's sports act to require that female student athletic teams only include members who are biologically female.	Failed; vetoed by Governor
ME	L.D. 1703	Would add gender identity to a list of discrimination that public charter schools are prohibited from engaging in. This aligns with their state policy that allows transgender students to participate in athletic programs in manner consistent with their gender identity.	Pending
MI	SB 218	Requires that only biological males may compete for a position on and compete on a boys' high school team in an interscholastic activity and only biological females may compete for a position on and compete on a girls' high school team in an interscholastic activity.	Pending
MO	HB 1077	Establishes guidelines for public school student participation in athletic contests organized by sex.	Pending
	SB 503	Establishes the "Save Women's Sports Act"	Pending
MS	SB 2536	Creates the Mississippi Fairness Act, requires any public school, public institution of higher learning or institution of higher learning that is a member of the NCAA, NAIA or NJCCA to designate its athletic teams or sports according to biological sex, provides protection for any school or institution of higher education that maintains separate athletic teams or sport for students of the female sex, creates private causes of action.	Enacted
MT	HB112	Require interscholastic athletes to participate under sex assigned at birth.	Passed in both chambers awaiting Governor action
NH	SB 263	Creates a cause of action for persons injured by discrimination in public schools; creates a cause of action for the Attorney General in cases of discrimination in public schools. No person shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in public schools because of their age, sex, gender identity, sexual orientation, race, color, marital status, familial status, disability, religion, or national origin.	Enacted
NJ	SB 3540	Creates the "Fairness in Women's Sport Act"	Pending

ST	BILL	TITLE/SUMMARY	STATUS
ND	HB 1298	Creates and enacts a new section to chapter 14-02.4 of the North Dakota Century Code, relating to participation in athletic events exclusively for males or females; and to provide for a legislative management study.	Failed; vetoed by Governor
NM	HB 304	Creates the Women's Sports Protection Act	Pending
OH	HB 61 SB 132	Enacts the Save Women's Sports Act, requires schools, state institutions of higher education, and private colleges to designate separate single sex teams and sports for each sex.	Pending
OK	SB 331	Relates to student athletics, creates the Save Women's Sports Act, provides short title, provides definitions, requires certain athletic teams to be designated based on biological sex, prohibits certain teams from being open to students of certain sex, creates causes of action for certain students, prohibits the State Board of Education, the Oklahoma State Regents for Higher Education and certain associations from taking certain actions against schools for certain actions.	Pending
PA	HB 972	An Act providing for sport activities in public institutions of higher education and public school entities to be expressly designated male, female or coed; and creating causes of action for harms suffered by designation.	Pending
SC	SB 531	Enacts the "Save Women's Sports Act"	Pending
SD	HB 1217	Athletic teams and sports that designate by sex, would only allow females based on their biological sex to participate. Biological sex must come accordance with the student's genetics and reproductive biology and is attained before or at birth.	Failed; vetoed by Governor
TN	HB 3 SB 228	Companion bills. As introduced, requires that a student's gender for purposes of participation in a public middle school or high school interscholastic athletic activity or event be determined by the student's sex at the time of the student's birth, as indicated on the student's original birth certificate.	Enacted Enacted
TX	HB 1458	Relates to the separation based on biological sex of athletics teams sponsored by a public school or institution of higher education.	Pending
UT	HB 302	Addresses participation in athletic activities reserved for female students in public and higher education.	Failed
VT	HB 185	Relates to transgender and gender nonconforming student access to gender segregated school programs, activities, and facilities.	Pending
WA	SB 5689	Establishes policies and procedures for the prevention of harassment, intimidation, bullying, and discrimination in public schools; requires school districts to designate a person in the district as the primary contact regarding such policy and procedures; requires the Superintendent of Public Instruction to publish on its website a link to the School Safety Center web site; provides for transgender student policies and procedures. This applies to recreational and athletic activities for students.	Enacted
WI	SB 322	Designated sports by the sex of the participants	Pending
WV	HB 3293	Relating to single-sex participation in interscholastic athletic events. County school districts must confirm the sex of pupil at time of birth prior to participation in single-sex interscholastic athletic events by providing sex at birth identification.	Enacted

Transgender Athlete Participation: Summary of State Policies

Source: [Movement Advancement Project](#), 6/3/21



Alabama

- State law bans transgender students from participating in sports consistent with their gender identity. See [HB391](#) (April 2021). Applies to K-12.

Arkansas

- State law bans transgender students from participating in sports consistent with their gender identity. See [HB1570/SB354](#) (March 2021). Applies to K-12 and higher education.

Florida

- State law bans transgender students from participating in sports consistent with their gender identity. See [S1028](#) (June 2021). Applies to high school (secondary) and higher education.

Idaho

- State law bans transgender students from participating in sports consistent with their gender identity. See [HB500](#) (March 2020). Applies to K-12 and higher education.
- Currently, a temporary injunction is blocking enforcement of the law, but the case is still active in the court system pending further judicial review. See [Hecox v. Little](#) (August 2020).

Mississippi

- State law bans transgender students from participating in sports consistent with their gender identity. See [SB2536](#) (March 2021). Applies to K-12 and higher education.

Montana

- State law bans transgender students from participating in sports consistent with their gender identity. See [HB112](#) (May 2021). Applies to K-12 and higher education.

South Dakota

- State policy, via executive order, bans transgender students from participating in sports consistent with their gender identity. See [Executive Order 2021-05](#) (March 2021; K-12) and [Executive Order 2021-06](#) (March 2021; higher education).

Tennessee

- State law bans transgender students from participating in sports consistent with their gender identity. See [SB228/HB3](#) (March 2021). Applies to middle and high school (5th-12th grades).

West Virginia

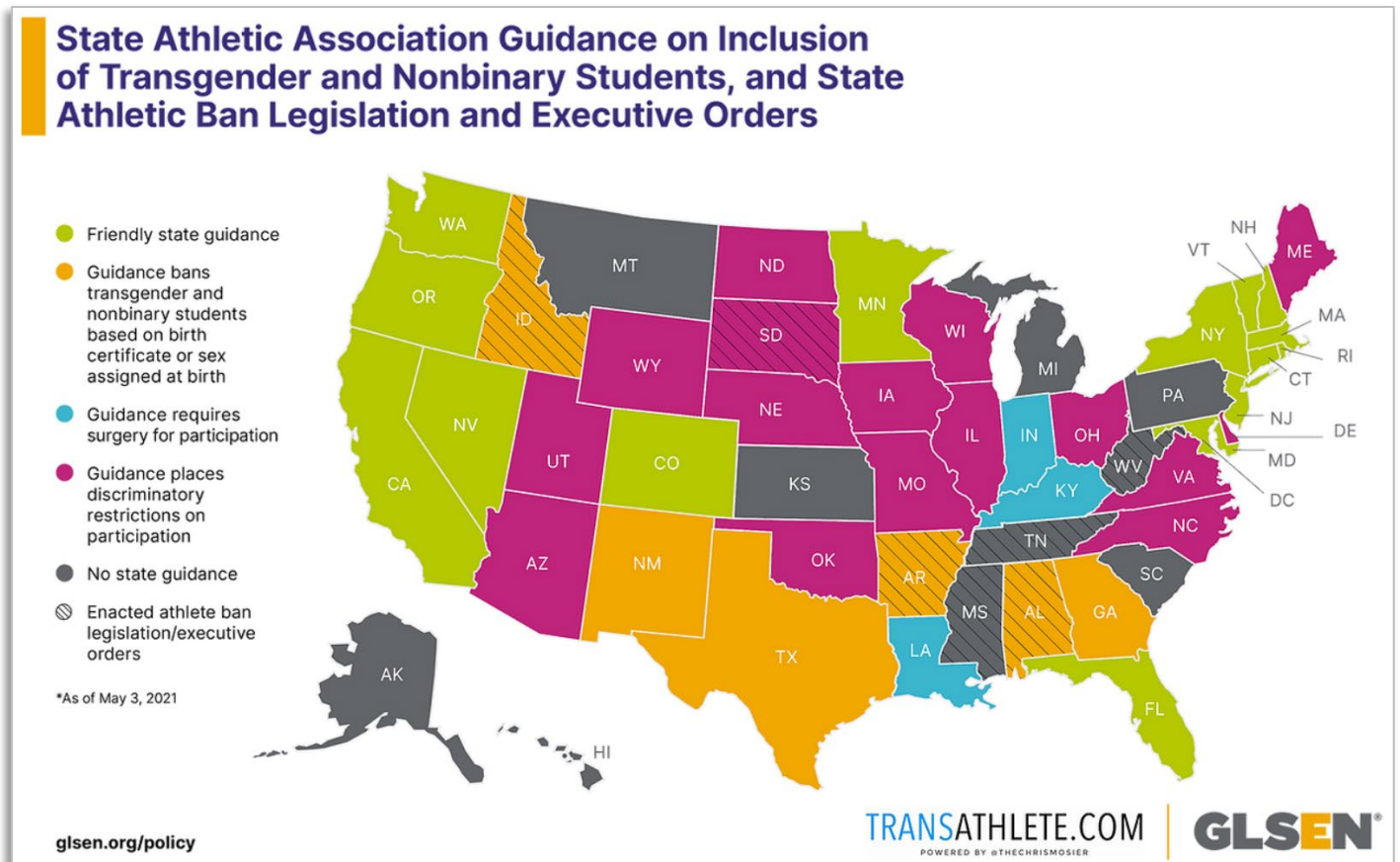
- State law bans transgender students from participating in sports consistent with their gender identity. See [HB3293](#) (April 2021). Applies to high school and higher education.

Other states

- State law does not ban transgender students from participating in sports consistent with their gender identity

Transgender Athlete Participation: Summary of State Policies Established by State High School Athletics Associations

Source: [TransAthlete.com](https://www.transathlete.com), 5/3/21



State by state details are available at <https://www.transathlete.com/k-12>.

Transgender Athlete Participation: 2021 State Legislation

Source: [Freedom for All Americans](#), 6/3/21

- **FL S1028 – Education**

Authorizing members of certain committees of a district school board to attend meetings in person or through the use of telecommunications networks; authorizing state universities and Florida College System institutions to solicit applications...

06/02/2021: Chapter No. 2021-35

- **LA SB156 – Provides for the Fairness in Women’s Sports Act relative to a school’s ability to offer opportunities to each student to participate in team sporting events on an equal basis. (8/1/21) (RE NO IMPACT LF EX See Note)**

Provides for the Fairness in Women’s Sports Act relative to a school’s ability to offer opportunities to each student to participate in team sporting events on an equal basis.

(8/1/21) (OR NO IMPACT LF EX See Note)

06/02/2021: Signed by the Speaker of the House.

- **WI SB322 – Designating athletic sports and teams operated or sponsored by public schools or private schools participating in a parental choice program based on the sex of the participants.**

An Act to amend 118.13 (1); and to create 118.132 of the statutes; Relating to: designating athletic sports and teams operated or sponsored by public schools or private schools participating in a parental choice program based on the sex of the...

05/26/2021: Public hearing held

- **WI SB323 – Designating University of Wisconsin and technical college sports and athletic teams based on the sex of the participants.**

An Act to amend 36.12 (1) and 38.23 (1); and to create 36.25 (58) and 38.12 (15) of the statutes; Relating to: designating University of Wisconsin and technical college sports and athletic teams based on the sex of the participants.

05/26/2021: Public hearing held

- **TX SB29 – Relating to requiring public school students to compete in interscholastic athletic competitions based on sex and a study conducted by the University Interscholastic League on the effects of allowing a student to participate in an athletic competitio...**

Relating to requiring public school students to compete in interscholastic athletic competitions based on sex and a study conducted by the University Interscholastic League on the effects of allowing a student to participate in an athletic competitio...

05/25/2021: Nonrecord vote recorded in Journal

- OK SB2 – Student athletics; creating the Save Women’s Sports Act; requiring certain athletic teams to be designated based on biological sex. Effective date. Emergency.**

An Act relating to school finances; amending Section 4, Chapter 379, O.S.L. 2017 (70 O.S. Supp. 2020, Section 3-117.3), which relates to the School Finance Review Commission; directing the commission to conduct a review of certain matters; providing...

05/24/2021: Coauthored by Senator Burns
- ME LD926 – An Act To Ban Biological Males from Participating in Women’s Sports**

This bill prohibits any student from joining or participating in an interscholastic or intramural athletic team or sports activity sponsored by an elementary or secondary school or postsecondary institution that is designated for “females,”...

05/20/2021: Voted: Divided Report
- WV HB3293 – Relating to single-sex participation in interscholastic athletic events**

A BILL to amend and reenact §18-2-5c and §18-2-25 of the Code of West Virginia, 1931, as amended, all relating to single-sex participation in interscholastic athletic events; providing county school districts must confirm the sex of pupil at...

05/20/2021: Chapter 105, Acts, Regular Session, 2021
- MO HB1184 – Prohibits state funding of any elementary or secondary school or any institution of higher education that allows biological males to participate in sports organized for biological females**

Prohibits state funding of any elementary or secondary school or any institution of higher education that allows biological males to participate in sports organized for biological females

05/14/2021: Referred: Elementary and Secondary Education(H)
- AK SB140 – Designate Sex For School-sponsored Sports**

AN ACT ENTITLED “An Act relating to school athletics, recreation, athletic teams, and sports.”

05/12/2021: REFERRED TO EDUCATION
- MT HB112 – Require interscholastic athletes to participate under sex assigned at birth**

An act entitled: An act creating the “save women’s sports act”; Requiring 4 public school athletic teams to be designated based on biological sex; Providing 5 certain protections for educational institutions; Providing a cause of action for...

05/07/2021: Chapter Number Assigned
- KS SB55 – Creating the fairness in women’s sports act to require that female student athletic teams only include members who are biologically female.**

AN ACT concerning the healing arts; relating to healing arts schools; professional services performed thereby; authorization thereof; amending K.S.A. 2020 Supp. 17-2707, 17-7668 and 65-2877a and repealing the existing sections. 5

05/03/2021: Senate Motion to override veto failed; Veto sustained; Yea: 26 Nay: 14

- **FL H0935 – Youth Gender and Sexual Identity**

An act relating to youth gender and sexual identity; creating s. 456.0335, F.S.; providing a short title; defining the term "sex"; providing criminal penalties for health care practitioners who perform or cause specified practices to be performed...

04/30/2021: Died in Professions & Public Health Subcommittee

- **FL H1475 – Sex-specific Student Athletic Teams or Sports**

An act relating to sex-specific student athletic teams or sports; creating s. 1006.205, F.S.; providing a short title; providing legislative intent; requiring that certain athletic teams or sports sponsored by certain educational institutions...

04/30/2021: Died in Rules

- **FL S2012 – Promoting Equality of Athletic Opportunity**

Citing this section as the "Promoting Equality of Athletic Opportunity Act"; requiring that certain athletic teams or sports sponsored by certain educational institutions be designated on the basis of students' biological sex; prohibiting athletic...

04/30/2021: Died in Rules

- **AR SB450 – To Create The Gender Integrity Reinforcement Legislation For Sports (girls) Act; And To Create A Legal Cause Of Action For A Violation Of The Gender Integrity Reinforcement Legislation For Sports (girls) Act.**

AN ACT TO CREATE THE GENDER INTEGRITY REINFORCEMENT LEGISLATION FOR SPORTS (GIRLS) ACT; TO CREATE A LEGAL CAUSE OF ACTION FOR A VIOLATION OF THE GENDER INTEGRITY REINFORCEMENT LEGISLATION FOR SPORTS (GIRLS) ACT; AND FOR OTHER PURPOSES.

04/29/2021: Notification that SB450 is now Act 953

- **ND HB1298 – Participation in athletic events exclusively for males or females; and to provide for a legislative management study.**

A BILL for an Act to provide for a legislative management study regarding student athletic events that are exclusively for males or exclusively for females and the impact of the policy that prohibits participation in those events by individuals...

04/27/2021: Filed with Secretary Of State 04/27

- **AR SJR16 – An Amendment To The Arkansas Constitution Providing That Interscholastic Or Intramural Athletic Teams That Are Sponsored By A Public School Shall Be Expressly Designated Based On Biological Sex.**

EnactingClause StartBillText EndOfText State of Arkansas 1 93rd General Assembly 2 Regular Session, 2021 SJR 16 3 By: Senator A. Clark 5 SENATE JOINT RESOLUTION 7 AN AMENDMENT TO THE ARKANSAS CONSTITUTION PROVIDING 8 THAT INTERSCHOLASTIC OR...

04/26/2021: Senate State Agencies & Govt'l Affairs (10:30 4/26/2021 OSC)

- **NC H358 – Save Women’s Sports Act**

AN ACT TO ENACT THE SAVE WOMEN’S SPORTS ACT TO PROTECT THE OPPORTUNITIES FOR WOMEN AND GIRLS IN ATHLETICS BY ENSURING WOMEN ARE NOT FORCED TO COMPETE AGAINST MEN PLAYING ON WOMEN’S SPORTS TEAMS. Whereas, there are “[i]nherent differences” between...

04/26/2021: Re-ref Com On Rules, Calendar, and Operations of the House

- **AL HB391 – Schools, public K-12, athletic events allowing competition by one biological gender against another prohibited unless the event specifically includes both genders**

Relating to public K-12 schools; to provide that no public K-12 school may participate in, sponsor, or provide coaching staff for interscholastic athletic events at which athletes are allowed to participate in competition against athletes who...

04/20/2021: Delivered to Governor at 2:12 p.m. on April 20, 2021.

- **MN HF350 – Student participation in athletic teams restricted.**

Student participation in athletic teams restricted.

04/20/2021: Author added Bahr

- **TX HB4042 – Relating to requiring public school students to participate in interscholastic athletic activities based on biological sex.**

Relating to requiring public school students to participate in interscholastic athletic activities based on biological sex.

04/20/2021: Left pending in committee

- **LA HB542 – Provides for the Fairness in Women’s Sports Act relative to a school’s ability to offer opportunities to each student to participate in team sporting events on an equal basis**

Provides for the Fairness in Women’s Sports Act relative to a school’s ability to offer opportunities to each student to participate in team sporting events on an equal basis

04/12/2021: Read by title, under the rules, referred to the Committee on Education.

- **MO HJR53 – Proposes a constitutional amendment to protect the integrity of interscholastic athletic contests**

Proposes a constitutional amendment to protect the integrity of interscholastic athletic contests

04/08/2021: Reported Do Pass (H) – AYES: 7 NOES: 5 PRESENT: 0

- **SC H4153 – Save Women’s Sports Act**

Amend The Code Of Laws Of South Carolina, 1976, So As To Enact The “save Women’s Sports Act” By Adding Section 59-1-500 So As To Ensure Continued Inclusivity Of Females In The School Sports Arena By Providing That Public And Private Middle School-lev...

04/07/2021: Member(s) request name added as sponsor: M.M.Smith

Transgender Athlete Participation: 2021 State Legislation ("excluding transgender youth from athletics")

Source: [ACLU](#), 5/21/21

AL	HB 391	Delivered to Governor 4/20/21
AR	SJR 16	Read for the second time and referred to committee 2/10/21
	SB 354	
	SB 450	Signed by Governor 3/29/21 Signed by Governor 4/29/21
AZ	SJR 16	Read for the second time with amendment and re- referred to committee 2/23/21
	SB 354	
		Read for the second time and referred to committee 2/23/21
CT	SB 324	Referred to committee 1/25/21
	HB 6128	Referred to committee 1/29/21
FL	HB 935	Died in subcommittee 4/30/21
	HB 1475	Died in committee 4/30/21
	SB 2012	Died in committee 4/30/21
GA	HB 276	Read for the second time 2/8/21
	HB 372	Read for the second time 2/11/21
	SB 266	Read for the second time 3/5/21
HI	HB 1304	Referred to committee 2/1/21
IA	HF 184	Introduced and referred to committee 1/22/21
KS	SB 208	Passed as amended in Senate 3/17/21; Introduced and referred to committee in House 3/19/21

LA	HB 542	Referred to committee 4/12/21
	SB 156	Passed in Senate 5/5/21; Passed to third reading in House 5/18/21 Received from Senate in House 5/5/21
KY	SB 106	Died 4/2/21
	HB 471	Died 4/2/21
ME	HP 682	Referred to House and Senate committees 3/10/21
MI	SB 218	Referred to committee 3/10/21
MN	HF 350	Referred to committee 1/28/21
	HF 352	Referred to committee 1/28/21
	HF 1657	Referred to committee 2/25/21
MO	HB 1077	Referred to committee 2/18/21
	HJR 56	Referred to committee 2/18/21
	SB 503	Read for the second time and referred to committee 3/4/21
MS	SB 2536	Approved by Governor 3/11/21
MT	HB 112	Signed by Governor 5/7/21
ND	HB 1298	Filed with Secretary of State 4/27/21; Veto sustained in Senate 4/22/21
NH	HB 198	Committee hearing scheduled 3/9/21
NJ	S 3540	Introduced and referred to committee 3/11/21
NM	HB 304	Referred to committee 2/18/21
OH	HB 61	Referred to committee 2/4/21
	SB 132	Referred to committee 3/17/21
OK	SB 331	Read for the second time and referred to committee 2/2/21
	SB 2	Passed in Senate 3/1/21; Passed in House 4/20/21

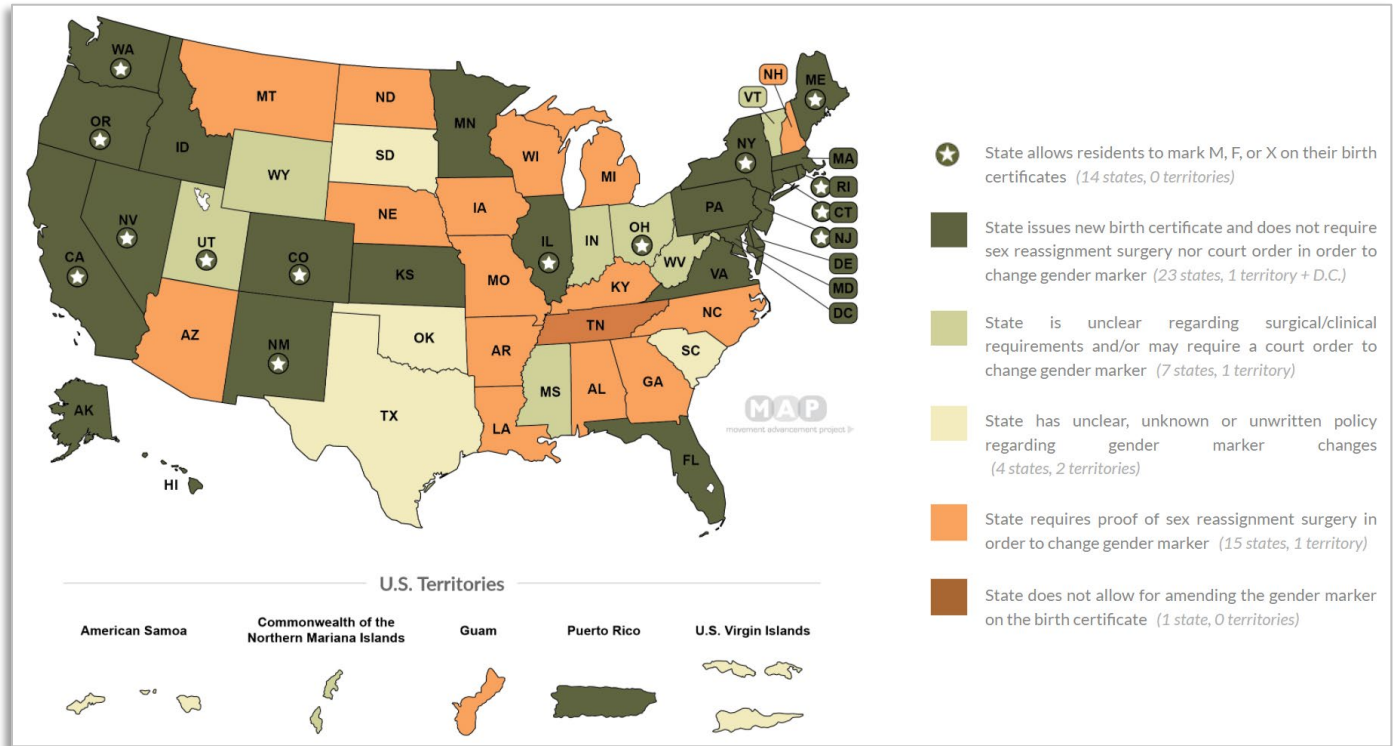
PA	HB 972	Referred to committee 4/5/21
SC	SB 531	Referred to committee 2/9/21
SD	HB 1217	Veto override failed 3/29/21
TN	HB 3	Signed by Governor 3/26/21
	SB 228	Signed by Governor 3/26/21
TX		Passed in Senate 4/15/21; Committee report sent to calendars in House 5/20/21
	SB 29	
	SB 373	Read for the first time and referred to committee 3/9/21
	HB 1458	Read for the first time and referred to committee 3/5/21
	HB 3455	Read for the first time and referred to committee 3/22/21
	HB 4042	Left pending in committee 4/20/21
	HB 4043	Read for the first time and referred to committee 3/29/21
UT	HB 302	Died 3/5/21
WI		Introduced, read for the first time, and referred to committee 3/25/21
	AB 195	
	AB 196	Introduced, read for the first time, and referred to committee 3/25/21
	SB 322	
	SB 323	Read for the first time and referred to committee 4/22/21
		Read for the first time and referred to committee 4/22/21
WV	HB 2141	Referred to committee 2/10/21
	HB 2676	Referred to committee 2/23/21
	HB 2734	Referred to committee 2/24/21

[HB 3292](#) Signed by Governor 4/28/21

[SB 341](#) Referred to committee 2/18/21

Birth Certificate Gender Marker Changes: State Policies

Source: [Movement Advancement Project](#), 6/3/21)



Alabama

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Alabama Code § 22-9A-19\(d\)](#) (1992) or [Form ADPH-HS-33](#)

Alaska

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Department of Vital Records Gender Change Policy](#)

Arizona

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Ariz. Rev. Stat. § 36-337 \(A\)\(3\)](#) (2006) and [Form VS-41](#)

Arkansas

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Ark. Code Ann. §§ 20-18-307, 20-18-304, 20-18-305](#) (1995)

California

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [Hlth. and Safety Code, §§ 103425-103445](#) (2014) and [Form VS 24](#)

Colorado

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [H.B. 19-1039](#) (2019) and Department of Public Health's [Birth Certificate Gender Change Information](#)

Connecticut

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [Conn. Gen. Stat. § 7-51](#) (2012), Public Act 15-132 (2015), and [DPH website](#)

Delaware

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Del. Administrative Code Title 16 § 4205](#) (2017).

District of Columbia

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [D.C. Law 20-37](#) (2013) or [Gender Designation Packet](#) (2014)

Florida

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See <https://www.floridanamechange.org> (2018).

Georgia

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Ga. Code Ann. § 31-10-23\(e\)](#) (2005)

Hawai'i

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Haw. Rev. Stat. Ann. § 338-17.7\(a\)\(4\)\(B\)](#) (2015)

Idaho

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker. See [F.V. v. Jeppesen](#) (August 2020), overturning HB509.
- Earlier in 2020, state did not allow for amending the gender marker on the birth certificate. See [HB509](#) (March 2020).
- Prior to HB509, state issued new birth certificate with no requirement or surgery or court order to change gender marker, as a result of [F.V. v. Barron](#) (2018) which required Idaho's Department of Health and Welfare to develop and implement a policy for issuing accurate birth certificates. See [Idaho Gender Change Packet](#) (2018).

Illinois

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker (2017)
- State allows individuals to mark M, F, or X on birth certificate (2020)
- See [Illinois Vital Records Act \(2017\)](#) and [Illinois Department of Public Health forms](#)

Indiana

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- See [Ind. Code Ann. § 16-37-2-10\(b\)](#) (2006)

Iowa

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Iowa Code Ann. § 144.23\(3\)](#) (2004)

Kansas

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [consent judgment in Foster v. Andersen](#) (2019)

Kentucky

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Ky. Rev. Stat. Ann. § 213.121\(5\)](#) (2005)

Louisiana

- State requires proof of sex reassignment surgery in order to change gender marker
- See [La. Rev. Stat. Ann. § 40:62](#) (2006)

Maine

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [Maine Department of Health and Human Services 10-146 CMR ch. 16](#) (2020)

Maryland

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Md. Code Ann, \[Health – Gen.\] § 4-214\(b\)\(5\)](#) (2006)

Massachusetts

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Mass Gen. Laws Ann. ch. 46, § 13\(e\)](#) (2006)

Michigan

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Mich. Comp. Laws Ann. § 333.2831\(c\)](#) (2006)

Minnesota

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Minn. Stat. Ann. § 144.218](#) (2006) and [Minn. Rules 4601.1100](#) (2006)

Mississippi

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- See [Miss. Admin. Code 15-5-85:3.21](#)

Missouri

- State requires proof of sex reassignment surgery in order to change gender marker
- See [Mo. Ann. Stat. § 193.215\(9\)](#) (2006)

Montana

- State requires proof of sex reassignment surgery in order to change gender marker. See [SB 280](#) (2021).
- Formerly, state issued new birth certificate and did not require surgery nor court order in order to change gender marker. See [Montana Rule: 37.8.311](#) (2017).

Nebraska

- State requires proof of sex reassignment surgery in order to change gender marker • See [Neb. Rev. Stat. § 71-604.01](#) (2005)

Nevada

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [Nev. Admin. Code. Ch. 440, § 130](#) (2006)

New Hampshire

- State requires proof of sex reassignment surgery in order to change gender marker
- See [NH RSA 5-C:87](#)

New Jersey

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [N.J. Stat. Ann. § 26:8-40.12](#) (2013) and [N.J. S478](#) (2018)

New Mexico

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [SB 20](#) (2019). Formerly required proof of sex reassignment surgery.

New York

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate (2020)
- See [N.Y. Comp. Codes R. & Regs. Tit 10, § 35.2](#) (2014) and DOH's [Gender Designation Corrections information](#), "including requests for non-binary gender designations"

North Carolina

- State requires proof of sex reassignment surgery in order to change gender marker
- See [N.C. Gen. Stat. §§ 130A-118\(b\)\(4\), \(e\)](#) (2005)

North Dakota

- State requires proof of sex reassignment surgery in order to change gender marker
- [N.D. Cent. Code § 23-02.1-25](#) (2005) and [N.D. Admin. Code § 33-04-12-02](#) (2006)

Ohio

- State is unclear regarding surgical/clinical requirements and/or may **require a court order to change gender marker** (2021)
- State allows individuals to mark M, F, or X on birth certificate (2021)
- See [Ohio Department of Health's website](#) (2021) and [ACLU of Ohio's FAQ](#) for X option info
- Prior to 2016, state updated gender markers with a court order, consistent with state's statutory [process for other birth certificate changes](#). Beginning in 2016, state refused to change gender markers even under court order. This policy was ruled unconstitutional in [Ray v. McCloud](#) (Dec 2020), and the state [announced](#) in April 2021 that it would not challenge the ruling. The current policy was announced in May 2021.

Oklahoma

- State has unclear, unknown or unwritten policy regarding gender marker changes

Oregon

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [HB 2673](#) (2017)

Pennsylvania

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Pennsylvania Department of Health policy](#) and [Birth Certificate Correction Form](#)

Rhode Island

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate (2019)
- See [R.I. Gen. Laws § 23-3-21](#) (2005) and R.I. Code R. 14 170 001 §§ 35-37 (2004)

South Carolina

- State has unclear, unknown, or unwritten policy regarding gender marker changes
- See [NCTE for more information](#).

South Dakota

- State has unclear, unknown, or unwritten policy regarding gender marker changes
- See [S.D. Admin. R. 44:09:05:02](#), or [NCTE for more information](#).

Tennessee

- State does not allow for amending the gender marker on the birth certificate
- See [Tenn. Code Ann. § 68-3-203\(d\)](#) (2006)

Texas

- State has unclear, unknown, or unwritten policy regarding gender marker changes
- See [NCTE for more information](#).

Utah

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See [Utah Code Ann. § 26-2-11](#) (2004)

Vermont

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- See [18 Vt. Stat. § 5112](#) (2011)

Virginia

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [SB 657](#) (2020)

Washington

- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- State allows individuals to mark M, F, or X on birth certificate
- See the [Washington Department of Health's policy](#)

West Virginia

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- See [W. Va. Code § 16-5-25](#) (2006) and [W. Va. Code St. R. § 64-32-12](#) (2006)

Wisconsin

- State requires proof of sex reassignment surgery in order to change gender marker • See [Wis. Stat. Ann. § 69.15](#) (2006)

Wyoming

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- See [WY Rules and Regulations HLTH VR Ch. 10 s 4\(e\)\(iii\)](#) (2004)

U.S. Territories

American Samoa

- State has unclear, unknown, or unwritten policy regarding gender marker changes
- [“The High Court of American Samoa has held that the alteration of a birth certificate is granted only to correct information that was erroneous at the time of recordation, or to reflect a name change due to adoption.”](#) NCTE reports anecdotal cases of successfully updating gender markers on birth certificates, but there is no clear policy for doing so.

Guam

- State requires proof of sex reassignment surgery in order to change gender marker
- [“In order to update the gender marker on a birth certificate, the requestor must provide a sworn statement from the physician having performed the surgery, thus certifying the sex of the requestor has been changed by surgical procedure.”](#)

Commonwealth of the Northern Mariana Islands

- State is unclear regarding surgical/clinical requirements and/or may require a court order to change gender marker
- [“In order to change a legal name on a birth certificate, the applicant must provide a court order for legal name and gender marker change to the Vital Statistics Office Division of Public Health.”](#) Puerto Rico
- State issues new birth certificate and does not require surgery nor court order in order to change gender marker
- See [Arroyo v. Rosselló](#) (2018) or [NCTE](#) for more information.

U.S. Virgin Islands

- State has unclear, unknown, or unwritten policy regarding gender marker changes
- See [NCTE for more information](#).

Birth Certificate Name or Sex Change: Utah

Source: Office of Legislative Research and General Counsel, 6/4/21

[Utah Code Section 26-2-11](#)

26-2-11. Name or sex change -- Registration of court order and amendment of birth certificate.

- (1) When a person born in this state has a name change or sex change approved by an order of a Utah district court or a court of competent jurisdiction of another state or a province of Canada, a certified copy of the order may be filed with the state registrar with an application form provided by the registrar.
- (2) (a) Upon receipt of the application, a certified copy of the order, and payment of the required fee, the state registrar shall review the application, and if complete, register it and note the fact of the amendment on the otherwise unaltered original certificate.

(b) The amendment shall be registered with and become a part of the original certificate and a certified copy shall be issued to the applicant without additional cost.

Amended by Chapter [202](#), 1995 General Session

[*In the Matter of the Sex Change of Sean W. Childers-Gray, f.k.a. Jenny Pace, and Angie Rice, f.k.a. Arthur Edward Rice, Appellants*](#) (Utah Supreme Court, filed 5/6/21)