

WEST VIRGINIA LEGISLATURE

2023 REGULAR SESSION

Introduced

House Bill 2357

By Delegate Hornbuckle

[Introduced January 11, 2023; 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 events
 3 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 all
 4 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 education,
 9 and youth sport leagues have certified in writing to the State Superintendent of Schools that they
 10 have elected to delegate the control, supervision, and regulation of their interscholastic and youth
 11 sport league athletic events and band activities of the students in the public secondary schools in
 12 their respective counties and youth league athletic events to the commission. The West Virginia
 13 Secondary School Activities Commission may exercise the control, supervision, and regulation of
 14 interscholastic and youth sport league athletic events and band activities of secondary schools,

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

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

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

38 (1) Has demonstrated satisfactory evidence of academic progress for one year in
39 compliance with the provisions of that subsection: *Provided*, That the student's average
40 test results are within or above the fourth stanine in all subject areas;

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

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

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

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

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

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

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

66 (f) Pursuant to subsection (c) of this section the West Virginia Secondary School Activities

67 Commission shall specifically address in those rules the following:

68 (1) Automated external defibrillator (AED) devices shall be present at all sporting events;

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

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

74 (4) High school and middle school sporting events, but not regular physical education
75 classes, shall have an ambulance onsite; and

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

78 (6) Schools, youth leagues, coaches, or athletic training staff who violate the provisions of
79 subdivision (1) of this subsection, or the rules promulgating those provisions, shall result in a
80 moderate fine or civil penalty against the school or youth league. The fines shall come from their
81 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 to
7 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 the
39 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 by
46 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 a
51 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 professional;

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

57 (7) A requirement that all member schools and youth sport leagues ~~must~~ shall submit a
58 report to the West Virginia Secondary School Activities Commission within 30 days of an
59 interscholastic or youth sport league athlete suffering or being suspected of suffering a concussion
60 or head injury in a practice or game. The report ~~must~~ shall state whether an evaluation by a

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

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