

FREEDOM FROM RELIGION *foundation*

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May 25, 2021

The Honorable Sen. André Jacque
Chair
Wisconsin Assembly Committee on Education

Re: Testimony in opposition to S.B. 323

Dear Chairman Jacque and Committee Members:

I am testifying on behalf of the Freedom From Religion Foundation (FFRF) to oppose S.B. 323, which prohibits transgender female public school athletes from playing in female sports. FFRF is a Madison-based national nonprofit organization with more than 35,000 members across the country, including more than 1,400 members in Wisconsin. FFRF protects the constitutional separation between state and church, and educates the public about nontheism.

S.B. 323 would force schools to segregate all athletic events based on “sex determined by a physician at birth.” This likely struck many of you as intuitively reasonable, since, historically, elite athletes who have gone through male puberty have shown a consistent edge over elite athletes who have not.

However, this bill will not impact any elite athletes, only children in our public schools. This approach undermines the purpose of public school athletic programs and creates problems while solving none. This is the wrong body to address these concerns, with the wrong rule, and for the wrong reasons.

Ensuring an equal playing field for women’s sports is a nuanced question, and the science on it is not as conclusive as others might have you believe. The right solution is to allow experts—sports organizations considering the latest science and with input from the trans community—to decide what restrictions are appropriate, if any, ***at each stage of competition***. This is already the approach at the most elite levels, where the NCAA and the International Olympic Committee have issued and updated rules on this topic, without any significant problems to date.

That more nuanced, science-based approach has been effective at the elite level. There is simply no question that a total ban on transgender girls playing in girls’

sports at lower levels, where the vast majority of athletes care more about participation than record-setting, is not needed. A fair playing field at the Olympic level is certainly good enough for an elementary school soccer team or a J.V. swim meet.

Consider the harm this bill would do. Trans kids are more likely to attempt suicide because they are already so marginalized.¹ Participating in sports can build confidence and a sense of community, but only if the athlete is *part of their community*. It should go without saying that a trans female is not likely to want to play with a bunch of boys. The sole effect of this bill will be to drive trans female students out of public school sports..

Finally, let's be honest about this bill's motivation. After trying to pass trans bathroom bans around the country, anti-trans legislators have not suddenly discovered a love for women's sports. It wasn't about bathrooms then, and it's not about women's sports now. Trans athlete bans, in Wisconsin as in so many other states this year, are about demonizing trans kids, sending a clear message that they are outsiders in order to score some cheap political points. If you do care about protecting women's sports, this bill is not the way to do it.

For all of the above reasons, on behalf of FFRF I strongly urge you to vote in opposition to S.B. 323. Thank you.

Sincerely,

A handwritten signature in blue ink that reads "Ryan D. Jayne". The signature is stylized and cursive.

Ryan D. Jayne
Staff Attorney

¹ American Academy of Pediatrics, "Transgender Adolescent Suicide Behavior," (Oct. 2018), *available at* pediatrics.aappublications.org/content/142/4/e20174218 (finding 29.9% of trans female teens had attempted suicide).