

# TRANS MARYLAND



Trans Maryland  
1800 E Northern Parkway #66332  
Baltimore MD 21239

## **Senate Bill # 381 Education - Interscholastic and Intramural Junior Varsity and Varsity Teams - Designation Based on Sex (Fairness In Girls' Sports Act)**

Senate Education, Energy, and the Environment Committee

February 7, 2024

**Position: Oppose**

Trans Maryland is a multi-racial, multi-gender community power building organization for Maryland's trans community. First, we are deeply embarrassed to see elected Maryland legislators targeting young trans girls with this legislation. We'd first like to address comments to any young trans, or intersex girls who read this testimony. The actions of the adult legislators who have brought this bill to the legislature are born out of fear and bigotry. Trans Maryland wants you to know that transgender and cisgender adults alike find this legislation targeting you to be in bad faith, a misunderstanding of science and biology, and an openly bigoted act against young trans and intersex girls and women like yourself who just want to have fun by enjoying the many health and wellness benefits of playing youth sports.

Esteemed Chair Feldman, Vice Chair Kagen, and the Committee members, gender identity is a protected class, and has been since the passing of the Fairness for All Marylanders Act of 2014. This legislation SB 381, in addition to being out of compliance with the policies of the [MPSSA Transgender Person Guidance for Participation in Interscholastic Athletics](#) and the [MSDE Non-Discrimination Guidelines for Student Transitions](#), is a fundamental misunderstanding the concept of biological sex as a binary.

Biological sex is as a binary is a myth. The argument posited by the legislators who have brought forward this bill is that biological sex is determined at birth (by a visual inspection of the baby's external genitals by the medical provider in the room at the time), that biological sex is a binary, and that biological sex is static from birth till death. These outdated beliefs are based on a misunderstanding of scientific facts and realities.

A person who is intersex is "born with any manner of person born with any manner of supposed "ambiguity" in terms of gendered physical characteristics. This can include reproductive organs, genitals, hormones, chromosomes, or any combination thereof..." ([Trans Language Primer, 2022](#)). About 2% of the population is born intersex. Endosex refers to people who are not intersex. About 0.5% of Maryland's population is transgender. The expectation that people fit into binary categories that do not align with longtime understandings of biology creates the fallacies that: 1. We all know our biological sex from birth and 2. That biological sex imparts a permanent benefit to participation in sports that is unique and distinct from the ways in which cisgender endosex elite athletes benefit from biological benefits.

Taking the example of Michael Phelps, a cisgender endosex male athlete and 23 time gold medalist, who was born with the ability for his body to produce half the lactic acid than the bodies of his competitors in addition to that of a typical athlete. Less lactic acid provides a significantly faster recovery time, and is a key factor in his dominance of his sport. And yet no

For more information, contact Lee Blinder, Executive Director of Trans Maryland at [lee@transmaryland.org](mailto:lee@transmaryland.org)

# TRANS MARYLAND



Trans Maryland  
1800 E Northern Parkway #66332  
Baltimore MD 21239

legislators have targeted him or others who produce less lactic acid than their competitors, despite him being born into a body that unfairly benefits his athletic prowess and permits dominance of his sport. We do not care about the biological fairness of men's sports. The lens of biological fairness is only applied towards girls' and women's sports by those who fundamentally do not understand biology.

Targeting transgender girls in sports is done with a misunderstanding of science via documented colonialist policing of the gender binary through white supremacist ideals rooted in eugenics. Via the scholarship of Dr. Kyla Schuller, we understand the 19th century focus on the discernable differences between a binary set of sexes was focused around the concept that there were large differences between white men and women, and that People of Color had less of a difference between the binary sexes due to a "lack of civilization". [The white colonial theories of the time supposed that high distinctions between the sexes was endemic to white people only and People of Color were less separate sexes that could become more civilized through adherence to white colonization and homemaking/hyper masculinity.](#) The eugenicist movement in the early 20th century sought to eliminate "undesirables," which included People of Color, Jews, neurodivergent people, and more.

That foundation of racist eugenics policies establishes a baseline trajectory towards legislation such as SB 381 that seeks to codify biases against the involvement of transgender and intersex girls in sports. The reality is that transgender and intersex people have always existed in cultures all over the world. The focus of this bill - to define girl and womanhood is done like all efforts to define girl and womanhood: through a racialized gender policing of Black and Brown women out of womanhood. This bill is functionally not only targeting young trans girls, but specifically Black and Brown trans and intersex girls.

There is no need to open up our school systems to the malicious intent of this bill to hamper the ability of trans and intersex girls to participate fully in school life through threats of never-ending lawsuits seeking to eliminate their involvement in sports by inviting and encouraging civil cases. The benefits of sports and participation in team sports is one that should not be unequally conferred to only cisgender endosex young people. The beauty of competition and participation in that competition has a long history of being limited by those requesting to ensconce their own biases, and codify their bigotry. It is particularly shameful when adults attempt to perpetrate this on our youth.

This legislation would open the door to requiring all young people playing girls sports to submit to invasive, dehumanizing, and traumatic medical examinations that people like those backing this bill intend to create a standard for. The reality is that such exams create opportunities for the gender "police" to accuse cisgender girls of not being a girl, and thus creating a situation where gender policing will pit students and families against one another. Instead we can uplift the ability for all students who are girls to participate, and for transgender and intersex girls to enjoy the opportunity to play sports alongside their cisgender and endosex fellow students.

For these reasons **we urge an unfavorable report on this Bill SB 381.**

For more information, contact Lee Blinder, Executive Director of Trans Maryland at [lee@transmaryland.org](mailto:lee@transmaryland.org)