

113TH CONGRESS
1ST SESSION

S. 1546

To promote minimum State requirements for the prevention and treatment of concussions caused by participation in school sports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 24), 2013

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To promote minimum State requirements for the prevention and treatment of concussions caused by participation in school sports, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Student
5 Athletes from Concussions Act of 2013”.

6 **SEC. 2. MINIMUM STATE REQUIREMENTS.**

7 (a) MINIMUM REQUIREMENTS.—Each State that re-
8 ceives funds under the Elementary and Secondary Edu-
9 cation Act of 1965 (20 U.S.C. 6301 et seq.) and does not

1 meet the requirements described in this section, as of the
2 date of enactment of this Act, shall, not later than the
3 last day of the fifth full fiscal year after the date of enact-
4 ment of this Act (referred to in this Act as the “compli-
5 ance deadline”), enact legislation or issue regulations es-
6 tablishing the following minimum requirements:

7 (1) LOCAL EDUCATIONAL AGENCY CONCUSSION
8 SAFETY AND MANAGEMENT PLAN.—Each local edu-
9 cational agency in the State, in consultation with
10 members of the community in which such agency is
11 located, shall develop and implement a standard plan
12 for concussion safety and management that—

13 (A) educates students, parents, and school
14 personnel about concussions, through activities
15 such as—

16 (i) training school personnel, including
17 coaches, teachers, athletic trainers, related
18 services personnel, and school nurses, on
19 concussion safety and management, includ-
20 ing training on the prevention, recognition,
21 and academic consequences of concussions
22 and response to concussions; and

23 (ii) using, maintaining, and dissemi-
24 nating to students and parents—

1 (I) release forms and other ap-
2 propriate forms for reporting and rec-
3 ordkeeping;

4 (II) treatment plans; and

5 (III) prevention and post-injury
6 observation and monitoring fact
7 sheets about concussion;

8 (B) encourages supports, where feasible,
9 for a student recovering from a concussion (re-
10 gardless of whether or not the concussion oc-
11 curred during school-sponsored activities, dur-
12 ing school hours, on school property, or during
13 an athletic activity), such as—

14 (i) guiding the student in resuming
15 participation in athletic activity and aca-
16 demic activities with the help of a multi-
17 disciplinary concussion management team,
18 which may include—

19 (I) a health care professional, the
20 parents of such student, a school
21 nurse, relevant related services per-
22 sonnel, and other relevant school per-
23 sonnel; and

24 (II) an individual who is assigned
25 by a public school to oversee and

1 manage the recovery of such student;

2 and

3 (ii) providing appropriate academic

4 accommodations aimed at progressively re-

5 introducing cognitive demands on the stu-

6 dent; and

7 (C) encourages the use of best practices

8 designed to ensure, with respect to concussions,

9 the uniformity of safety standards, treatment,

10 and management, such as—

11 (i) disseminating information on con-

12 cussion safety and management to the

13 public; and

14 (ii) applying uniform best practice

15 standards for concussion safety and man-

16 agement to all students enrolled in public

17 schools.

18 (2) POSTING OF INFORMATION ON CONCUS-

19 SIONS.—Each public elementary school and each

20 public secondary school shall post on school grounds,

21 in a manner that is visible to students and school

22 personnel, and make publicly available on the school

23 website, information on concussions that—

24 (A) is based on peer-reviewed scientific evi-

25 dence (such as information made available by

1 the Centers for Disease Control and Preven-
2 tion);

3 (B) shall include information on—

4 (i) the risks posed by sustaining a
5 concussion;

6 (ii) the actions a student should take
7 in response to sustaining a concussion, in-
8 cluding the notification of school personnel;
9 and

10 (iii) the signs and symptoms of a con-
11 cussion; and

12 (C) may include information on—

13 (i) the definition of a concussion;

14 (ii) the means available to the student
15 to reduce the incidence or recurrence of a
16 concussion; and

17 (iii) the effects of a concussion on
18 academic learning and performance.

19 (3) RESPONSE TO CONCUSSION.—If an indi-
20 vidual designated from among school personnel for
21 purposes of this Act suspects that a student has sus-
22 tained a concussion (regardless of whether or not
23 the concussion occurred during school-sponsored ac-
24 tivities, during school hours, on school property, or
25 during an athletic activity)—

1 (A) the student shall be—

2 (i) immediately removed from partici-
3 pation in a school-sponsored athletic activ-
4 ity; and

5 (ii) prohibited from returning to par-
6 ticipate in a school-sponsored athletic ac-
7 tivity—

8 (I) on the day such student is re-
9 moved from such participation; and

10 (II) until such student submits a
11 written release from a health care
12 professional stating that the student
13 is capable of resuming participation in
14 school-sponsored athletic activities;
15 and

16 (B) the designated individual shall report
17 to the parent or guardian of such student—

18 (i) any information that the des-
19 ignated school employee is aware of re-
20 garding the date, time, and type of the in-
21 jury suffered by such student (regardless
22 of where, when, or how a concussion may
23 have occurred); and

24 (ii) any actions taken to treat such
25 student.

1 (4) RETURN TO ATHLETICS.—If a student has
 2 sustained a concussion (regardless of whether or not
 3 the concussion occurred during school-sponsored ac-
 4 tivities, during school hours, on school property, or
 5 during an athletic activity), before such student re-
 6 sumes participation in school-sponsored athletic ac-
 7 tivities, the school shall receive a written release
 8 from a health care professional, that—

9 (A) states that the student is capable of
 10 resuming participation in such activities; and

11 (B) may require the student to follow a
 12 plan designed to aid the student in recovering
 13 and resuming participation in such activities in
 14 a manner that—

15 (i) is coordinated, as appropriate, with
 16 periods of cognitive and physical rest while
 17 symptoms of a concussion persist; and

18 (ii) reintroduces cognitive and phys-
 19 ical demands on such student on a pro-
 20 gressive basis only as such increases in ex-
 21 ertion do not cause the reemergence or
 22 worsening of symptoms of a concussion.

23 (b) NONCOMPLIANCE.—

24 (1) FIRST YEAR.—If a State described in sub-
 25 section (a) fails to comply with subsection (a) by the

1 compliance deadline, the Secretary of Education
2 shall reduce by 5 percent the amount of funds the
3 State receives under the Elementary and Secondary
4 Education Act of 1965 (20 U.S.C. 6301 et seq.) for
5 the first fiscal year following the compliance dead-
6 line.

7 (2) SUCCEEDING YEARS.—If the State fails to
8 so comply by the last day of any fiscal year following
9 the compliance deadline, the Secretary of Education
10 shall reduce by 10 percent the amount of funds the
11 State receives under that Act for the following fiscal
12 year.

13 (3) NOTIFICATION OF NONCOMPLIANCE.—Prior
14 to reducing any funds that a State receives under
15 the Elementary and Secondary Education Act of
16 1965 (20 U.S.C. 6301 et seq.) in accordance with
17 this subsection, the Secretary of Education shall
18 provide a written notification of the intended reduc-
19 tion of funds to the State and to the appropriate
20 committees of Congress.

21 **SEC. 3. RULE OF CONSTRUCTION.**

22 Nothing in this Act shall be construed to affect civil
23 or criminal liability under Federal or State law.

24 **SEC. 4. DEFINITIONS.**

25 In this Act:

1 (1) CONCUSSION.—The term “concussion”
2 means a type of mild traumatic brain injury that—

3 (A) is caused by a blow, jolt, or motion to
4 the head or body that causes the brain to move
5 rapidly in the skull;

6 (B) disrupts normal brain functioning and
7 alters the mental state of the individual, caus-
8 ing the individual to experience—

9 (i) any period of observed or self-re-
10 ported—

11 (I) transient confusion, dis-
12 orientation, or impaired consciousness;

13 (II) dysfunction of memory
14 around the time of injury; or

15 (III) loss of consciousness lasting
16 less than 30 minutes; or

17 (ii) any 1 of 4 types of symptoms, in-
18 cluding—

19 (I) physical symptoms, such as
20 headache, fatigue, or dizziness;

21 (II) cognitive symptoms, such as
22 memory disturbance or slowed think-
23 ing;

24 (III) emotional symptoms, such
25 as irritability or sadness; or

1 (IV) difficulty sleeping; and

2 (C) can occur—

3 (i) with or without the loss of con-
4 sciousness; and

5 (ii) during participation in any orga-
6 nized sport or recreational activity.

7 (2) HEALTH CARE PROFESSIONAL.—The term
8 “health care professional”—

9 (A) means an individual who has been
10 trained in diagnosis and management of trau-
11 matic brain injury in a pediatric population;
12 and

13 (B) includes a physician (M.D. or D.O.) or
14 certified athletic trainer who is registered, li-
15 censed, certified, or otherwise statutorily recog-
16 nized by the State to provide such diagnosis
17 and management.

18 (3) LOCAL EDUCATIONAL AGENCY; STATE.—
19 The terms “local educational agency” and “State”
20 have the meanings given such terms in section 9101
21 of the Elementary and Secondary Education Act of
22 1965 (20 U.S.C. 7801).

23 (4) RELATED SERVICES PERSONNEL.—The
24 term “related services personnel” means individuals
25 who provide related services, as defined under sec-

1 tion 602 of the Individuals with Disabilities Edu-
2 cation Act (20 U.S.C. 1401).

3 (5) SCHOOL-SPONSORED ATHLETIC ACTIVITY.—

4 The term “school-sponsored athletic activity”
5 means—

6 (A) any physical education class or pro-
7 gram of a school;

8 (B) any athletic activity authorized during
9 the school day on school grounds that is not an
10 instructional activity;

11 (C) any extracurricular sports team, club,
12 or league organized by a school on or off school
13 grounds; and

14 (D) any recess activity.

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