By:  Swanson H.B. No. 23

A BILL TO BE ENTITLED

AN ACT

relating to participation in athletic activities based on biological sex; providing a civil right to action for K-12 athletes and college athletes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1.  SHORT TITLE. This Act may be cited as the Save Women's Sports Act.

SECTION 2.  Section 33.0834, Texas Education Code, is amended to read as follows:

Sec. 33.0834.  ~~INTERSCHOLASTIC~~ ATHLETIC ~~COMPETITION~~ PARTICIPATION BASED ON BIOLOGICAL SEX. (a) Except as provided by Subsection (b), an ~~interscholastic~~ athletic team or sport sponsored or authorized by a school district, ~~or~~ open-enrollment charter school, or any private school that competes against a public school may not allow a student to ~~compete~~ participate in an ~~interscholastic~~ athletic ~~competition~~ team or sport 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 that accurately states the student's biological sex.

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

(c)  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.

(d)  The University Interscholastic League shall adopt rules to implement this section, provided that the rules must be approved by the commissioner in accordance with Section 33.083(b). The rules must ensure compliance with state and federal law regarding the confidentiality of student medical information, including Chapter 181, Health and Safety Code, and the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. Section 1320d et seq.).

(e)  A student shall have a private cause of action for injunctive relief, damages, attorneys' fees and cost, and any other relief available under law if the student is:

(1)  deprived of an athletic opportunity or suffers any direct or indirect harm as a result of a school district, charter school, or private school knowingly violating this Act; or

(2)  subject to retaliation or other adverse action by a school district, charter school, private school, the University Interscholastic League, or any athletic association or organization as a result of reporting a violation of this Act.

SECTION 3.  Subchapter Z, Chapter 51, Education Code, is amended by adding Section 51.982 to read as follows:

Sec. 51.982.  ATHLETIC PARTICIPATION BASED ON BIOLOGICAL SEX. (a) Except as provided by Subsection (b), an athletic team or sport sponsored or authorized by a public institution of higher education, public junior college, or any private institution or private junior college that competes against a public institution or public junior college may not allow a student to participate in an athletic team or sport sponsored or authorized by the institution of higher education or junior college 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 that accurately states the student's biological sex.

(b)  An athletic team or sport described by Subsection (a) may allow a female student to participate in an athletic team or sport that is designated for male students if a corresponding athletic team or sport designated for female students is not offered or available.

(c)  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.

(d)  A student shall have a private cause of action for injunctive relief, damages, attorneys' fees and cost, and any other relief available under law if the student is:

(1)  deprived of an athletic opportunity or suffers any direct or indirect harm as a result of an institution of higher education or junior college knowingly violating this Act; or

(2)  subject to retaliation or other adverse action by an institution of higher education, junior college, or any athletic association or organization as a result of reporting a violation of this Act.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2023.