

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

**Introduced**

### **House Bill 4400**

BY DELEGATE HORNBUCKLE

[Introduced January 26, 2022; Referred to the Committee  
on Education then Government Organization then the  
Judiciary]

1 A BILL to amend and reenact §18-2-25 and §18-2-25a of the Code of West Virginia, 1931, as  
 2 amended, all relating to granting jurisdiction to supervise youth sport league athletic  
 3 events to county boards of education and the West Virginia Secondary School Activities  
 4 Commission; requiring schools and youth sport leagues to implement certain safety  
 5 measures during athletic events; authorizing fines; and requiring rulemaking.

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

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

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities of secondary schools and youth sport leagues; delegation of authority to West Virginia Secondary School Activities Commission; authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools; ~~and, by home-schooled students~~ and youth sport leagues.**

1 (a) The county boards of education shall exercise the control, supervision, and regulation  
 2 of all interscholastic and youth sport league athletic events, and other extracurricular activities of  
 3 the students in public secondary schools, and of those schools of their respective counties, and  
 4 all other youths under 18 years of age regardless of student status. The county board of education  
 5 may delegate control, supervision, and regulation of interscholastic athletic events and band  
 6 activities to the West Virginia Secondary School Activities Commission.

7 (b) The West Virginia Secondary School Activities Commission is composed of the  
 8 principals, or their representatives, of those secondary schools whose county boards of  
 9 education, and youth sport leagues have certified in writing to the State Superintendent of Schools  
 10 that they have elected to delegate the control, supervision, and regulation of their interscholastic  
 11 and youth sport league athletic events and band activities of the students in the public secondary  
 12 schools in their respective counties and youth league athletic events to the commission. The West  
 13 Virginia Secondary School Activities Commission may exercise the control, supervision, and  
 14 regulation of interscholastic and youth sport league athletic events and band activities of

15 secondary schools, delegated to it pursuant to this section. The rules of the West Virginia  
16 Secondary School Activities Commission shall contain a provision for a proper review procedure  
17 and review board and be promulgated in accordance with the provisions of chapter 29A of this  
18 code, but shall, in all instances, be subject to the prior approval of the state board. The West  
19 Virginia Secondary School Activities Commission, may, with the consent of the State Board of  
20 Education, incorporate under the name of West Virginia Secondary School Activities Commission,  
21 Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this code. County  
22 boards of education may expend moneys for and pay dues to the West Virginia Secondary School  
23 Activities Commission, and all moneys paid to the commission, as well as moneys derived from  
24 any contest or other event sponsored by the commission, are quasi-public funds as defined in  
25 §18-5-1 *et seq.* of this code, and the funds of the commission are subject to an annual audit by  
26 the State Tax Commissioner.

27 (c) The West Virginia Secondary School Activities Commission shall promulgate  
28 reasonable rules providing for the control, supervision, and regulation of the interscholastic  
29 athletic events and other extracurricular activities of private and parochial secondary schools ~~as~~  
30 and athletic events in youth sport leagues and elect to delegate to the commission control,  
31 supervision, and regulation, upon the same terms and conditions, subject to the same rules and  
32 requirements and upon the payment of the same fees and charges as those provided for public  
33 secondary schools. Any such private or parochial secondary school shall receive any monetary  
34 or other benefits in the same manner and in the same proportion as any public secondary school.

35 (d) Notwithstanding any other provision of this section, or the commission's rules, the  
36 commission shall consider eligible for participation in interscholastic athletic events and other  
37 extracurricular activities of secondary schools a student who is receiving home instruction  
38 pursuant to §18-8-1(c) of this code and who:

39 (1) Has demonstrated satisfactory evidence of academic progress for one year in  
40 compliance with the provisions of that subsection: *Provided*, That the student's average

41 test results are within or above the fourth stanine in all subject areas;

42 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the  
43 applicable virtual instruction policy of the county board in which the home-schooled student lives  
44 and the State Board;

45 (3) Has not reached the age of 19 by August 1 of the current school year;

46 (4) Is an amateur who receives no compensation but participates solely for the  
47 educational, physical, mental, and social benefits of the activity;

48 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School  
49 Activities Commission and the county board in which the home-schooled student lives; and

50 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission  
51 governing awards, all-star games, parental consents, physical examinations, and vaccinations  
52 applicable to all high school athletes.

53 Eligibility is limited to participation in interscholastic athletic events and other  
54 extracurricular activities at the public secondary school serving the attendance zone in which the  
55 student lives: *Provided*, That home-schooled students who leave a member school during the  
56 school year are subject to the same transfer protocols that apply to member-to-member transfers.  
57 Reasonable fees may be charged to the student to cover the costs of participation in  
58 interscholastic athletic events and other extracurricular activities.

59 (e) The West Virginia Secondary School Activities Commission shall recognize  
60 preparatory athletic programs, whose participants attend a secondary school in West Virginia for  
61 academic instruction, as nonparticipating members of the commission solely for the purpose of  
62 competing on the national level: *Provided*, That the preparatory athletic program shall pay the  
63 same fees as member schools. Such recognition does not entitle the preparatory athletic program  
64 to compete against a member school during the regular season or in any commission state  
65 championship events. The commission may promulgate an emergency rule pursuant to  
66 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

67 (f)(1) Pursuant to subsection (c) of this section the West Virginia Secondary School  
68 Activities Commission shall specifically address in those rules the following:

69 (A) Automated external defibrillator (AED) devices shall be present at all sporting events;

70 (B) Coaches and athletic training staff shall have received training in proper use of AED  
71 devices;

72 (C) Sports participants and sports staff participating in football, wrestling, and other impact  
73 sports shall watch training videos to understand concussion, its prevention, and to identify signs  
74 of potential concussion;

75 (D) High school and middle school sporting events, but not regular physical education  
76 classes, shall have an ambulance on site; and

77 (E) Schools and youth leagues shall make reasonable attempts to teach new football  
78 tackle and wrestling techniques to avoid concussion injuries.

79 (2) Schools, youth leagues, coaches, or athletic training staff who violate the provisions of  
80 subdivision (1) of this subsection, or the rules promulgating those provisions, shall result in a  
81 moderate fine or civil penalty against the school or youth league. The fines shall come from their  
82 respective budgets.

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

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 or youth sport league athlete who continues to play or practice with  
16 a concussion or symptoms of head injury is especially vulnerable to greater injury and even death;  
17 and

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

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

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

31 Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of this  
32 code.

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

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

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

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

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

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

54 (6) A list of the respective categories of licensed health care professionals including, but  
55 not limited to, licensed physical therapists and licensed or registered athletic trainers who, if

56 properly trained in the evaluation and management of concussions, are authorized to provide  
57 written clearance for the interscholastic or youth sport league athlete to return to play; and

58 (7) A requirement that all member schools and youth sport leagues ~~must~~ shall submit a  
59 report to the West Virginia Secondary School Activities Commission within 30 days of an  
60 interscholastic or youth sport league athlete suffering or being suspected of suffering a  
61 concussion or head injury in a practice or game. The report ~~must~~ shall state whether an evaluation  
62 by a licensed health care professional verified that a concussion or head injury was actually  
63 suffered, whether the athlete received written clearance to return to play or practice and, if written  
64 clearance was given, the number of days between the incident and the actual return to play or  
65 practice. If written clearance to return to play is given after 30 days of the incident, a report update  
66 shall be submitted. The West Virginia Secondary School Activities Commission shall compile and  
67 submit the reports to the appropriate state and national organization, youth sport league, or  
68 agencies to analyze and make determinations on whether the rule required by this section needs  
69 to be amended or if equipment worn by interscholastic and youth sport league athletes needs to  
70 be changed accordingly. The West Virginia School Activities Commission also shall submit the  
71 reports to the Legislative Oversight Commission on Health and Human Resources Accountability.

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

NOTE: The purpose of this bill is to grant jurisdiction to supervise youth sport league



athletic events to county boards of education and the West Virginia Secondary School Activities Commission. The bill requires schools and youth sport leagues to implement certain safety measures during athletic events. The bill authorizes fines and requires rulemaking.

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