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H.B. No. 2038

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to prevention, treatment, and oversight of concussions  
3 affecting public school students participating in interscholastic  
4 athletics.

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

6 SECTION 1. This Act may be cited as Natasha's Law in honor  
7 of Natasha Helmick for her courage in advocating for the enactment  
8 of this Act and in honor of all other student athletes at the middle  
9 and high school levels.

10 SECTION 2. Chapter 38, Education Code, is amended by adding  
11 Subchapter D to read as follows:

12 SUBCHAPTER D. PREVENTION, TREATMENT, AND OVERSIGHT OF CONCUSSIONS  
13 AFFECTING STUDENT ATHLETES

14 Sec. 38.151. DEFINITIONS. In this subchapter:

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

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

19 (3) "Coach" includes an assistant coach.

20 (4) "Concussion" means a complex pathophysiological  
21 process affecting the brain caused by a traumatic physical force or  
22 impact to the head or body, which may:

23 (A) include temporary or prolonged altered brain  
24 function resulting in physical, cognitive, or emotional symptoms or

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  
27 district and open-enrollment charter school with students enrolled

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  
27 the team.

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:

- 27               (1) the student has been evaluated, using established

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;

27 (ii) understands the risks associated with

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  
27 individuals and organizations authorized by the league to provide

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

27 (B) a course concerning the subject matter of

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  
27 74.151, Civil Practice and Remedies Code; or



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.