

By: _____ .B. No. _____

Substitute the following for .B. No. _____:

By: _____ C.S. .B. No. _____

April 5, 2011

A BILL TO BE ENTITLED

AN ACT

relating to prevention, treatment, and oversight of concussions affecting public 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 OVERSIGHT 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 complex pathophysiological process affecting the brain caused by a traumatic physical force or impact to the head or body, which may:

(A) include temporary or prolonged altered brain

function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns; and

(B) involve loss of consciousness.

(5) "Licensed health care professional" means an advanced practice nurse, athletic trainer, neuropsychologist, or physician assistant, as those terms are defined by this section.

(6) "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.

(7) "Open-enrollment charter school" includes a school granted a charter under Subchapter E, Chapter 12.

(8) "Physician" means a person who holds a license to practice medicine in this state.

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

Sec. 38.152. APPLICABILITY. This subchapter applies to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by:

(1) a school district, including a home-rule school district, or a public school, including any school for which a charter has been granted under Chapter 12; or

(2) the University Interscholastic League.

Sec. 38.153. OVERSIGHT OF CONCUSSIONS BY SCHOOL DISTRICTS AND CHARTER SCHOOLS; RETURN-TO-PLAY PROTOCOL DEVELOPMENT BY CONCUSSION OVERSIGHT TEAM. (a) The governing body of each school district and open-enrollment charter school with students enrolled who participate in an interscholastic athletic activity shall appoint or approve a concussion oversight team.

(b) Each concussion oversight team shall establish a return-to-play protocol, based on peer-reviewed scientific evidence, for a student's return to interscholastic athletics practice or competition following the force or impact believed to have caused a concussion.

Sec. 38.154. CONCUSSION OVERSIGHT TEAM: MEMBERSHIP. (a) Each concussion oversight team must include at least one physician and, to the greatest extent practicable, considering factors including the population of the metropolitan statistical area in which the school district or open-enrollment charter school is located, district or charter school student enrollment, and the availability of and access to licensed health care professionals in the district or charter school area, must also include one or more of the following:

- (1) an athletic trainer;
- (2) an advanced practice nurse;
- (3) a neuropsychologist; or
- (4) a physician assistant.

(b) If a school district or open-enrollment charter school employs an athletic trainer, the athletic trainer must be a member of the district or charter school concussion oversight team.

(c) Each member of the concussion oversight team must have had training in the evaluation, treatment, and oversight of concussions at the time of appointment or approval as a member of the team.

Sec. 38.155. 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 or guardian or another 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 oversight 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.

Sec. 38.156. REMOVAL FROM PLAY IN PRACTICE OR COMPETITION FOLLOWING CONCUSSION. A student shall be removed from an interscholastic athletics practice or competition immediately if one of the following persons believes the student might have

sustained a concussion during the practice or competition:

(1) a coach;

(2) a physician;

(3) a licensed health care professional; or

(4) the student's parent or guardian or another

person with legal authority to make medical decisions for the student.

Sec. 38.157. RETURN TO PLAY IN PRACTICE OR COMPETITION.

(a) A student removed from an interscholastic athletics practice or competition under Section 38.156 may not be permitted to practice or compete again following the force or impact believed to have caused the concussion until:

(1) the student has been evaluated, using established medical protocols based on peer-reviewed scientific evidence, by a treating physician chosen by the student or the student's parent or guardian or another person with legal authority to make medical decisions for the student;

(2) the student has successfully completed each requirement of the return-to-play protocol established under Section 38.153 necessary for the student to return to play;

(3) the treating physician has provided a written statement indicating that, in the physician's professional judgment, it is safe for the student to return to play; and

(4) the student and the student's parent or guardian

or another person with legal authority to make medical decisions for the student:

(A) have acknowledged that the student has completed the requirements of the return-to-play protocol necessary for the student to return to play;

(B) have provided the treating physician's written statement under Subdivision (3) to the person responsible for compliance with the return-to-play protocol under Subsection (c) and the person who has supervisory responsibilities under Subsection (c); and

(C) have signed a consent form indicating that the person signing:

(i) has been informed concerning and consents to the student participating in returning to play in accordance with the return-to-play protocol;

(ii) understands the risks associated with the student returning to play and will comply with any ongoing requirements in the return-to-play protocol;

(iii) consents to the disclosure to appropriate persons, consistent with the Health Insurance Portability and Accountability Act of 1996 (Pub. L. No. 104-191), of the treating physician's written statement under Subdivision (3) and, if any, the return-to-play recommendations of the treating physician; and

(iv) understands the immunity provisions under Section 38.159.

(b) A coach of an interscholastic athletics team may not authorize a student's return to play.

(c) The school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, the person who serves the function of superintendent or that person's designee shall supervise an athletic trainer or other person responsible for compliance with the return-to-play protocol. The person who has supervisory responsibilities under this subsection may not be a coach of an interscholastic athletics team.

Sec. 38.158. TRAINING COURSES. (a) The University Interscholastic League shall approve for coaches of interscholastic athletic activities training courses that provide for not less than two hours of training in the subject matter of concussions, including evaluation and diagnosis, prevention, symptoms, appropriate medical treatment, risks, and long-term effects. The league shall maintain an updated list of individuals and organizations authorized by the league to provide the training.

(b) The Department of State Health Services Advisory Board of Athletic Trainers shall approve for athletic trainers training courses in the subject matter of concussions and shall

maintain an updated list of individuals and organizations authorized by the board to provide the training.

(c) The following persons must take a training course in accordance with Subsection (e) from an authorized training provider at least once every two years:

(1) a coach of an interscholastic athletic activity;

(2) a licensed health care professional who serves as a member of a concussion oversight team and is an employee, representative, or agent of a school district or open-enrollment charter school; and

(3) a licensed health care professional who serves on a volunteer basis as a member of a concussion oversight team for a school district or open-enrollment charter school.

(d) A physician who serves as a member of a concussion oversight team shall, to the greatest extent practicable, periodically take an appropriate continuing medical education course in the subject matter of concussions.

(e) For purposes of Subsection (c):

(1) a coach must take a course described by Subsection (a);

(2) an athletic trainer must take:

(A) a course described by Subsection (b); or

(B) a course concerning the subject matter of concussions that has been approved for continuing education

credit by the appropriate licensing authority for the profession; and

(3) a licensed health care professional, other than an athletic trainer, must take:

(A) a course described by Subsection (a) or (b);

or

(B) a course concerning the subject matter of concussions that has been approved for continuing education credit by the appropriate licensing authority for the profession.

(f) Each person described by Subsection (c) must submit proof of timely completion of an approved course in compliance with Subsection (e) to the school district superintendent or the superintendent's designee or, in the case of a home-rule school district or open-enrollment charter school, a person who serves the function of a superintendent or that person's designee.

(g) A licensed health care professional who is not in compliance with the training requirements under this section may not serve on a concussion oversight team in any capacity.

Sec. 38.159. IMMUNITY. This subchapter does not:

(1) waive any immunity from liability of a school district or open-enrollment charter school or of district or charter school officers or employees;

(2) create any liability for a cause of action

against a school district or open-enrollment charter school or against district or charter school officers or employees;

(3) waive any immunity from liability under Section 74.151, Civil Practice and Remedies Code; or

(4) create any cause of action or liability for a member of a concussion oversight team arising from the injury or death of a student participating in an interscholastic athletics practice or competition, based on service or participation on the concussion oversight team.

Sec. 38.160. RULES. The commissioner may adopt rules as necessary to administer this subchapter.

SECTION 2. Subchapter D, Chapter 38, Education Code, as added by this Act, applies beginning with the 2011-2012 school year.

SECTION 3. Notwithstanding Section 38.158(f), Education Code, as added by this Act, a person required under Section 38.158(c), Education Code, as added by this Act, to take a training course in the subject of concussions must initially complete the training course not later than September 1, 2012.

SECTION 4. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2011.

