

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. This Act may be cited as Natasha's Law in honor of Natasha Helmick for her courage in advocating for the enactment of this Act and in honor of all other student athletes at the middle and high school levels.

SECTION 2. 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

1 altered sleep patterns; and

2 (B) involve loss of consciousness.

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

6 (6) "Neuropsychologist" means a person who:

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

9 (B) specializes in the practice of
10 neuropsychology.

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

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

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

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

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

23 (2) the University Interscholastic League.

24 Sec. 38.153. OVERSIGHT OF CONCUSSIONS BY SCHOOL DISTRICTS
25 AND CHARTER SCHOOLS; RETURN-TO-PLAY PROTOCOL DEVELOPMENT BY
26 CONCUSSION OVERSIGHT TEAM. (a) The governing body of each school

1 who participate in an interscholastic athletic activity shall
2 appoint or approve a concussion oversight team.

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

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

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

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

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

1 Sec. 38.155. REQUIRED ANNUAL FORM ACKNOWLEDGING CONCUSSION
2 INFORMATION. A student may not participate in an interscholastic
3 athletic activity for a school year until both the student and the
4 student's parent or guardian or another person with legal authority
5 to make medical decisions for the student have signed a form for
6 that school year that acknowledges receiving and reading written
7 information that explains concussion prevention, symptoms,
8 treatment, and oversight and that includes guidelines for safely
9 resuming participation in an athletic activity following a
10 concussion. The form must be approved by the University
11 Interscholastic League.

12 Sec. 38.156. REMOVAL FROM PLAY IN PRACTICE OR COMPETITION
13 FOLLOWING CONCUSSION. A student shall be removed from an
14 interscholastic athletics practice or competition immediately if
15 one of the following persons believes the student might have
16 sustained a concussion during the practice or competition:

- 17 (1) a coach;
18 (2) a physician;
19 (3) a licensed health care professional; or
20 (4) the student's parent or guardian or another person
21 with legal authority to make medical decisions for the student.

22 Sec. 38.157. RETURN TO PLAY IN PRACTICE OR COMPETITION. (a)
23 A student removed from an interscholastic athletics practice or
24 competition under Section 38.156 may not be permitted to practice
25 or compete again following the force or impact believed to have
26 caused the concussion until:

1 medical protocols based on peer-reviewed scientific evidence, by a
2 treating physician chosen by the student or the student's parent or
3 guardian or another person with legal authority to make medical
4 decisions for the student;

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

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

11 (4) the student and the student's parent or guardian or
12 another person with legal authority to make medical decisions for
13 the student:

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

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

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

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

1 the student returning to play and will comply with any ongoing
2 requirements in the return-to-play protocol;

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

9 (iv) understands the immunity provisions
10 under Section 38.159.

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

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

21 Sec. 38.158. TRAINING COURSES. (a) The University
22 Interscholastic League shall approve for coaches of
23 interscholastic athletic activities training courses that provide
24 for not less than two hours of training in the subject matter of
25 concussions, including evaluation, prevention, symptoms, risks,
26 and long-term effects. The league shall maintain an updated list of

1 the training.

2 (b) The Department of State Health Services Advisory Board
3 of Athletic Trainers shall approve for athletic trainers training
4 courses in the subject matter of concussions and shall maintain an
5 updated list of individuals and organizations authorized by the
6 board to provide the training.

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

- 10 (1) a coach of an interscholastic athletic activity;
11 (2) a licensed health care professional who serves as
12 a member of a concussion oversight team and is an employee,
13 representative, or agent of a school district or open-enrollment
14 charter school; and
15 (3) a licensed health care professional who serves on
16 a volunteer basis as a member of a concussion oversight team for a
17 school district or open-enrollment charter school.

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

22 (e) For purposes of Subsection (c):

- 23 (1) a coach must take a course described by Subsection
24 (a);
25 (2) an athletic trainer must take:
26 (A) a course described by Subsection (b); or

1 concussions that has been approved for continuing education credit
2 by the appropriate licensing authority for the profession; and

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

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

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

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

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

19 Sec. 38.159. IMMUNITY. This subchapter does not:

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

23 (2) create any liability for a cause of action against
24 a school district or open-enrollment charter school or against
25 district or charter school officers or employees;

26 (3) waive any immunity from liability under Section

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

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

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

11 SECTION 4. Notwithstanding Section 38.158(f), Education
12 Code, as added by this Act, a person required under Section
13 38.158(c), Education Code, as added by this Act, to take a training
14 course in the subject of concussions must initially complete the
15 training course not later than September 1, 2012.

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

President of the Senate

Speaker of the House

I certify that H.B. No. 2038 was passed by the House on May 5, 2011, by the following vote: Yeas 127, Nays 7, 2 present, not voting.

Chief Clerk of the House

I certify that H.B. No. 2038 was passed by the Senate on May 24, 2011, by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

APPROVED: _____

Date

Governor