

BILL ANALYSIS

Senate Research Center
89R603 EAS-D

S.B. 406
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

There are concerns that, in order to circumvent S.B. 15, the Save Women's Sports Act, which banned men from participating in female collegiate sports, and H.B. 25, which banned boys from playing in girls' sports from K-12, individuals may seek to amend their birth certificates to align with their gender identity. Currently, Texas law permits such amendments, potentially allowing males to participate in female-designated sports by presenting a modified birth certificate.

S.B. 406 addresses this issue by mandating that birth certificates record an individual's biological sex at birth, defined by physical characteristics, chromosomes, or endogenous profiles. The bill restricts changes to the recorded sex unless correcting a clerical error or when the sex was initially undetermined due to atypical or ambiguous characteristics. This ensures that birth certificates accurately reflect biological sex, thereby upholding the integrity of sex-specific sports categories as established by S.B. 15 and H.B. 25.

By implementing these measures, S.B. 406 aims to prevent the exploitation of legal documentation processes to bypass existing sports participation laws, thereby maintaining fairness and consistency in female athletics across educational institutions in Texas.

As proposed, S.B. 406 amends current law relating to the required inclusion of a person's sex on a birth certificate and prohibited change of sex on the birth certificate of certain persons.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the executive commissioner of the Health and Human Services Commission in SECTION 4 of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 192.002, Health and Safety Code, by adding Subsection (c-1) to require that the form of the birth certificate include a space for recording the biological sex of a person as either male or female.

SECTION 2. Amends Section 192.003, Health and Safety Code, by adding Subsections (f) and (g), as follows:

(f) Requires a person required to file a birth certificate under Section 192.003 (Birth Certificate Filed or Birth Reported), subject to Subsection (g), to file a birth certificate under this section 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 under this section to report the child's biological sex to the local registrar, and the local registrar to list the biological sex in the appropriate space on the birth certificate.

(g) Provides 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. Authorizes the birth certificate to be amended under Section 192.011 (Amending Birth Certificate) at any time

after the child's sex is determined to complete the information on the certificate by including the child's determined sex.

SECTION 3. Amends Section 192.011, Health and Safety Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Creates an exception under Subsection (d).

(d) Prohibits the state registrar, local registrar, or other person who issues a birth certificate under this section from issuing, and prohibits a court from ordering the issuance of, a birth certificate that incorporates the completed or corrected biological sex information for a person unless:

(1) the certificate corrects a clerical error on the original birth certificate;

(2) the original birth certificate does not list the person's biological sex as required by Section 192.003(f) and the certificate completes the information by listing the person's biological sex; or

(3) for a person 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:

(A) corrects the biological sex information listed as either male or female on an original birth certificate by listing the person's determined sex as the other biological sex; or

(B) completes the biological sex information not previously listed on an original birth certificate by listing the person's determined sex.

SECTION 4. Requires the executive commissioner of the Health and Human Services Commission, as soon as practicable after the effective date of this Act, to adopt rules necessary to implement the changes in law made by this Act.

SECTION 5. Effective date: September 1, 2025.