

# WEST VIRGINIA LEGISLATURE

## 2019 REGULAR SESSION

**Enrolled**

### **Senate Bill 605**

BY SENATORS RUCKER, BOSO, MARONEY, TARR,

BALDWIN, CLINE, AND SYPOLT

[Passed March 8, 2019; in effect 90 days from passage]

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SECRETARY OF STATE

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FILED

SB 605

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1 AN ACT to amend and reenact §18-2-25a and §18-2-25b of the Code of West Virginia, 1931, as  
2 amended, all relating to enhancing safety of athletes participating in interscholastic  
3 athletics at a school that is a member of the West Virginia Secondary School Activities  
4 Commission; modifying qualifications of athletic trainers and physical therapists for certain  
5 purposes; requiring the Secondary School Activities Commission to submit certain head  
6 injury and concussion-related reports to the Legislative Oversight Commission on Health  
7 and Human Resources Accountability; providing that schools that do not follow  
8 established protocol on concussions and head injuries in interscholastic athletics are  
9 subject to disciplinary actions by the Secondary School Activities Commission; and  
10 providing that schools that do not follow the requirements of their emergency action plans  
11 for athletics are subject to disciplinary actions by the Secondary School Activities  
12 Commission.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-25a. Management of concussions and head injuries in athletics at West Virginia  
Secondary School Activities Commission member high school or middle school.**

1 (a) The Legislature makes the following findings:  
2 (1) Concussions are one of the most commonly reported injuries in children and  
3 adolescents who participate in sports and recreational activities. The Centers for Disease Control  
4 and Prevention estimates that as many as 3.9 million sports-related and recreation-related  
5 concussions occur in the United States each year;  
6 (2) A concussion is caused by a blow or motion to the head or body that causes the brain  
7 to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a  
8 concussion or head injury is not properly evaluated and managed;  
9 (3) Concussions are a type of brain injury that can range from mild to severe and can  
10 disrupt the way the brain normally functions;

11 (4) Concussions can occur in any organized or unorganized sport or recreational activity  
12 and can result from a fall or from players colliding with each other or with obstacles;

13 (5) Concussions occur with or without loss of consciousness, but the vast majority occur  
14 without loss of consciousness;

15 (6) The interscholastic athlete who continues to play or practice with a concussion or  
16 symptoms of head injury is especially vulnerable to greater injury and even death; and

17 (7) Even with generally recognized return-to-play-and-practice standards for concussion  
18 and head injury, some affected interscholastic athletes are prematurely returned to play or  
19 practice resulting in increased risk of physical injury or death to the athletes in the state of West  
20 Virginia.

21 (b) For the purposes of this section, "interscholastic athlete" means any athlete who is  
22 participating in interscholastic athletics at a high school or middle school that is a member of the  
23 West Virginia Secondary School Activities Commission. "Licensed health care professional"  
24 means a health care provider whose licensed scope of practice includes the ability to diagnose  
25 and treat an injury or disease.

26 (c) The West Virginia Secondary School Activities Commission shall promulgate rules  
27 pursuant to §18-2-25 of this code that address concussions and head injuries in interscholastic  
28 athletes: *Provided*, That prior to state board approval and notwithstanding the exemption provided  
29 in §29A-1-3 of this code, the state board shall submit the rule to the Legislative Oversight  
30 Commission on Education Accountability pursuant to §29A-3B-9 of this code.

31 (d) The rules required by this section shall include, but are not limited to, the following:

32 (1) Guidelines and other pertinent information to inform and educate appropriate school  
33 administrators, coaches, interscholastic athletes, and their parents or guardians of the nature and  
34 risk of concussion and head injury including the risks of continuing to play or practice after a  
35 concussion or head injury;

36 (2) A concussion and head injury information sheet that shall be signed and returned by  
37 the interscholastic athlete and the athlete's parent or guardian on an annual basis before the  
38 interscholastic athlete begins practice or competition;

39 (3) A requirement that each head coach of an interscholastic sport at a high school or  
40 middle school who is a member of the West Virginia Secondary School Activities Commission  
41 complete a commission-approved concussion and head injury recognition and return-to-play  
42 protocol course annually;

43 (4) A requirement that an interscholastic athlete who is suspected by a licensed health  
44 care professional or by his or her head coach or licensed or registered athletic trainer of having  
45 sustained a concussion or head injury in a practice or game shall be removed from competition  
46 at that time;

47 (5) A requirement that an interscholastic athlete who has been removed from play or  
48 practice may not return to play or practice until the athlete is evaluated by a licensed health care  
49 professional trained in the evaluation and management of concussions and receives written  
50 clearance to return to play and practice from the licensed health care professional;

51 (6) A list of the respective categories of licensed health care professionals including, but  
52 not limited to, licensed physical therapists and licensed or registered athletic trainers who, if  
53 properly trained in the evaluation and management of concussions, are authorized to provide  
54 written clearance for the interscholastic athlete to return to play; and

55 (7) A requirement that all member schools must submit a report to the West Virginia  
56 Secondary School Activities Commission within 30 days of an interscholastic athlete suffering or  
57 being suspected of suffering a concussion or head injury in a practice or game. The report must  
58 state whether an evaluation by a licensed health care professional verified that a concussion or  
59 head injury was actually suffered, whether the athlete received written clearance to return to play  
60 or practice and, if written clearance was given, the number of days between the incident and the  
61 actual return to play or practice. If written clearance to return to play is given after 30 days of the

62 incident, a report update shall be submitted. The West Virginia Secondary School Activities  
63 Commission shall compile and submit the reports to the appropriate state and national  
64 organization or agencies to analyze and make determinations on whether the rule required by  
65 this section needs to be amended or if equipment worn by interscholastic athletes needs to be  
66 changed accordingly. The West Virginia School Activities Commission also shall submit the  
67 reports to the Legislative Oversight Commission on Health and Human Resources Accountability.

68 (e) Any member school not complying with the requirements of this section, and rules  
69 promulgated thereof, shall be subject to the disciplinary actions ordered by the West Virginia  
70 Secondary School Activities Commission: *Provided*, That the West Virginia Secondary School  
71 Activities Commission shall promulgate rules to establish guidelines for noncompliance and  
72 related disciplinary actions: *Provided, however*, That prior to state board approval and  
73 notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the  
74 rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9  
75 of this code.

**§18-2-25b. Emergency action plans for athletics.**

1 (a) No later than August 1, 2017, the West Virginia Secondary School Activities  
2 Commission shall promulgate rules to establish guidelines for emergency action plans for athletics  
3 designed to respond to athletic injuries that occur on school property during school-sponsored  
4 athletic events. The rules shall address, at a minimum:

- 5 (1) Protocols for practices and for games;
- 6 (2) Directives for personnel or equipment which should be available on sports fields or in  
7 school buildings for both girls' and boys' teams; and
- 8 (3) Training needed for school or volunteer personnel on an as-needed basis.

9 (b) All member schools shall submit an emergency action plan for athletics to the West  
10 Virginia Secondary School Activities Commission and their county boards of education by  
11 December 31, 2017: *Provided*, That the county boards shall keep the emergency plan of each

12 school in the county on file and, unless otherwise provided for, provide a copy of each school's  
13 emergency action plan for athletics to each local emergency response agency that has a role in  
14 the plan.

15 (c) Any person licensed by, or certified or registered in, this state to provide health care or  
16 professional health care services who renders services of a medical nature to students under this  
17 section, who has an agreement with a county board of education that defines the scope of his or  
18 her duties as such, and for which no remuneration is demanded or received, is not liable for any  
19 civil damages as a result of rendering such services, or as a result of any act or failure to act in  
20 providing or arranging further medical treatment.

21 (1) The limitation of liability only applies if the services are provided in accordance with  
22 acceptable standards of care and the licensed health care provider is not grossly negligent or  
23 does not demonstrate willful misconduct.

24 (2) Any liability is limited to the applicable limits of the professional liability insurance  
25 provided by the State Board of Risk and Insurance Management in effect at the time.

26 (3) Nothing in this subsection nullifies the immunity from civil liability as granted pursuant  
27 to §55-7-15 of this code or federal law except to the extent to which the actions are covered within  
28 the applicable limits of the professional liability insurance provided by the State Board of Risk and  
29 Insurance Management pursuant to this section and in effect at the time.

30 (d) Any member school not complying with the requirements of this section, and rules  
31 promulgated thereof, shall be subject to the disciplinary actions ordered by the West Virginia  
32 Secondary School Activities Commission: *Provided*, That the West Virginia Secondary School  
33 Activities Commission shall promulgate rules to establish guidelines for noncompliance and  
34 related disciplinary actions: *Provided, however*, That prior to state board approval and  
35 notwithstanding the exemption provided in §29A-1-3 of this code, the state board shall submit the  
36 rule to the Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9  
37 of this code.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

  
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Chairman, Senate Committee

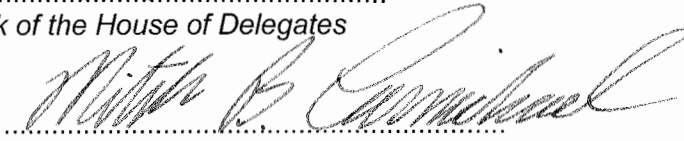
  
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Chairman, House Committee

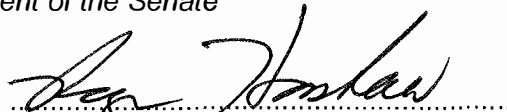
Originated in the Senate.

In effect 90 days from passage.

  
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Clerk of the Senate

  
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Clerk of the House of Delegates

  
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President of the Senate

  
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Speaker of the House of Delegates

FILED  
2019 MAR 25 P 5:03  
OFFICE WEST VIRGINIA  
SECRETARY OF STATE

The within is approved this the 25<sup>th</sup>  
Day of March....., 2019.

  
.....  
Governor



PRESENTED TO THE GOVERNOR

11:22 AM

Time 11:16am