

SUBJECT: Requiring competition in intercollegiate sports to be based on biological sex

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 6 ayes — Kuempel, Paul, Burns, Burrows, Clardy, Raney

3 nays — Bucy, Cole, Howard

2 absent — M. González, Lalani

SENATE VOTE: On final passage (March 29) — 19 - 10 - 2

WITNESSES: For — Mary Smith, Jana Long, Concerned Women for America; Barbara Ehardt, Idaho State Representative; Riley Gaines, IWV; Jade Dickens, Robert Fausett, Save Womens Sports; Donald Garner, Texas Faith & Freedom Coalition; Austin Griesinger, Texas Family Project; James Buntrock, Texas Pastor Council; Sheila Hemphill, Texas Right To Know; Jonathan Covey, Texas Values; Mary Castle, Texas Values Action; and 10 individuals (*Registered, but did not testify*: Darren Keyes, Alliance Defending Freedom; Patti Gallen, Concerned Parents of Round Rock ISD; Beverly Roberts, Concerned Women for America; Rebekah Warwick, Heritage Action for America; Shann Turner, Moms for America; John Beckmeyer, Jill Glover, Republican Party of Texas; Cindy Asmussen, Southern Baptists of Texas Convention; Perla Muñoz Hopkins, Texas Director Moms For America; Cindi Castilla, Texas Eagle Forum; Teresa Thomas, Texas Moms for America; Rhonda Anderson, Jeremy Pickens, Jonathan Saenz, Texas Values Action; Jennifer Allmon, The Texas Catholic Conference of Bishops; and 21 individuals)

Against — Ash Hall, Brian Klosterboer, ACLU of Texas; Bethany Cyrtmus-Davaul, Austin Rise FC; Chloe Goodman, Ricardo Martinez, Brad Pritchett, Equality Texas; Carolyn Yu, Secular Houston Organizing for the Right to Equality; Sarah Berel-Harrop, Texas Unitarian Universalist Justice Network; Andrea Segovia, Transgender Education Network Texas; and 23 individuals (*Registered, but did not testify*: Robin Hoffpauir, Bob Kafka, ADAPT Access Organizer; Joanna Hoffman,

Athlete Ally; Alex Evans, AVOW Texas; Alexa Aragonez, City of Houston, Mayor's Office; Elisa M. Tamayo, El Paso County; Sofia Sepulveda, Equality Texas; Clint Birdsong, Human Rights Campaign; Corinna Whiteaker-Lewis, San Gabriel Unitarian Universalist Fellowship; Eli Melendrez, Texas American Federation of Teachers; Carisa Lopez, Adriano Perez, Texas Freedom Network; Anita Knight, Texas Impact; Clayton Travis, Texas Pediatric Society; Briana OSullivan, Texas Roller Derby; Erin Walter, Texas Unitarian Universalist Justice Ministry; Sadie Hernandez, Gin Pham, Transgender Education Network of Texas; Cynthia Van Maanen, Travis County Democratic Party; Nicole Ma, Quynh-Huong Nguyen, Sarah Syed, Steven Wu, Woori Juntos; and 284 individuals)

**DIGEST:**

CSSB 15 would prohibit an intercollegiate athletic competition sponsored or authorized by a higher education institution from allowing:

- a student to compete on the team in a competition sponsored or authorized by the institution that was 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 competition sponsored or authorized by the institution in a position that was designated by rule or procedure for female students.

An intercollegiate athletic team could allow a female student to compete in a competition that was designated for male students if a corresponding intercollegiate athletic competition designated for female students was not offered or available.

The bill would establish that a student's biological sex would be the biological sex correctly stated on the student's official birth certificate or, if the birth certificate was unobtainable, another government record that accurately stated the student's biological sex.

The bill also would establish that a statement of a student's biological sex on the student's official birth certificate would be 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.

A higher education institution or an intercollegiate athletic team could not retaliate against a person for reporting a violation of the bill. A person could bring a civil action for injunctive relief against an institution or athletic team that committed a violation.

The Texas Higher Education Coordinating Board would be required to adopt rules to implement the bill. Such rules would be required to ensure compliance with state and federal law regarding the confidentiality of student medical information.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023, and would apply to any eligible intercollegiate athletic competition that occurred on or after the bill's effective date.

**SUPPORTERS  
SAY:**

CSSB 15 would protect female athletes in intercollegiate athletic competitions by requiring athletes to compete based on their biological sex at birth. Biological men generally have an athletic advantage over women, and allowing them to compete against women can put female athletes at a competitive disadvantage or increase their chances of being injured. CSSB 15 seeks to protect female college athletes, who could risk losing competitions, accolades, or scholarships to biological men participating against women.

The bill would not prevent anyone from participating in sports privately, or from competing in intercollegiate athletics in accordance with the individual's biological sex. Participation in casual sports, in a private league, or on an intramural team would not be restricted by the bill. While student mental health is important to address, the bill is focused on fairness and safety for female athletes in competitive intercollegiate athletics, which should not be compromised.

Current NCAA and IOC rules regarding the participation of transgender athletes do not sufficiently account for research demonstrating the

physiological advantages of biological males that may not be eliminated by testosterone suppression. NCAA rules require competitions to follow state law and do not restrict the Legislature's ability to establish such regulations.

Similar laws in other states have not led to significant legal action, and Texas should not refrain from protecting female athletes based on the possibility of litigation.

CRITICS  
SAY:

By prohibiting transgender students from competing in intercollegiate athletics based on the gender with which they identify, CSSB 15 would violate the rights of student athletes in the state and further marginalize transgender Texans.

The bill would only directly impact a small number of individuals, as there are few transgender athletes in college sports competitions nationwide. However, the bill could lead to discrimination against many more transgender college students and negatively impact transgender students' mental health. The bill would assume that male-to-female transgender athletes have an advantage over cisgender females, which is not necessarily the case for all student athletes.

The NCAA and IOC already have policies to address transgender student athletes and these organizations are best positioned to make decisions about sports fairness and safety.

OTHER  
CRITICS  
SAY:

CSSB 15 could lead to lawsuits against the state, which could cost the state money that would be better used for other purposes.