

BILL ANALYSIS

H.B. 25
By: Swanson
Constitutional Rights & Remedies, Select
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Concerns have been raised that the entrance and participation of biological males into female athletic competitions endangers girls' safety and inhibits girls' access to the equal opportunities guaranteed by Title IX. Disparities remain between the percentage of enrolled female students and the percentage of female athletes to the percentage of enrolled male students and the percentage of male athletes, and courts have recognized that the government has a legitimate interest in redressing past discrimination against girls in athletics and promoting equality between the sexes. H.B. 25 seeks to address this issue by prohibiting an interscholastic athletic team sponsored or authorized by a public school district or open-enrollment charter school from allowing a student to compete in an interscholastic athletic competition designated for the biological sex opposite to that of the student. The bill does not prevent a biological female from competing on a male team where a female team is not offered or available.

CRIMINAL JUSTICE IMPACT

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

RULEMAKING AUTHORITY

It is the committee's opinion that rulemaking authority is expressly granted to the University Interscholastic League in SECTION 3 of this bill.

ANALYSIS

H.B. 25 sets out the following legislative findings:

- 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 member schools;
- 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
- 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.

The bill identifies the purpose of its provisions as furthering the governmental interest of ensuring that sufficient interscholastic athletic opportunities remain available for girls to remedy past discrimination on the basis of sex.

H.B. 25 amends the Education Code to prohibit an interscholastic athletic team sponsored or authorized by a public school district or open-enrollment charter school from allowing a student

to compete in an interscholastic athletic competition sponsored or authorized by the district or school if the competition is designated for the biological sex opposite to the student's biological sex. Regarding the documentation of the student's biological sex, the bill specifies the following:

- the student's biological sex is as correctly stated on the student's official birth certificate or, if that certificate is unobtainable, on another government record; and
- the birth certificate's statement of biological sex is considered to be correct only if that 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.

The bill authorizes a team 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.

H.B. 25 requires the University Interscholastic League to adopt rules to implement the bill's provisions, provided that those rules must be approved by the commissioner of education.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, the 91st day after the last day of the legislative session.