

South Dakota's governor issues executive orders banning transgender athletes from women's sports

By [Devan Cole](#), CNN
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Why Republicans think the transgender sports issue is a winning one 06:05

Washington (CNN) — South Dakota's Republican Gov. Kristi Noem [banned transgender girls and women from competing on women's sports](#) teams at public high schools and colleges via a pair of executive orders issued Monday.

The move came after Noem angered conservatives by killing a bill that would have created a similar prohibition. In a news release explaining her veto at the time, Noem cited her concern that the bill would take the state's colleges and universities out of compliance with national rules, that it left both schools and students vulnerable to lawsuits over performance-enhancing drugs and that it created an "unworkable administrative burden" on schools.

Noem's conservative critics, including the editors of the [National Review](#), accused her veto of being motivated by fear of "expensive lawsuits and potential boycotts."

Though [the two executive orders](#) signed by Noem do not explicitly mention transgender athletes, they reference the supposed harms of the participation of "males" in women's athletics -- an echo of the transphobic claim, cited in other similar legislative initiatives, that transgender women are not women. The orders also reference "biological sex," a [disputed](#) term that refers to the sex as listed on students' original birth certificates.

It's not possible to know a person's gender identity at birth, and there is no consensus criteria for assigning sex at birth.



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Supporters of the ban have argued that trans women have a physical advantage over cisgender women in sports, but trans advocates and some Democratic lawmakers [contend that they're discriminatory](#), citing the natural variations that appear in athletes at all levels and of all genders. South Dakota's ban is the latest such move by Republican politicians [nationwide](#), including in [Mississippi](#), Arkansas and [Tennessee](#).

The governor's orders require the state's Department of Education and Board of Regents to establish and

implement policy consistent with the new rule.

The orders, which [Noem cast as a temporary fix](#) to the issue, came after she killed HB 1217, a bill state lawmakers [recently approved](#) that would've created a similar ban, but that the governor wanted revised to address "vague and overly broad language (that) could have significant unintended consequences."

The governor said in a statement that she "will be working with legislative leaders to schedule a special legislative session in late May or early June" to "address this important issue," but her decision on Monday has already angered conservatives in the state, including one of the bill's sponsors, who called Noem's orders "very weak."

"The executive orders are just (Noem) trying to really cover her tracks," Republican state Rep. Rhonda Milstead told CNN. "She said she'd sign the bill, she said she supports fairness in women's sports." Milstead said that without an enforcement mechanism, Noem's orders do not adequately address the issue.

Noem's orders come two days before Transgender Day of Visibility -- an annual awareness day observed by community members, activists and allies around the world -- and advocates say actions like the governor's show the type of political hostility facing transgender Americans.

"As trans people, we still very much live in a world where our existence is an act of resistance and our visibility is an act of bravery," said Carrie Davis, the chief community officer at The Trevor Project, a suicide prevention and crisis intervention organization for LGBTQ youth.

"In the face of such constant, vitriolic rhetoric and a record number of anti-trans bills, it is crucial to show up and show support for transgender and nonbinary youth year-round," she added.

The Human Rights Campaign, one of the nation's largest LGBTQ rights groups, also opposes Noem's orders, which they say are unconstitutional.

"These orders cannot withstand legal scrutiny," Alphonso David, the group's president, said in a statement. "Transgender kids are kids, and they deserve the right to live full lives free from abuse, stigmatization, and danger."

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