

By: Perry

S.B. No. 40

A BILL TO BE ENTITLED

AN ACT

relating to requiring public school and public institution of higher education students to compete in interscholastic athletic competitions based on biological sex.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter D, Chapter 33, Education Code, is amended by adding Section 33.0834 to read as follows:

Sec. 33.0834. INTERSCHOLASTIC ATHLETIC COMPETITION BASED ON BIOLOGICAL SEX. (a) Except as provided by Subsection (b), an interscholastic athletic team sponsored or authorized by a school district or open-enrollment charter school may not allow a student to compete on the team in an interscholastic athletic competition sponsored or authorized by the district or school that is designated for the biological sex opposite to the student's biological sex as correctly stated on:

(1) the student's official birth certificate, as described by Subsection (c); or

(2) if the student's official birth certificate described by Subdivision (1) is unobtainable, another government record.

(b) An interscholastic athletic team described by Subsection (a) may allow a female student to compete in an interscholastic athletic competition that is designated for male students if a corresponding interscholastic athletic competition

1 designated for female students is not offered or available.

2 (c) For purposes of this section, a statement of a student's
3 biological sex on the student's official birth certificate is
4 considered to have correctly stated the student's biological sex
5 only if the statement was:

6 (1) entered at or near the time of the student's birth;
7 or

8 (2) modified to correct a clerical error in the
9 student's biological sex.

10 (d) The University Interscholastic League shall adopt rules
11 to implement this section, provided that the rules must be approved
12 by the commissioner in accordance with Section 33.083(b).

13 (e) A student who attends a school district or
14 open-enrollment charter school that sponsors or authorizes an
15 interscholastic athletic team that violates this section may bring
16 a civil action against the district or school if the student is
17 directly harmed by the violation. The student may obtain:

18 (1) injunctive relief; and

19 (2) court costs and reasonable attorney's fees.

20 SECTION 2. Subchapter 2, Chapter 51, Education Code, is
21 amended by adding Section 51.980 to read as follows:

22 Sec. 51.980. INTERSCHOLASTIC ATHLETIC COMPETITION BASED ON
23 BIOLOGICAL SEX. (a) In this section, "institution of higher
24 education" has the meaning assigned by Section 61.003.

25 (b) Except as provided by Subsection (c), an
26 interscholastic athletic team sponsored or authorized by an
27 institution of higher education may not allow a student to compete

1 on the team in an interscholastic athletic competition sponsored or
2 authorized by the institution that is designated for the biological
3 sex opposite to the student's biological sex as correctly stated
4 on:

5 (1) the student's official birth certificate, as
6 described by Subsection (d); or

7 (2) if the student's official birth certificate
8 described by Subdivision (1) is unobtainable, another government
9 record.

10 (c) An interscholastic athletic team described by
11 Subsection (b) may allow a female student to compete in an
12 interscholastic athletic competition that is designated for male
13 students if a corresponding interscholastic athletic competition
14 designated for female students is not offered or available.

15 (d) For purposes of this section, a statement of a student's
16 biological sex on the student's official birth certificate is
17 considered to have correctly stated the student's biological sex
18 only if the statement was:

19 (1) entered at or near the time of the student's birth;
20 or

21 (2) modified to correct a clerical error in the
22 student's biological sex.

23 (e) A student who attends an institution of higher education
24 that sponsors or authorizes an interscholastic athletic team that
25 violates this section may bring a civil action against the
26 institution if the student is directly harmed by the violation. The
27 student may obtain:

1 (1) injunctive relief; and

2 (2) court costs and reasonable attorney's fees.

3 SECTION 3. (a) Section 33.0834, Education Code, as added by
4 this Act, applies beginning with the 2021-2022 school year.

5 (b) Section 51.980, Education Code, as added by this Act,
6 applies beginning with the 2021-2022 academic year.

7 SECTION 4. If any provision of this Act or its application
8 to any person or circumstance is held invalid, the invalidity does
9 not affect other provisions or applications of this Act that can be
10 given effect without the invalid provision or application, and to
11 this end the provisions of this Act are declared to be severable.

12 SECTION 5. This Act takes effect immediately if it receives
13 a vote of two-thirds of all the members elected to each house, as
14 provided by Section 39, Article III, Texas Constitution. If this
15 Act does not receive the vote necessary for immediate effect, this
16 Act takes effect on the 91st day after the last day of the
17 legislative session.