

BILL ANALYSIS

C.S.H.B. 1952
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Judiciary & Civil Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Health professionals have raised concerns that inaccurate vital records create barriers to providing proper health services. Inaccurate birth certificates may lead to the improper administration of various drugs, treatments, and procedures. C.S.H.B. 1952 seeks to provide biologically accurate birth certificates to ensure the proper administration of medical services by requiring the inclusion of a person's biological sex on the person's birth certificate.

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 executive commissioner of the Health and Human Services Commission in SECTION 4 of this bill.

ANALYSIS

C.S.H.B. 1952 amends the Health and Safety Code to require the birth certificate form prescribed by the Department of State Health Services to include a space for recording the biological sex of a child as either male or female. The bill requires a person required to file a birth certificate with the local registrar to ensure the biological sex of a child, as determined by the sex organs, chromosomes, or endogenous profile of the child, is listed in the appropriate space on the child's birth certificate. The bill requires a person required to report a birth to the local registrar to report the child's biological sex to the local registrar, and the bill requires the local registrar to list the biological sex in the appropriate space on the birth certificate. The bill expressly does not require a person to list on the birth certificate or report to the local registrar the biological sex of a child whose biological sex is not determined at birth because the child, as determined by a physician, has atypical or ambiguous sex organs, chromosomes, or endogenous profile for either male or female. The birth certificate may be amended at any time after the child's sex is determined to complete the information on the certificate by including the child's determined sex.

C.S.H.B. 1952 prohibits the state registrar, local registrar, or other person who issues a birth certificate from issuing, and a court from ordering the issuance of, a birth certificate that incorporates the completed or corrected biological sex information for a minor except under the following circumstances:

- the certificate corrects a clerical error on the original birth certificate;
- the original birth certificate does not list the minor's biological sex as required by the bill and the certificate completes the information by listing the minor's biological sex; or
- for a minor who at birth had atypical or ambiguous sex organs, chromosomes, or endogenous profile for either male or female and whose sex is later determined, the certificate:

- corrects the biological sex information listed as either male or female on an original birth certificate by listing the minor's determined sex as the other biological sex; or
- completes the biological sex information not previously listed on an original birth certificate by listing the determined sex.

C.S.H.B. 1952 requires the executive commissioner of the Health and Human Services Commission to adopt rules necessary to implement the bill's provisions.

EFFECTIVE DATE

September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 1952 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute does not include provisions from the introduced that did the following:

- required a child born with a Y chromosome to be classified as male and a child born without a Y chromosome to be classified as female for purposes of recording a child's biological sex on the child's birth certificate; and
- made that method of classifying a child's biological sex applicable to other state laws with respect to the determination of a person's sex or gender.

The substitute includes provisions absent from the introduced that do the following:

- requires a person required to file a birth certificate with the local registrar to ensure the biological sex of a child, as determined by the sex organs, chromosomes, or endogenous profile of the child, is listed in the appropriate space on the child's birth certificate;
- requires a person required to report a birth to the local registrar to report the child's biological sex to the local registrar and requires the local registrar to list the biological sex in the appropriate space on the birth certificate;
- establishes that a person is not required to list on the birth certificate or report to the local registrar the biological sex of a child whose biological sex is not determined at birth because the child, as determined by a physician, has atypical or ambiguous sex organs, chromosomes, or endogenous profile for either male or female; and
- authorizes a birth certificate to be amended at any time after the child's sex is determined to complete the information on the certificate by including the child's determined sex.

The substitute includes provisions absent from the introduced prohibiting a state registrar, local registrar, or other person who issues a birth certificate from issuing, or a court from ordering the issuance of, a birth certificate that incorporates the completed or corrected biological sex information for a minor except under the following circumstances:

- the certificate corrects a clerical error on the original birth certificate;
- the original birth certificate does not list the minor's biological sex as required by the bill and the certificate completes the information by listing the minor's biological sex; or
- for a minor who at birth had atypical or ambiguous sex organs, chromosomes, or endogenous profile for either male or female and whose sex is later determined, the certificate:
 - corrects the biological sex information listed as either male or female on an original birth certificate by listing the minor's determined sex as the other biological sex; or
 - completes the biological sex information not previously listed on an original birth certificate by listing the determined sex.