

BILL ANALYSIS

Senate Research Center
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C.S.S.B. 2
By: Perry
Health & Human Services
7/13/2021
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 2 amends Chapters 33 and 51 of the Education Code requiring University Interscholastic League (UIL) athletes and collegiate athletes who attend a public university to compete in sports associated with their biological sex as determined at or near birth and that was properly listed on the student's birth certificate.

However, S.B. 2 allows female athletes to compete in male sports if a corresponding female sport is not available and the interscholastic athletic team allows for it.

(Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2 amends current law relating to requiring public school and public institution of higher education students to compete in interscholastic athletic competitions based on biological sex.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the University Interscholastic League in SECTION 1 (Section 33.0834, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter D, Chapter 33, Education Code, by adding Section 33.0834, as follows:

Sec. 33.0834. INTERSCHOLASTIC ATHLETIC COMPETITION BASED ON BIOLOGICAL SEX. (a) Prohibits an interscholastic athletic team sponsored or authorized by a school district or open-enrollment charter school, except as provided by Subsection (b), from allowing 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) Authorizes an interscholastic athletic team described by Subsection (a) to allow a female student to compete in an interscholastic athletic competition that is designated for male students if a corresponding interscholastic athletic competition designated for female students is not offered or available.

(c) Provides that for purposes of this section, a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex only if the statement was entered at or near the time of the student's birth or was modified to correct a clerical error in the student's biological sex.

(d) Requires the University Interscholastic League (UIL) to adopt rules to implement this section, provided that the rules are required to be approved by the commissioner of education (commissioner) in accordance with Section 33.083(b) (relating to requiring UIL to submit its rules and procedures to the commissioner for approval or disapproval).

(e) Authorizes a student who attends a school district or open-enrollment charter school that sponsors or authorizes an interscholastic athletic team that violates this section to bring a civil action against the district or school if the student is directly harmed by the violation. Authorizes the student to obtain:

(1) injunctive relief; and

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

SECTION 2. Amends Subchapter Z, Chapter 51, Education Code, by adding Section 51.980, as follows:

Sec. 51.980. INTERSCHOLASTIC ATHLETIC COMPETITION BASED ON BIOLOGICAL SEX. (a) Defines "institution of higher education."

(b) Prohibits an interscholastic athletic team sponsored or authorized by an institution of higher education, except as provided by Subsection (c), from allowing a student to compete on the team in an interscholastic athletic competition sponsored or authorized by the institution 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 (d); or

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

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

(d) Provides that for purposes of this section, a statement of a student's biological sex on the student's official birth certificate is considered to have correctly stated the student's biological sex only if the statement was entered at or near the time of the student's birth or was modified to correct a clerical error in the student's biological sex.

(e) Authorizes a student who attends an institution of higher education that sponsors or authorizes an interscholastic athletic team that violates this section to bring a civil action against the institution if the student is directly harmed by the violation. Authorizes the student to obtain:

(1) injunctive relief; and

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

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

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

SECTION 4. Provides that if any provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this

Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

SECTION 5. Effective date: upon passage or the 91st day after the last day of the legislative session.