

**You're Out:
A Policy Analysis of TX HB 25
By: Rylee Kitchen**

Abstract

Texas House Bill 25 (HB 25) was enrolled in October 2021 during the third legislative special session of the 87th Texas Legislature (Texas Legislature Online, 2021). The act mandates that youth who wish to participate in school sports must compete on the team which corresponds with the sex on their original birth certificate rather than the team which matches their gender identity or the gender they experience internally (HB 25, 2021). There are nearly 14,000 transgender and gender diverse (TGD) youth living in Texas (Herman et al., 2017). This population experiences a much higher risk of many negative health outcomes compared to their cisgender peers (Johns et al., 2019). HB 25 is discriminatory and will negatively impact TGD youth in Texas. Additionally, HB 25 is one of many proposed pieces of anti-trans legislation that has been pursued by members of the Texas Legislature over the last year. In this policy analysis, I overview existing research on the importance of young people participating in sports, the harmful impact of sports bans on transgender and gender-diverse youth, the way that HB 25 fits into the broader landscape of anti-trans legislation in Texas, and what social workers can do to support transgender youth.

Introduction

Transgender is a blanket term used to describe individuals whose gender identity differs from the gender they were assigned at birth. Transgender individuals may identify as male, female, nonbinary, genderqueer, genderfluid, or a number of other gender expansive labels. Of all the children aged 13 to 17 in the United States, 0.7% of them (about 150,000 youth) identify as transgender (Herman et al., 2017). The state of Texas is home to the second-largest population of transgender and gender diverse (TGD) youth in any state in the nation, with nearly 14,000 transgender children and adolescents within its borders (Herman et al., 2017).

Children and adolescents who are transgender and gender diverse suffer from a much higher risk of mental, physical, and behavioral health problems. Compared to cisgender youth, transgender youth are two to three times more likely to consider or attempt suicide, intentionally harm themselves, or experience mental health disorders such as depression and anxiety (Reisner

et al., 2015). According to a 2017 report from the Centers for Disease Control, transgender high school students are also significantly more likely than their cisgender peers to experience physical and sexual violence, including bullying, dating violence, sexual assault, threat with a weapon, and physical injury (Johns et al., 2017). Although research that specifically focuses on TGD people living in southern states is still limited, studies examining the broader Lesbian, Gay, Bisexual, Transgender, and Queer (LGBTQ+) community show that LGBTQ+ individuals living in Southern states and rural areas experience more discrimination, struggle to access mental health resources, and sometimes find it harder to connect with the LGBTQ+ community (Johnson & Rogers, 2019; Swank et al., 2012).

Despite their vulnerability to negative health outcomes, TGD youth tend to experience better health when they can transition and live openly as the gender they identify with rather than the one they were assigned at birth. Children who transition socially without receiving gender-affirming medical intervention experience depression and anxiety at a rate closer to their cisgender peers when compared to transgender children who do not transition (Durwood et al., 2017). Starting during their transition, many TGD individuals use a different first name than the one they were assigned at birth, referred to as a chosen name. For those TGD individuals who adopt a new name, using their chosen name is linked to a significant reduction in depressive symptoms including suicidal ideation and attempts (Russell et al., 2018; Pollitt et al., 2021). This data clearly illustrates the positive impact that socially transitioning can have on TGD youth.

Sports Participation as a Protective Factor

Another protective factor for youth, regardless of gender, is participation in an athletic team. When TGD individuals can participate in a supportive athletic team, there are many benefits that extend well beyond the obvious physical health benefits of organized physical

activity. Clark and Kosciw (2022) found that participating in sports reduces stress and improves self-esteem for transgender and nonbinary students as well as their cisgender peers. There is mixed evidence to indicate that participation in a sports team or athletic activity may improve academic performance (Rees & Sabia, 2010; Ishihara et al., 2020). Athletic participation can also lead to college scholarships and other academic opportunities among select athletes which makes higher education more accessible. Lastly, participation in a sports team can improve feelings of social connectedness in a more effective way than many other social and extracurricular activities (Hoye et al., 2015).

Although this evidence is promising, there are cases in which the experiences of TGD youth on sports teams are not completely positive. Kulick et al. (2019) found that LGBTQ+ individuals are more likely to feel unsafe in athletic environments. This may explain why the rate of athletic participation is lower among this population (Clark and Kosciw, 2022). However, when TGD youth can participate in athletic environments that are safe and affirming, they tend to experience the same benefits that cisgender athletes do (Clark and Kosciw, 2022).

Policy Analysis of HB 25

House Bill 25 was signed into law on October 25th, 2021 to be effective immediately (Texas Legislature Online, 2021). As previously mentioned, it mandates that TGD youth can only participate in sports teams that correspond with the birth certificate that was issued at or around the time of birth (HB 25, 2021). This specific wording is significant because, under certain circumstances, TGD individuals can change the gender on their birth certificate in the eyes of Texas law (Texas Law Help, 2021). HB 25 does not accept these changes unless the change was made due to a clerical error (HB 25, 2021). In addition to including a sex that does not reflect their gender, the birth certificate that young TGD athletes must present to prove their

eligibility may include a deadname, or a name assigned at birth which an individual no longer uses because it is incongruent with their gender (Sinclair-Palm & Chokly, 2022). Calling an individual by their deadname is a form of misgendering or referring to a transgender individual as a gender other than the one they identify as (McLemore, 2018). Instances of misgendering can lead to feelings of stress and depression, especially in individuals who experience a low level of social support (McLemore, 2018).

The bill's authors, Texas Representatives Valoree Swanson, Stephanie Klick, Cole Hefner, Geanie W. Morrison, and Candy Noble, claim that this bill is intended to “[provide] for interscholastic athletic opportunities for girls” (HB 25, 2021; Texas Legislature Online, 2021). In reality, this bill will most likely have the result of excluding transgender girls from school sports altogether. If a transgender student wishes to participate in a school sports team under the new legislation, the child may be the only girl playing on a team of boys (or any number of other gender-incongruent arrangements) at public and highly visible school events that many of their peers attend – an event that highlights their existence as a trans person to their entire community. For most TGD children, this action is accompanied by a significant amount of risk. Transgender children are over twice as likely as cisgender boys and 1.5 times as likely as cisgender girls to experience bullying both in school and online (Johns et al., 2017). The risk of physical assault and physical threat is also especially high for transgender youth (Johns et al., 2017). Asking transgender children to enter an extremely visible and controversial position within their school community could easily expose these children to additional bullying, harassment, and trauma. It is an unreasonable barrier to participate in what should be a normal, accessible part of childhood: participating in team sports.

Unfortunately, if youth are unwilling to participate in a sports team that does not correspond with their gender, this new law will bar them from participating in school sports altogether. While enacted, this policy will exclude the majority of transgender children from participating in athletics. This effective exclusion based on gender and sex is discriminatory. Some supporters of this bill argue that children of different sexes have different physical abilities and that this justifies forcing trans students to participate on the team of their sex. However, this is true of all children, who vary genetically in height, weight, ability to build muscle mass, and agility. If cisgender children would not be excluded on the grounds of being taller or stronger than their peers, then neither should transgender children.

The Anti-Trans Policy Landscape in Texas

There are many potential anti-trans policies being considered in Texas and other states. Although HB 25 is discriminatory and has harmful consequences, there are anti-trans bills with even more dangerous impacts being considered. Last year, Texas legislators proposed over 30 bills that would negatively impact or discriminate against transgender and gender-diverse Texans (Equality Texas, 2021). Among the proposed bills were efforts to undermine protections against discrimination for transgender Texans, expand religious exemptions for providing services to LGBTQ+ individuals, and prohibit TGD youth from updating the gender marker on their birth certificate (Equality Texas, 2021). Many attempts were made to prohibit TGD children from receiving gender-affirming medical healthcare. These efforts returned to the forefront of public discussion in February 2022 when Governor Greg Abbott directed child welfare offices to equate gender-affirming healthcare for transgender children with child abuse (Munce, 2021; Dey & Harper, 2022). Although HB 25 was among the first of these many discriminatory efforts to pass in the legislature, it is not the only anti-trans bill being pursued in Texas.

Furthermore, certain Texas legislators have proven themselves to be persistent in their pursuit of policies that discriminate against transgender youth and adults. The sports ban outlined in HB 25 was rejected in the Texas legislature six times in 2021 alone before finally passing on the seventh attempt in the third legislative special session (Equality Texas, 2022; Texas Legislature Online, 2021). The passage of HB 25 is foreboding in the context of the other, more severe attacks on the liberties of TGD children and adolescents being brought to the state's congressional floor. With it, opponents of trans rights have displayed a determination to pass discriminatory legislation at any cost no matter how long it takes.

Implications for Social Workers

HB 25 conflicts strongly with the ethical core values outlined in the National Association of Social Workers (NASW) Code of Ethics. In discriminating against transgender children, it violates the principle of social justice that social workers strive to uphold (National Association of Social Workers, 2021). Due to the variety of practice settings that social workers are employed in, there are many opportunities for social workers to implement supportive practices in their work, especially those employed in schools.

School social workers should actively work to form policies that will best support transgender students who choose to participate in athletics under this new law. These students may benefit from support and counseling and may require intervention to prevent or extinguish bullying and harassment. School social workers can also speak with administrators about ways to include transgender students who are interested in athletics but do not wish to play on a team that does not accurately reflect their gender. This could include ensuring there are opportunities for transgender students in sports or even considering the possibility of adding a co-ed sports team that accepts interested students of all genders.

When it comes to research, gaps still exist in the literature surrounding the experiences of TGD youth in school sports. Continuing to investigate these experiences, both positive and negative, could help social workers advocate for more inclusive legislation that may replace HB 25 in the future. Social workers in research settings should also consider investigating ways to make sports environments safer for TGD youth as studies have shown that when these students are included, they are not always accepted and may feel unsafe (Kulick et al., 2019).

All Texan social workers can advocate for changes to the new law established in HB 25. They may network with professional organizations, such as their local NASW chapter, to publish a statement outlining the impact of HB 25 on transgender children. Another helpful legislative victory would be the passage of comprehensive anti-discrimination legislation for LGBTQ+ individuals which as of now does not exist at the state level in Texas or at the federal level in the United States (Freedom For All Americans, 2022). One such law that was considered as recently as 2021 is the Equality Act, which would outlaw all forms of discrimination against sexually-diverse and gender-diverse Americans (H.R.5, 2021). The Equality Act passed in the U.S. House of Representatives in March of 2021 but has not been read on the Senate floor since (H.R.5, 2021). Such a bill would be life-changing for transgender individuals across the country, especially in states such as Texas, where normal aspects of transgender children's lives (e.g. their use of public restrooms, their participation on sports teams, and their ability to dress in gender-affirming clothing in public) often become the subject of intense, highly partisan political debate.

Conclusion

The rules enacted on student-athletes in TX HB 25 do not benefit cisgender youth and could easily put transgender and gender-diverse youth into harmful situations or limit their access to helpful resources. Existing literature about the benefits of sports participation supports

the repealing or overturning of HB 25. Social workers who wish to support their transgender clients should engage in advocacy efforts to repeal HB 25 and pass comprehensive non-discrimination laws to prevent further harm to transgender individuals in Texas.

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