

WEST VIRGINIA LEGISLATURE

2018 REGULAR SESSION

Introduced

Senate Bill 11

BY SENATORS STOLLINGS, OJEDA, PREZIOSO, PLYMALE,

AND TAKUBO

[Introduced January 10, 2018; Referred
to the Committee on Health and Human Resources;
and then to the Committee on Education]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-2-41; to amend and reenact §18-10A-15 of said code; and to amend said
 3 code by adding thereto a new section, designated §18B-14-3, all relating to traumatic brain
 4 injury; setting forth findings; requiring State Board of Education, Higher Education Policy
 5 Commission and Council for Community and Technical College Education rules
 6 establishing Return-to-Learn protocols; requiring concussion management team any time
 7 a student suffers a concussion; setting forth members; prohibiting student from returning
 8 to participation in regular classroom activities without adaptive academic accommodations
 9 until authorized; requiring appropriate parental releases to foster communication and to
 10 allow data to be submitted to the Statewide Concussion Surveillance System; requiring
 11 county superintendent designee or designee of institution president, as applicable, to
 12 perform certain duties; requiring all school districts or state institutions of higher education,
 13 as applicable, to report certain information for inclusion in the Statewide Concussion
 14 Surveillance System; expanding provisions relating to the West Virginia University Center
 15 for Excellence in Disabilities central registry of persons who sustain certain head injuries;
 16 and requiring the West Virginia University Center for Excellence in Disabilities to establish
 17 a Statewide Concussion Surveillance System to house certain data.

Be it enacted by the Legislature of West Virginia:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-41. Elementary and secondary education return-to-learn protocols.

1 (a) The Legislature finds that:

2 (1) The Centers for Disease Control and Prevention defines concussion as a type of
 3 traumatic brain injury caused by a bump, blow or jolt to the head or by a hit to the body that causes
 4 the head and brain to move rapidly back and forth;

5 (2) Students who experience a concussion are more successful when provided adaptive
6 academic accommodations within the first twenty-eight days after injury;

7 (3) The West Virginia University Center for Excellence in Disabilities has developed
8 Return-to-Learn recommendations for educational institutions to increase the awareness of
9 concussion as a brain injury that requires coordinated management for the best possible student
10 outcomes.

11 (b) The state board shall promulgate rules in accordance with §29A-3B-1 et seq. of this
12 code establishing a Return-to-Learn protocol in accordance with the following:

13 (1) Any time a student suffers a concussion, the school shall create a concussion
14 management team that includes the student, the student's parent or guardian, a representative
15 of the school and a licensed health care professional. The concussion management team shall
16 monitor and report symptoms to the administrator designated by the county superintendent
17 pursuant to subdivision (7) of this subsection;

18 (2) The rule shall include a list of the respective categories of licensed health care
19 professionals who, if properly trained in evaluation and management of concussions, qualify as a
20 licensed health care professional for the purposes of membership on a concussion management
21 team pursuant to subdivision (1) of this subsection and qualify to authorize a student to participate
22 in regular classroom activities without adaptive academic accommodations pursuant to
23 subdivision (5) of this subsection;

24 (3) A concussion management team shall convene within forty-eight to seventy-two hours
25 after a concussion is reported;

26 (4) The concussion management team shall meet weekly to evaluate the student's
27 improvement, with information from family and medical professionals;

28 (5) No student may return to participation in regular classroom activities without adaptive
29 academic accommodations until authorized by the licensed health care professional and the
30 concussion management team;

31 (6) Schools shall obtain the appropriate parental releases to foster communication and to
32 allow data to be submitted to the Statewide Concussion Surveillance System established by the
33 West Virginia University Center for Excellence in Disabilities pursuant to §18B-14-3 of this code;

34 (7) A county superintendent shall designate an administrator, such as the director of
35 special education, to:

36 (A) Coordinate annual concussion management team training from the West Virginia
37 University Center for Excellence in Disabilities. The training may be online, in person or both;

38 (B) Implement standard procedures for students who need adaptive academic
39 accommodations after twenty-eight days; and

40 (C) Report required information to the Statewide Concussion Surveillance System
41 pursuant to subdivision (8) of this subsection and

42 (8) For inclusion in the Statewide Concussion Surveillance System established pursuant
43 to §18B-14-3 of this code, all county school districts within the state shall report to the West
44 Virginia University Center for Excellence in Disabilities monthly data for each student with an
45 identified or diagnosed traumatic brain injury, to include mild concussion. Subject to obtaining
46 the appropriate parental releases, the report shall include name, date of birth, county of residence,
47 mode of injury, date of injury, date educational adjustments were implemented, date educational
48 adjustments were discontinued and such additional information as may be considered necessary
49 by the West Virginia University Center for Excellence in Disabilities.

ARTICLE 10A. REHABILITATION SERVICES.

**§18-10A-15. Establishment of a central registry of traumatic head injury; ~~acute care facility~~
health and social agencies required to report head injury.**

1 (a) The West Virginia University Center for Excellence in Disabilities shall maintain a
2 central registry of persons who sustain moderate to severe head injury other than through
3 disease, whether or not permanent disability results, in order to facilitate the provision of
4 appropriate services through referral and collaboration with the division and other state agencies

5 for such persons.

6 (b) ~~The current acute care facility~~ Every public and private health agency, private and
 7 public social agency, and attending physician shall report to the Center for Excellence in
 8 Disabilities by the most expeditious means within seven days after identification of any person
 9 sustaining such an injury. The report shall contain the name, ~~and residence of the person and the~~
 10 ~~name of the current acute care facility~~ date of birth, phone number, mailing address, county of
 11 residence, name of reporting agency with contact information and such additional information as
 12 may be considered necessary by the West Virginia University Center for Excellence in Disabilities.

13 (c) Permission to release the medical records of a patient is not required since
 14 maintenance of a state registry is protected and not a violation of the Health Insurance Portability
 15 and Accountability Act (HIPAA). Data obtained under this section directly from the medical
 16 records of a patient is for the confidential use of the West Virginia University Center for Excellence
 17 in Disabilities and the persons or public or private entities that the center determines are
 18 necessary to carry out the intent of this section. The data is privileged and may not be divulged
 19 or made public in a manner that discloses the identity of an individual whose medical records
 20 have been used for obtaining data under this section.

CHAPTER 18B. HIGHER EDUCATION.

ARTICLE 14. MISCELLANEOUS.

§18B-14-3. Return-to-Learn protocols for higher education; creation of Statewide Concussion Surveillance System.

1 (a) The Legislature finds that:

2 (1) The Centers for Disease Control and Prevention defines concussion as a type of
 3 traumatic brain injury caused by a bump, blow or jolt to the head or by a hit to the body that causes
 4 the head and brain to move rapidly back and forth;

5 (2) Students who experience a concussion are more successful when provided adaptive

6 academic accommodations within the first twenty-eight days after injury;

7 (3) The West Virginia University Center for Excellence in Disabilities has developed
8 Return-to-Learn recommendations for education institutions to increase the awareness of
9 concussion as a brain injury that requires coordinated management for the best possible student
10 outcomes.

11 (b) The commission and council shall propose rules for legislative approval in accordance
12 with §29A-3A-1 et seq. of this code establishing a Return-to-Learn protocol in accordance with
13 the following:

14 (1) Any time a student suffers a concussion, the institution shall create a concussion
15 management team that includes the student, the student's parent or guardian if the student is
16 under eighteen, a representative of the institution and a licensed health care professional. The
17 concussion management team shall monitor and report symptoms to the administrator designated
18 by the president of the institution pursuant to subdivision (7) of this subsection;

19 (2) The rule shall include a list of the respective categories of licensed health care
20 professionals who, if properly trained in evaluation and management of concussions, qualify as a
21 licensed health care professional for the purpose of membership on a concussion management
22 team pursuant to subdivision (1) of this subsection and qualify to authorize a student to participate
23 in regular classroom activities without adaptive academic accommodations pursuant to
24 subdivision (5) of this subsection;

25 (3) A concussion management team shall convene within forty-eight to seventy-two hours
26 after a concussion is reported;

27 (4) The concussion management team shall meet weekly to evaluate the student's
28 improvement, with information from family and medical professionals;

29 (5) No student may return to participation in regular classroom activities without adaptive
30 academic accommodations until authorized by the licensed health care professional and the
31 concussion management team;

32 (6) Institutions shall obtain the appropriate student or parental releases to foster
33 communication and to allow data to be submitted to the Statewide Concussion Surveillance
34 System established by the West Virginia University Center for Excellence in Disabilities pursuant
35 to subsection (c) of this section;

36 (7) The president of the institution shall designate an administrator to:

37 (A) Coordinate annual concussion management team training from the West Virginia
38 University Center for Excellence in Disabilities. The training may be online, in person or both;

39 (B) Implement standard procedures for students who need adaptive academic
40 accommodations after twenty-eight days; and

41 (C) Report required information to the Statewide Concussion Surveillance System
42 pursuant to subdivision (8) of this subsection; and

43 (8) For inclusion in the Statewide Concussion Surveillance System established pursuant
44 to subsection (c) of this section, all state institutions of higher education shall report to the West
45 Virginia University Center for Excellence in Disabilities monthly data for each student with an
46 identified or diagnosed traumatic brain injury, to include mild concussion. Subject to obtaining
47 the appropriate student or parental releases, the report shall include name, date of birth, county
48 of residence, mode of injury, date of injury, date educational adjustments were implemented, date
49 educational adjustments were discontinued and such additional information as may be considered
50 necessary by the West Virginia University Center for Excellence in Disabilities.

51 (c) The West Virginia University Center for Excellence in Disabilities shall establish a
52 Statewide Concussion Surveillance System to house data required to be reported pursuant to this
53 section and §18-2-41 of this code.

NOTE: The purpose of this bill is to require State Board of Education, Higher Education Policy Commission and Council for Community and Technical College Education rules establishing Return-to-Learn protocols applicable when a student suffers a concussion. The bill expands the provisions relating to the West Virginia University Center for Excellence in Disabilities central registry of persons who sustain certain head injuries. The

bill requires the West Virginia University Center for Excellence in Disabilities to establish a Statewide Concussion Surveillance System to house certain data.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.