

BILL ANALYSIS

Senate Research Center

H.B. 25
By: Swanson et al. (Perry)
Health & Human Services
10/15/2021
Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The proposed legislation amends Chapter 33 of the Education Code requiring University Interscholastic League (UIL) athletes 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, the bill allows female athletes to compete in male sports if a corresponding female sport is not available and the interscholastic athletic team allows for it.

H.B. 25 amends current law relating to requiring public school 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 3 (Section 33.0834, Education Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Provides that the legislature finds that:

- (1) historically, boys participate in interscholastic athletics at a higher rate than girls, and a noticeable disparity continues between the athletic participation rates of students who are girls and students who are boys in University Interscholastic League (UIL) member schools;
- (2) courts have recognized a legitimate and important governmental interest in redressing past discrimination against girls in athletics on the basis of sex and promoting equality of athletic opportunity between the sexes under Title IX of the Education Amendments of 1972 (20 U.S.C. Section 1681 et seq.), a federal civil rights statute; and
- (3) courts have recognized that classification by sex is the only feasible classification to promote the governmental interest of providing for interscholastic athletic opportunities for girls.

SECTION 2. Provides that the purpose of this Act is to further the governmental interest of ensuring that sufficient interscholastic athletic opportunities remain available for girls to remedy past discrimination on the basis of sex.

SECTION 3. 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) Defines "biological sex."

- (b) Prohibits an interscholastic athletic team sponsored or authorized by a school district or open-enrollment charter school, except as provided by Subsection (c), from allowing a student to compete 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 (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:

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

(2) modified to correct any type of scrivener or clerical error in the student's biological sex.

(e) Requires 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 providing that UIL is a part of The University of Texas at Austin and is required to submit its rules and procedures to the commissioner for approval or disapproval). Requires that the rules ensure compliance with state and federal law regarding the confidentiality of student medical information, including Chapter 181 (Medical Records Privacy), Health and Safety Code, and the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.).

SECTION 4. Provides that this Act applies to any interscholastic athletic competition sponsored or authorized by a school district or open-enrollment charter school that occurs on or after the effective date of this Act.

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