

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.

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

7 (c) For purposes of this section, a statement of a student's
8 biological sex on the student's official birth certificate is
9 considered to have correctly stated the student's biological sex
10 only if the statement was:

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

12 or

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

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

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

26 (1) deprived of an athletic opportunity or suffers any
27 direct or indirect harm as a result of a school district, charter

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

6 SECTION 3. Subchapter 7, Chapter 51, Education Code, is
7 amended by adding Section 51.982 to read as follows:

8 Sec. 51.982. ATHLETIC PARTICIPATION BASED ON BIOLOGICAL
9 SEX. (a) Except as provided by Subsection (b), an athletic team or
10 sport sponsored or authorized by a public institution of higher
11 education, public junior college, or any private institution or
12 private junior college that competes against a public institution
13 or public junior college may not allow a student to participate in
14 an athletic team or sport sponsored or authorized by the
15 institution of higher education or junior college that is
16 designated for the biological sex opposite to the student's
17 biological sex as correctly stated on:

18 (1) the student's official birth certificate, as
19 described by Subsection (c); or

20 (2) if the student's official birth certificate
21 described by Subdivision (1) is unobtainable, another government
22 record that accurately states the student's biological sex.

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

1 (c) For purposes of this section, a statement of a student's
2 biological sex on the student's official birth certificate is
3 considered to have correctly stated the student's biological sex
4 only if the statement was:

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

6 or

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

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

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

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

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