

By: Deuell

S.B. No. 835

A BILL TO BE ENTITLED

AN ACT

relating to prevention, treatment, and management of concussions affecting public and private school students participating in interscholastic athletics.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 38, Education Code, is amended by adding Subchapter D to read as follows:

SUBCHAPTER D. PREVENTION, TREATMENT, AND MANAGEMENT OF  
CONCUSSIONS AFFECTING STUDENT ATHLETES

Sec. 38.151. DEFINITIONS. In this subchapter:

(1) "Advanced practice nurse" has the meaning assigned by Section 301.152, Occupations Code.

(2) "Athletic trainer" has the meaning assigned by Section 451.001, Occupations Code.

(3) "Coach" includes an assistant coach.

(4) "Concussion" means a brain injury resulting from an impact to the head or body and causing a change in brain function and a temporary or prolonged altered mental state.

(5) "Neuropsychologist" means a person who:

(A) holds a license to engage in the practice of psychology issued under Section 501.252, Occupations Code; and

(B) specializes in the practice of neuropsychology.

(6) "Physician" means a person who holds a license to

practice medicine in this state.

(7) "Physician assistant" means a person who holds a license issued under Chapter 204, Occupations Code.

Sec. 38.152. APPLICABILITY. Except as provided by Section 38.158, this subchapter applies to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by:

(1) a school district, public school, including an open-enrollment charter school, or private school;

(2) the University Interscholastic League; or

(3) the Texas Association of Private and Parochial Schools or a successor organization.

Sec. 38.153. REQUIRED ANNUAL FORM ACKNOWLEDGING CONCUSSION INFORMATION. A student may not participate in an interscholastic athletic activity for a school year until both the student and the student's parent, guardian, or other person with legal authority to make medical decisions for the student have signed a form for that school year that acknowledges receiving and reading written information that explains concussion prevention, symptoms, treatment, and management and that includes guidelines for safely resuming participation in an athletic activity following a concussion. The form must be approved by the University Interscholastic League or by the Texas Association of Private and Parochial Schools or a successor organization, as applicable.

Sec. 38.154. CONCUSSION MANAGEMENT TEAM. (a) The governing body of each school district, open-enrollment charter school, and private school with students enrolled who participate

1 in an interscholastic athletic activity shall designate a  
2 concussion management team.

3 (b) Each concussion management team must include a  
4 physician and, to the greatest extent practicable, an athletic  
5 trainer and a neuropsychologist. If it is not practicable to  
6 include on the team an athletic trainer or a neuropsychologist, the  
7 team must include a physician assistant or advanced practice nurse.  
8 Each member of the team must have training in the evaluation,  
9 treatment, and management of concussions.

10 (c) To be eligible to serve on a concussion management team,  
11 a person must comply with Section 38.156(e).

12 Sec. 38.155. RESTRICTIONS ON PARTICIPATION IN PRACTICE OR  
13 COMPETITION FOLLOWING CONCUSSION. (a) A student who a coach,  
14 athletic trainer, or physician believes might have sustained a  
15 concussion during an interscholastic athletics practice or  
16 competition shall be removed from the practice or competition  
17 immediately and may not be permitted to practice or compete during  
18 the 24-hour period following the impact that is believed to have  
19 caused a concussion. Before the student may be allowed to practice  
20 or compete after that period:

21 (1) the student must be evaluated, using established  
22 medical protocols based on peer-reviewed scientific evidence, by  
23 the physician on the concussion management team designated under  
24 Section 38.154 and by at least one other member of the team;

25 (2) a return-to-play protocol based on peer-reviewed  
26 scientific evidence for the student's return to practice and  
27 competition must be developed by the concussion management team, in

collaboration with the student, the student's parent, guardian, or other person with legal authority to make medical decisions for the student, and appropriate school employees;

(3) the physician on the concussion management team and at least one other member of the team must sign a statement indicating that, in the professional judgment of the person signing, it is safe for the student to return to practice and competition; and

(4) both the student and the student's parent, guardian, or other person with legal authority to make medical decisions for the student must sign a consent form indicating that the person signing:

(A) participated in the return-to-play protocol development process;

(B) understands the risks associated with returning to practice or competition; and

(C) will comply with each directive established by the protocol.

(b) An athletic trainer, if an athletic trainer is a member of the concussion management team, or other person employed by a school district, open-enrollment charter school, or private school to perform the duties generally performed by an athletic trainer shall enforce each directive established by the return-to-play protocol.

(c) The school district superintendent or the superintendent's designee or, in the case of an open-enrollment charter school or private school, a person who serves the function

of a superintendent or that person's designee shall supervise the enforcement of the return-to-play protocol by the person responsible for enforcement under Subsection (b). The person who has supervisory responsibilities under this subsection may not be a coach of an interscholastic athletic team.

Sec. 38.156. TRAINING COURSE. (a) The agency shall establish the Training and Education Advisory Council to develop a training course in concussion management, including evaluation of a student following an impact sustained by the student during an athletic activity and diagnosis of, prevention of, symptoms of, appropriate medical treatment for, risks associated with, and long-term effects of a concussion. The training course must be designed to be presented for at least three hours.

(b) The commissioner shall appoint members to the advisory council as follows:

(1) at least one but not more than three members must be persons recommended by the Texas Medical Association or a successor organization;

(2) at least one but not more than three members must be members of the Texas State Athletic Trainers' Association or a successor organization; and

(3) one member must be an employee of the agency.

(c) The training course developed under this section, including any modification to the course, may not be offered until approved by the Advisory Board of Athletic Trainers. A person may not serve as a provider of the training course until the person is approved as a course provider by the board. The board shall

1 maintain and post on the board's Internet website an updated list of  
2 approved providers.

3 (d) The following persons must take the training course at  
4 least once every two years:

5 (1) a coach of an interscholastic athletic activity;

6 (2) an athletic trainer employed by a school district,  
7 open-enrollment charter school, or private school;

8 (3) a person employed to perform the duties generally  
9 performed by an athletic trainer if an athletic trainer is not  
10 employed by a school district, open-enrollment charter school, or  
11 private school; and

12 (4) a health care professional who serves as a member  
13 of a concussion management team regardless of whether the person is  
14 an employee of a school district, open-enrollment charter school,  
15 or private school.

16 (e) Before a person described by Subsection (d) may serve  
17 or continue to serve on a concussion management team, the person  
18 must submit to the school district superintendent or the  
19 superintendent's designee or, in the case of an open-enrollment  
20 charter school or private school, a person who serves the function  
21 of a superintendent or that person's designee, proof of timely  
22 completion of an approved training course.

23 Sec. 38.157. REPORT TO GOVERNING BODY. (a) Each public  
24 school and private school, including an open-enrollment charter  
25 school, to which this subchapter applies shall, in the time and  
26 manner required by commissioner rule, submit to the board of  
27 trustees of the school district in which the school is located or

1 other governing body, as applicable, an annual report for the  
2 school that includes:

3 (1) the age and grade level of and athletic activity  
4 participated in and position played by each student who, during the  
5 year for which the report is submitted, sustained a concussion;

6 (2) the number of students who, during the year for  
7 which the report is submitted, sustained more than one concussion;

8 (3) a list of the names of the persons who serve on the  
9 concussion management team and, for each person, the person's job  
10 title, relevant qualifications, and current compliance status with  
11 the training requirements established under Section 38.156;

12 (4) the amount of time per concussion that each  
13 student was kept out of practice and competition; and

14 (5) the number of students who were unable to return to  
15 practice and competition due to the concussion that resulted in  
16 removal from play.

17 (b) The board of trustees or other governing body shall  
18 maintain the report submitted under Subsection (a) for a period of  
19 not less than five years and make each report maintained available  
20 for review and audit at the request of the agency.

21 (c) If the board of trustees or other governing body fails  
22 to maintain the reports as required by Subsection (b) or make a  
23 report required to be maintained available at the request of the  
24 agency, all interscholastic activities of the school district,  
25 open-enrollment charter school, or private school shall be  
26 suspended until the governing body establishes compliance with this  
27 subchapter.

1       Sec. 38.158. CONDITIONS FOR IMMUNITY. A school district or  
2 open-enrollment charter school is immune from liability for the  
3 injury to or death of a person participating, on property owned by  
4 the district or used for a charter school campus, as an athlete in a  
5 private, nonprofit athletics program for primary or secondary  
6 students that is caused by the act or omission of a person employed  
7 by or under contract with the athletics program if:

8               (1) the district or charter school is not violating  
9 any law regarding the district's or school's participation in the  
10 athletics program; and

11              (2) the nonprofit sports program provides to the  
12 district or charter school:

13                      (A) proof of insurance; and

14                      (B) a statement that the program complies with  
15 district or school policies for concussion management under this  
16 subchapter.

17       Sec. 38.159. RULES. The commissioner shall adopt rules as  
18 necessary to administer this subchapter.

19       SECTION 2. Subchapter D, Chapter 33, Education Code, is  
20 amended by adding Section 33.085 to read as follows:

21       Sec. 33.085. GUIDELINES CONCERNING EMPLOYMENT OF LICENSED  
22 ATHLETIC TRAINERS BY SCHOOL DISTRICT OR OPEN-ENROLLMENT CHARTER  
23 SCHOOL. (a) In this section, "athletic trainer" has the meaning  
24 assigned by Section 451.001, Occupations Code.

25              (b) The commissioner may develop and by rule establish  
26 guidelines for the employment of an athletic trainer by a school  
27 district or open-enrollment charter school.



1        (c) Guidelines adopted by the commissioner under Subsection

2 (b) may include guidelines for:

3            (1) the ratio of athletic trainers to student  
4 athletes;

5            (2) differentiated ratios based on school  
6 enrollments; and

7            (3) strategies for coordination of athletic training  
8 services between a school district or open-enrollment charter  
9 school and another appropriate organization such as a regional  
10 education service center.

11        SECTION 3. Subchapter D, Chapter 38, Education Code, as  
12 added by this Act, applies beginning with the 2011-2012 school  
13 year.

14        SECTION 4. Notwithstanding Section 38.156(e), Education  
15 Code, as added by this Act, a person required under Section  
16 38.156(d), Education Code, as added by this Act, to take a  
17 concussion management training course must initially complete the  
18 training course not later than September 1, 2012.

19        SECTION 5. This Act takes effect immediately if it receives  
20 a vote of two-thirds of all the members elected to each house, as  
21 provided by Section 39, Article III, Texas Constitution. If this  
22 Act does not receive the vote necessary for immediate effect, this  
23 Act takes effect September 1, 2011.