

SENATE BILL 865

F5, F1, J1

0lr3116
CF 0lr2537

By: **Senators Lenett and Zirkin**

Introduced and read first time: February 12, 2010

Assigned to: Rules

A BILL ENTITLED

1 AN ACT concerning

2 **Education – Student–Athletes – Concussions**

3 FOR the purpose of requiring the State Department of Education, in collaboration
4 with certain organizations and individuals, to develop and implement a certain
5 program; requiring a certain program to include a certain verification process;
6 requiring county boards of education to provide a certain information sheet to
7 certain individuals; requiring certain individuals to sign certain statements;
8 requiring the Department to create a certain information sheet and
9 acknowledgment statement; requiring the removal from play of certain
10 student–athletes; prohibiting the return to play of certain student–athletes
11 until certain student–athletes receive certain evaluation and clearance;
12 granting certain immunity to certain health care providers, county boards, and
13 youth sports programs under certain circumstances; establishing certain
14 requirements for certain insurance policies; requiring youth sports programs to
15 provide certain information to county boards under certain circumstances;
16 providing that certain grants of immunity do not impair the ability of certain
17 persons to recover certain damages; and generally relating to the development
18 and implementation of a program to provide awareness and training on the
19 nature and risk of concussions.

20 BY adding to

21 Article – Education

22 Section 7–430

23 Annotated Code of Maryland

24 (2008 Replacement Volume and 2009 Supplement)

25 Preamble

26 WHEREAS, A concussion, also known as mild traumatic brain injury or head
27 injury, is one of the most commonly reported injuries in children and adolescents who
28 participate in sports and recreational activities; and

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, The risk of catastrophic injury or death is significant when a
2 concussion is not properly evaluated and managed; and

3 WHEREAS, A concussion is a type of brain injury that may range from mild to
4 severe and may disrupt the way the brain normally works; and

5 WHEREAS, A concussion may occur in any organized or unorganized sport or
6 recreational activity and may result from a fall or from players colliding with each
7 other, the ground, or with obstacles; and

8 WHEREAS, A concussion may occur with or without loss of consciousness, but
9 the vast majority occur without a loss of consciousness; and

10 WHEREAS, Continuing to play with a concussion or symptoms of a head injury
11 leaves a student–athlete especially vulnerable to greater injury and even death; and

12 WHEREAS, Despite the existence of generally recognized return–to–play
13 standards for head concussion and head injury, some affected student–athletes are
14 prematurely returned to play, potentially resulting in more significant brain injuries
15 to or death of student–athletes in the State; now, therefore,

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
17 MARYLAND, That the Laws of Maryland read as follows:

18 **Article – Education**

19 **7–430.**

20 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE**
21 **MEANINGS INDICATED.**

22 **(2) “CONCUSSION” MEANS A HEAD INJURY CAUSED BY A BLOW OR**
23 **MOTION TO THE HEAD OR BODY THAT CAUSES THE BRAIN TO MOVE RAPIDLY**
24 **INSIDE THE SKULL.**

25 **(3) “STUDENT–ATHLETE” MEANS A STUDENT WHO PARTICIPATES**
26 **IN:**

27 **(I) AN INTERSCHOLASTIC ATHLETIC ACTIVITY; OR**

28 **(II) A NONINTERSCHOLASTIC YOUTH SPORTS PROGRAM**
29 **CONDUCTED AT A PUBLIC SCHOOL FACILITY.**

1 **(4) “YOUTH SPORTS PROGRAM” MEANS A PROGRAM ORGANIZED**
2 **FOR RECREATIONAL ATHLETIC COMPETITION OR INSTRUCTION FOR**
3 **PARTICIPANTS WHO ARE:**

4 **(I) UNDER THE AGE OF 18 YEARS; OR**

5 **(II) PHYSICALLY OR MENTALLY DISABLED REGARDLESS OF**
6 **AGE.**

7 **(B) (1) THE DEPARTMENT SHALL DEVELOP AND IMPLEMENT A**
8 **PROGRAM TO PROVIDE AWARENESS AND TRAINING TO COACHES, SCHOOL**
9 **PERSONNEL, STUDENT-ATHLETES, AND THE PARENTS OR GUARDIANS OF**
10 **STUDENT-ATHLETES, IN COLLABORATION WITH THE DEPARTMENT OF HEALTH**
11 **AND MENTAL HYGIENE, EACH COUNTY BOARD, THE MARYLAND PUBLIC**
12 **SECONDARY SCHOOLS ATHLETIC ASSOCIATION, THE MARYLAND ATHLETIC**
13 **TRAINERS ASSOCIATION, THE BRAIN INJURY ASSOCIATION OF MARYLAND,**
14 **AND REPRESENTATIVES OF HEALTH CARE PROVIDERS WHO TREAT**
15 **CONCUSSIONS ON:**

16 **(I) THE NATURE AND RISK OF A CONCUSSION;**

17 **(II) THE CRITERIA FOR RETURN TO PLAY; AND**

18 **(III) THE RISKS OF NOT REPORTING INJURY AND**
19 **CONTINUING TO PLAY.**

20 **(2) THE PROGRAM SHALL INCLUDE A VERIFICATION PROCESS**
21 **THAT A COACH HAS RECEIVED THE TRAINING REQUIRED UNDER PARAGRAPH (1)**
22 **OF THIS SUBSECTION.**

23 **(3) (I) ON AN ANNUAL BASIS, BEFORE A STUDENT-ATHLETE’S**
24 **PARTICIPATION IN AN ATHLETIC ACTIVITY, THE COUNTY BOARD SHALL**
25 **PROVIDE A CONCUSSION AND HEAD INJURY INFORMATION SHEET TO THE**
26 **STUDENT-ATHLETE AND A PARENT OR GUARDIAN OF THE STUDENT-ATHLETE.**

27 **(II) THE STUDENT-ATHLETE AND THE PARENT OR**
28 **GUARDIAN OF THE STUDENT-ATHLETE SHALL SIGN A STATEMENT**
29 **ACKNOWLEDGING RECEIPT OF THE INFORMATION SHEET.**

30 **(III) THE DEPARTMENT SHALL CREATE THE INFORMATION**
31 **SHEET AND ACKNOWLEDGMENT STATEMENT REQUIRED UNDER THIS**
32 **PARAGRAPH.**

1 **(C) (1) A STUDENT-ATHLETE WHO IS SUSPECTED OF SUSTAINING A**
2 **CONCUSSION OR OTHER HEAD INJURY IN A PRACTICE OR GAME SHALL BE**
3 **REMOVED FROM PLAY AT THAT TIME.**

4 **(2) A STUDENT-ATHLETE WHO HAS BEEN REMOVED FROM PLAY**
5 **MAY NOT RETURN TO PLAY UNTIL THE STUDENT-ATHLETE:**

6 **(I) HAS BEEN EVALUATED BY A LICENSED HEALTH CARE**
7 **PROVIDER TRAINED IN THE EVALUATION AND MANAGEMENT OF CONCUSSIONS;**
8 **AND**

9 **(II) HAS OBTAINED WRITTEN CLEARANCE TO RETURN TO**
10 **PLAY FROM THE HEALTH CARE PROVIDER.**

11 **(3) (I) A LICENSED HEALTH CARE PROVIDER WHO FOR NO FEE**
12 **OR OTHER COMPENSATION EVALUATES A STUDENT-ATHLETE UNDER**
13 **PARAGRAPH (2) OF THIS SUBSECTION AND AUTHORIZES THE**
14 **STUDENT-ATHLETE TO RETURN TO PLAY IS NOT LIABLE FOR ANY CIVIL**
15 **DAMAGES AS THE RESULT OF ANY PROFESSIONAL ACT OR OMISSION BY THE**
16 **PERSON NOT AMOUNTING TO GROSS NEGLIGENCE OR WILLFUL OR WANTON**
17 **MISCONDUCT.**

18 **(D) (1) A COUNTY BOARD AND A YOUTH SPORTS PROGRAM SHALL BE**
19 **IMMUNE FROM CIVIL LIABILITY FOR AN INJURY TO OR THE DEATH OF A**
20 **STUDENT-ATHLETE DUE TO THE ACTION OR INACTION OF A PERSON EMPLOYED**
21 **BY OR UNDER CONTRACT WITH A YOUTH SPORTS PROGRAM, IF:**

22 **(I) THE ACTION OR INACTION TAKES PLACE AT A PUBLIC**
23 **SCHOOL FACILITY DURING THE DELIVERY OF THE SERVICES OF THE YOUTH**
24 **SPORTS PROGRAM; AND**

25 **(II) THE YOUTH SPORTS PROGRAM PROVIDES PROOF OF**
26 **BEING INSURED, UNDER AN ACCIDENT AND LIABILITY POLICY ISSUED BY AN**
27 **INSURANCE COMPANY AUTHORIZED TO DO BUSINESS IN THE STATE, THAT**
28 **COVERS ANY INJURY OR DAMAGE ARISING FROM DELIVERY OF ITS SERVICES.**

29 **(2) COVERAGE FOR A POLICY MEETING THE REQUIREMENTS OF**
30 **THIS SUBSECTION SHALL BE:**

31 **(I) AT LEAST \$50,000 DUE TO BODILY INJURY OR DEATH**
32 **OF ONE PERSON; AND**

33 **(II) AT LEAST \$100,000 DUE TO BODILY INJURY OR DEATH**
34 **OF TWO OR MORE PERSONS IN ANY INCIDENT.**

1 **(3) BEFORE THE FIRST USE OF A PUBLIC SCHOOL FACILITY, A**
2 **YOUTH SPORTS PROGRAM SHALL PROVIDE TO THE COUNTY BOARD:**

3 **(I) A STATEMENT OF COMPLIANCE WITH THE**
4 **REQUIREMENTS FOR THE MANAGEMENT OF A CONCUSSION OR OTHER HEAD**
5 **INJURY OF A STUDENT-ATHLETE UNDER SUBSECTION (C) OF THIS SECTION;**
6 **AND**

7 **(II) PROOF OF THE INSURANCE POLICY REQUIRED UNDER**
8 **THIS SUBSECTION.**

9 **(4) THE IMMUNITY GRANTED UNDER THIS SUBSECTION APPLIES**
10 **ONLY DURING THE TIME PERIOD THE INSURANCE POLICY REQUIRED UNDER**
11 **THIS SUBSECTION IS IN EFFECT.**

12 **(5) (I) THIS SUBSECTION MAY NOT IMPAIR OR LIMIT THE**
13 **ABILITY OF ANY PERSON TO RECOVER DAMAGES FOR HARM DONE BY:**

14 **1. A CONTRACTOR OR AN EMPLOYEE OF A LOCAL**
15 **SCHOOL SYSTEM ACTING IN THE CONTRACTOR'S OR EMPLOYEE'S CAPACITY AS A**
16 **CONTRACTOR OR EMPLOYEE; OR**

17 **2. THE EXISTENCE OF AN UNSAFE PUBLIC SCHOOL**
18 **FACILITY, STRUCTURE, OR PROGRAM OF A COUNTY BOARD.**

19 **(II) THIS PARAGRAPH DOES NOT LIMIT OR DIMINISH ANY**
20 **IMMUNITY FROM CIVIL LIABILITY PROVIDED UNDER PARAGRAPH (1) OF THIS**
21 **SUBSECTION.**

22 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
23 October 1, 2010.