

## **BILL ANALYSIS**

C.S.S.B. 15  
By: Middleton  
Higher Education  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

In the Third Called Special Session of the 87th Legislature, the Texas Legislature passed legislation 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. However, recent events concerning the biological male from the University of Pennsylvania who won an NCAA Division I Championship in the women's swimming 500-yard freestyle, and the biological male who beat a biological female from Texas A&M University-Commerce in the 400 meter hurdles event at the NCAA Division II Outdoor Track and Field Championships, have prompted the introduction of S.B. 15 to create statutory protections for women athletes competing in intercollegiate athletic competitions.

Specifically, C.S.S.B. 15 seeks to create statutory protections for women athletes by prohibiting athletes from competing on the team opposite to their biological sex, except that an intercollegiate athletic team may allow a female to compete in an intercollegiate athletic competition that is designated for male students if a corresponding competition for females is not offered or available. C.S.S.B. 15 also seeks to prohibit a biological male from competing in a mixed-sex intercollegiate athletic competition in a position designated by rule or procedure for a biological female and to create a mechanism for people to seek injunctive relief against a public institution of higher education or intercollegiate athletic team if that entity violates the provisions of the bill.

### **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 Texas Higher Education Coordinating Board in SECTION 2 of this bill.

### **ANALYSIS**

C.S.S.B. 15 amends the Education Code to prohibit an intercollegiate athletic team sponsored or authorized by a public institution of higher education from allowing a student to compete on the team in an intercollegiate athletic competition sponsored or authorized by the institution that is designated for the biological sex opposite to the student's biological sex or a male student to compete on the team in a mixed-sex intercollegiate athletic competition sponsored or authorized by the institution in a position that is designated by rule or procedure for female students. The bill authorizes such an intercollegiate athletic team to allow a female student to compete in an intercollegiate athletic competition that is designated for male students if a corresponding competition designated for female students is not offered or available. For purposes of its

provisions, the bill defines "institution of higher education" by reference as any public technical institute, public junior college, public senior college or university, medical or dental unit, public state college, or other agency of higher education as defined by Section 61.003, Education Code and "athletic competition" as any athletic display between teams or individuals, such as a contest, exhibition, performance, or sport.

C.S.S.B. 15, for the purposes of the bill's provisions, establishes that, as follows:

- a student's biological sex is the biological sex correctly stated on the student's official birth certificate or, if the student's official birth certificate is unobtainable, another government record that accurately states the student's biological sex; and
- 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 modified to correct a scrivener or clerical error in the student's biological sex.

The bill prohibits an institution of higher education or an intercollegiate athletic team sponsored or authorized by an institution from retaliating against a person for reporting a violation of the bill's prohibitions and authorizes a person to bring a civil action for injunctive relief against such an institution or team for a violation of the bill's provisions. The bill requires the Texas Higher Education Coordinating Board to adopt rules to implement the bill's provisions and requires those rules to ensure compliance with state and federal law regarding the confidentiality of student medical information, including statutory provisions relating to medical records privacy and the federal Health Insurance Portability and Accountability Act of 1996.

C.S.S.B. 15 applies to any intercollegiate athletic competition sponsored or authorized by a public institution of higher education that occurs on or after the bill's effective date.

#### **EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

#### **COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 15 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes provisions that were not in the engrossed that define "athletic competition" for the purposes of the bill's provisions and that prohibit an intercollegiate athletic team sponsored or authorized by a public institution of higher education from allowing a male student to compete on the team in a mixed-sex intercollegiate athletic competition sponsored or authorized by the institution in a position that is designated by rule or procedure for female students.

The substitute includes a short title absent from the engrossed establishing that the bill may be cited as the Save Women's Sports Act.