

Legislative Analysis



YOUTH ATHLETE CONCUSSION AWARENESS

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House Bill 5697 as enrolled
Public Act 343 of 2012
Sponsor: Rep. Thomas B. Hooker

Senate Bill 1122 as enrolled
Public Act 342 of 2012
Sponsor: Sen. John Proos

House Committee: Health Policy
Senate Committee: Health Policy (SB 1122)
Committee of the Whole (HB 5697)

Second Analysis (4-5-13)

BRIEF SUMMARY: Together, the bills would:

- Create awareness about concussions among youth athletes and their parents and coaches and the entities that organize or offer youth sports;
- Apply the bills' requirements to nonprofit and public-sponsored sports programs as well as public and nonpublic elementary and secondary schools (including participation in gym class);
- Create a concussion awareness training program for coaches and adult employees and volunteers of sports programs;
- Require immediate withdrawal of a player exhibiting signs of a concussion; require a medical clearance before the player can participate again;
- Provide exemptions from the bills' requirements; and
- Define terms.

FISCAL IMPACT: The bills may have fiscal implications for the Department of Community Health and school districts as discussed in more detail later in the analysis.

THE APPARENT PROBLEM:

Thanks to the effort of organizations and agencies such as the Centers for Disease Control and Prevention, the National Football League, and the Michigan High School Athletic Association, among others, increased awareness has been given to the issue of concussions among youth athletes. According to the National Federation of State High School Associations, over 140,000 high school athletes alone are estimated to suffer a concussion each year. Left untreated, or if the youth athlete returns to practice or competition too soon, symptoms may be prolonged or the youth could sustain another concussion. Researchers now know that damage to developing brains from multiple concussions, or even a badly managed single concussion, can have long-term effects and in some cases, lifetime implications.

Professional and collegiate sports programs have begun proactive changes in their programs to incorporate the science on concussions in an effort to reduce long-term health effects that—besides potentially ending the career of an athlete—can result in debilitating migraines and early onset dementia.

Because it is now known that a brain has not fully matured until a person reaches the mid-20s, many states have begun looking into adopting legislation to protect younger athletes and sports participants from concussion-related injuries. Over half of the states have enacted some form of legislation addressing youth athlete concussions, and about a dozen more have legislation pending. Many feel that Michigan should also do more to educate parents, coaches, youth athletes, and others involved in youth sports programs on how to recognize the symptoms of a concussion and to remove a child from active participation in athletic activity until being medically cleared to return

THE CONTENT OF THE BILLS:

The bills would each add a new section to the Public Health Code to address the issue of concussion injuries in youth athletes; Senate Bill 1122 would add Section 9155 and House Bill 5697 would add Section 9156. The bills are tie-barred to each other, meaning that neither can take effect unless both are enacted. Each bill is described in detail below.

Senate Bill 1122

Requirements for the Department of Community Health

The Department of Community Health (DCH) would have to do the following before the expiration of 90 days after the bill's effective date:

- Develop, adopt, or approve educational materials on the nature and risk of concussions.
- Develop, adopt, or approve a concussion awareness training program in an electronic format that would include the nature and risk of concussions; the criteria for the removal of an athlete from physical participation in an athletic activity due to a suspected concussion and the return to that activity; and the risks to an athlete of not reporting a suspected concussion and continuing to physically participate in the athletic activity.
- Require the educational materials and training program to be available to the public on its Internet website as soon as they are available.
- Make the training program available to all individuals required to participate in the program under House Bill 5697 and to any interested individual including school personnel, coaches, parents, students, and athletes.

Definitions

"Concussion" would be defined as a type of traumatic brain injury as recognized by the Centers for Disease Control and Prevention, with changes in a person's mental status at the time of the injury that could include feeling dazed, disoriented, or confused and that

may or may not involve a loss of consciousness. A concussion could be caused by any type of accident or injury including, but not limited to, the following:

- A fall.
- A blow, bump, or jolt to the head or body.
- The shaking or spinning of the head or body.
- The acceleration and deceleration of the head.

"Athletic activity" would mean a program or event, including practice and competition, during which youth athletes participate or practice to participate in an organized athletic game or competition against another team, club, entity, or individual. The term would include participation in physical education classes that were part of a school curriculum.

"Organizing entity" would mean any of the following:

- A school (defined as a nonpublic school, public school, or public school academy as those terms are defined in Section 5 of the Revised School Code).
- A state or local parks and recreation department or commission or other state or local entity.
- A nonprofit or for-profit entity.
- A public or private entity.

"Youth athlete" would mean an individual who participates in an athletic activity and who is under 18 years of age.

House Bill 5697

Responsibilities of an Organizing Entity

An organizing entity that is subject to the bill would have to ensure that it is in compliance with the bill before it sponsors or operates an athletic activity in which youth athletes will participate, if that athletic activity is subject to the bill. In addition, the following would have to be done before a youth athlete could participate in an athletic activity sponsored by or operated under the auspices of the organizing entity:

- Comply with all of the bill's requirements with regard to its coaches, employees, volunteers, and other adults who are involved with the participation of youth athletes in that entity's athletic activities and who (those coaches, employees, volunteers, and other adults) are required to participate in the concussion awareness training program developed under Senate Bill 1122.
- Provide the DCH educational materials to each youth athlete participating in the entity's athletic activities and the parent or guardian.
- Obtain a statement signed by each youth athlete and the parent or guardian acknowledging receipt of the DCH educational material.
- Maintain the statement in a permanent file for the duration of that youth athlete's participation in the entity's athletic activities, or until the youth athlete is 18 years of age.

- Maintain in the permanent file the written clearance allowing a youth athlete who had sustained a concussion to return to participation in the entity's athletic activities for the duration of that youth athlete's participation in the entity's athletic activities, or until the youth athlete is 18 years of age.
- Make the signed statements and/or medical clearances available to the DCH upon request.

Responsibilities of a Coach or Other Adult

A coach or other adult employed by, volunteering for, or otherwise acting on behalf of an organizing entity during an athletic event sponsored by or operated under the auspices of the organizing entity shall immediately remove from further participation in that athletic activity a youth athlete suspected of sustaining a concussion during the activity.

The youth athlete could not return to physical activity until an evaluation had been conducted by an appropriate health professional and the athlete receives written clearance from that health professional authorizing the return to physical participation in the athletic activity. As noted above, the written clearance would have to be maintained by the organizing entity for the duration of the young athlete's participation in the entity's athletic activities or until he or she turned 18 years of age.

An "appropriate health professional," as defined in Senate Bill 1122, would mean a health professional licensed or otherwise authorized to engage in a health profession under Article 15 of the health code and whose scope of practice within that health profession includes the recognition, treatment, and management of concussions.

Exemptions

The bill would not apply to either of the following:

- An athletic activity sponsored by or operated under the auspices of an organizing entity if the entity is a member of a private nonprofit multisport statewide interscholastic athletic association and the athletic activity is governed by a rule established by that entity which establishes concussion protocols and training programs substantially similar to or more stringent than those provided in Senate Bill 1122 and the removal from and return to physical activity requirements of House Bill 5697, and which includes an enforcement mechanism on its members.
- An entity otherwise considered an organizing entity under the bill if the entity's primary focus of the program or event is not the *participation in an organized athletic game or competition* but that *participation is only incidental* to the primary focus of the program or event.

BACKGROUND INFORMATION:

Additional information on concussions for youth athletes, parents, and coaches can found at the following links:

http://www.cdc.gov/concussion/pdf/athletes_fact_sheet-a.pdf

http://www.cdc.gov/concussion/headsup/high_school.html

http://www.cdc.gov/concussion/pdf/TBI_factsheets_PARENTS-508-a.pdf

FISCAL INFORMATION:

Community Health

The bills have cost implications for the Department of Community Health related to the preparation of educational and training materials that must be posted and maintained on the Internet and made available to all affected individuals including participating athletes, coaches, parents, and school personnel. The Department may also have costs related to the possible collection or holding of certain local records that may be requested by the Department.

Local Government

The bills may have cost implications for local government community recreation programs to comply with the requirements for organizing entities to provide educational materials to youth participants and parents, and maintain signed statements and provider clearances.

School Impact

The bills would impose some additional costs on school districts (including charter schools) sponsoring or operating various youth athletic activities by requiring coaches, employees, volunteers, and other adults to complete a concussion awareness training program, requiring that athletes (and their parents) be provided with educational materials on the risk and nature of concussions, and by requiring districts to maintain certain records.

A school district would be exempted from these requirements, but still substantially meet the requirements, if it is a member of a private, nonprofit statewide interscholastic athletic association (e.g. the Michigan High School Athletic Association) and if the association's rules concerning the athletic activity have concussion protocols at least as stringent (including an enforcement mechanism) as those provided in Senate Bill 1122.

The MHSAA has adopted concussion protocols for its 28 sponsored activities, including requiring the player to be removed from competition and allowing the player to return to competition only with the approval of a physician. Also, the MHSAA includes information on head trauma at its rules meetings (required of head coaches and game officials), and provides access to online training courses. In sum, many districts should already comply with certain aspects of the bill given their membership in the MHSAA, although requirements adopted by the Department of Community Health may necessitate changes in MHSAA policies (and school district practices) in order to comply with the bills.

However, under the bills, "athletic activity" includes physical education courses offered by school districts, so districts would have to comply with the bills' education, records retention, and return-to-play requirements for its larger student population (in all grades), rather than just student-athletes.

ARGUMENTS:

For:

Considering what is now known about the potential long-term effects of concussion injuries, everything that can be done to protect youth athletes—whether during competition, practice, or gym class—should be explored. The bills would address the issue by increasing awareness and education among youth athletes, their parents or guardians, coaches, and organizers of youth sports programs. The Michigan High School Athletic Association has been proactive by adopting concussion protocols for middle school and high school athletes that includes training for coaches and other adults helping with the sports programs. However, more needs to be done, especially for all the children participating in other types of athletic programs, such as soccer or basketball programs offered by local parks and recreation departments. The bills will even include increased awareness and training for K-12 students taking part in gym classes. By educating youths and adults involved in sports programs alike, the culture so prevalent for decades in which injured children were told to "shake it off" can finally be changed. Injuries are an inevitable part of physical activities, but the bills should go a long way to decrease the long-term effects should any youth participants incur a concussion along the way.

Response:

The bills leave some questions unanswered, such as the following:

- The bills would apply also to athletic activities conducted as part of school physical education classes. Yet, the bills restrict application of the concussion protocols - as a requirement - to youths under the age of 18. Many students reach the age of 18 during their senior year of high school, and students may enroll in special education classes up to the age of 23. It is unclear, therefore, how, or if, the concussion protocols would be applied to these students.
- Regarding the application to schools, how often are the materials to be provided? Would it be at least once per school year when participating in any athletic activity? Or once during the entirety of their school years? Since the bills apply even to gym classes, would all students (even kindergartners) and parents have to sign a statement that they received the education materials developed or adopted by the DCH? Or would schools be responsible for deciding such policies for themselves?
- The National Football League, though saying it is generally supportive of the bills, has a concern that exempting the Michigan High School Athletic Association from the bills' requirement if it has a "substantially similar" protocol is too ambiguous.

- The legislation focuses on concussion injuries. This could lead some to assume that any "bonk" on the head short of a concussion is not serious and it is safe for the youth to resume play. However, according to a recent study by the Cleveland Clinic, repetitive, sub-concussive blows to the head also can result in changes to a young player's brain lasting up to six months. ("Study: Football head injuries can induce brain changes lasting six months"; Semeraz, Megan; *The Oakland Press*; March 24, 2013) Other recent studies, though inconclusive at this time, reveal that "heading" in soccer, in which a player uses his or her head to stop or redirect the ball, may contribute to brain changes similar to those found in the brains of football players with a history of concussions. The point is that blows to the head, even ones that do not result in concussions, should be taken seriously and avoided as much as possible.

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