

Department of Legislative Services  
 Maryland General Assembly  
 2010 Session

FISCAL AND POLICY NOTE  
 Revised

House Bill 1391 (Delegate Montgomery, *et al.*)

Ways and Means and Health and  
 Government Operations

Education - Student-Athletes - Concussions

This bill requires that the Maryland State Department of Education (MSDE) develop and implement a program to provide concussion awareness and training to coaches, school personnel, student-athletes, and parents in collaboration with the Department of Health and Mental Hygiene (DHMH), each local board of education, and other experts and stakeholders.

Fiscal Summary

**State Effect:** General fund expenditures increase by an estimated \$50,600 in FY 2011 and by \$60,400 in FY 2012 to hire a contractual staff person to develop and implement a program to provide concussion awareness to coaches, school personnel, and student-athletes. The bill is not anticipated to materially affect the Judiciary’s workload. Revenues are not affected.

(in dollars)	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	50,600	60,400	0	0	0
Net Effect	(\$50,600)	(\$60,400)	\$0	\$0	\$0

*Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect*

**Local Effect:** Local school system expenditures may increase minimally to verify that coaches have received the required concussion awareness training, provide student-athletes and their parents or guardians with the required information about concussions, and document injuries. If local school systems choose to provide on-call or on-location licensed health care providers, then local school system expenditures will increase significantly.

**Small Business Effect:** Potential meaningful. Private youth sports programs operating out of public schools will be required to purchase liability insurance.

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## **Analysis**

**Bill Summary:** “Student-athlete” is defined as a student who participates in an interscholastic athletic activity or a noninterscholastic youth sports program conducted at a public school facility. “Youth sports program” refers to a program organized for recreational athletic competition or instruction for participants who are younger than age 18 or physically or mentally disabled regardless of age.

### *Concussion Awareness Program*

The concussion awareness program developed by MSDE must include a process to verify that a coach has received the required training. On an annual basis, before a student-athlete participates in an athletic activity, a local board must provide a concussion and head injury information sheet to each student-athlete and the parent or guardian of each student-athlete; both must acknowledge the receipt of this sheet by signing a statement. MSDE must create the information sheet and the acknowledgement statement.

### *Removal from Play*

A student-athlete who is suspected of sustaining a concussion or other head injury in a practice or game must be removed from play. Once removed from play, a student-athlete may not return to play until the student-athlete has been evaluated by a licensed health care provider trained in the evaluation and management of concussions and has obtained written clearance to return to play from the health care provider.

### *Liability*

A licensed health care provider who evaluates a student-athlete suspected of sustaining a concussion or other head injury without receiving compensation and authorizes the student-athlete to return to play is not liable for any civil damages as the result of any professional act or omission not amounting to gross negligence or willful or wanton misconduct.

Local boards and youth sports programs are immune from civil liability for an injury to or the death of a student-athlete due to the action or inaction of a person employed by or under contract with a youth sports program if the event takes place at a public school facility during the delivery of the services of the youth sports program and the youth sports program provides proof of having the required insurance. A youth sports program’s insurance policy must cover at least \$50,000 due to bodily injury or death of

one person; and at least \$100,000 due to bodily injury or death of two or more persons in any incident.

Before the first use of a public school facility, a youth sports program must provide to the local board a statement of compliance with the requirement for the management of a concussion or other head injury of a student-athlete and proof of the required insurance policy. However, this may not impair or limit the ability of any person to recover damages for harm done by (1) a contractor or an employee of a local school system acting in the contractor's or employee's capacity as a contractor or employee; or (2) the existence of an unsafe public school facility, structure, or program of a county board.

**Current Law:** MSDE and DHMH are jointly responsible for developing standards and guidelines for school health programs. There are no State laws requiring concussion awareness programs for school coaches. Local school systems have self-insurance funds to guard against liability claims.

**Background:** Concussions are a type of traumatic brain injury, caused by a blow or jolt to the head that can range from mild to severe and can disrupt the way the brain normally works. The federal Centers for Disease Control and Prevention (CDC) report that an estimated 300,000 sports and recreation-related head injuries of mild to moderate severity occur in the United States each year, most of which can be classified as concussions. Concussions can occur in any sport, although they are most common in sports where collisions are common. Individuals who have had at least one concussion are at an increased risk for another concussion. This is a danger to student-athletes because a repeat concussion that occurs before the brain recovers from the first can, according to CDC, result in brain swelling, permanent brain damage, and even death. This is known as "second impact syndrome." It is unknown how often second impact syndrome occurs, but it has been reported more frequently since it was first characterized in 1984. From 1984 through 1991, four cases were described, and from 1992 through 1995, a total of 17 cases were described.

In 2009, Washington became the first state to require that a youth athlete who is suspected of sustaining a concussion or head injury be prohibited from returning to play until the athlete is evaluated by a licensed health care provider and the provider provides written clearance for the athlete to return to play. Other states, including Oregon and Virginia, have proposed or established laws mandating annual concussion training for youth sport coaches.

**State Expenditures:** General fund expenditures increase by \$50,598 in fiscal 2011, which accounts for the bill's October 1, 2010 effective date. This estimate reflects the cost of hiring a full-time contractual employee to develop and implement a program to provide concussion awareness to coaches, school personnel, and student-athletes. It

includes a contractual salary, fringe benefits, start-up costs, and operating expenses. Personnel and operating expenses continue through fiscal 2012 only.

	<u>FY 2011</u>	<u>FY 2012</u>
Contractual Position	1	
Salary	\$46,190	\$59,924
Start-up/Operating Expenses	<u>4,408</u>	<u>515</u>
<b>Total</b>	<b>\$50,598</b>	<b>\$60,439</b>

**Local Expenditures:** Local school system expenditures may increase minimally to verify that coaches have received the required concussion awareness training, provide student-athletes and their parents or guardians with the required information about concussions, and document injuries. Carroll County estimates these activities may cost several thousand dollars.

It is assumed that a student-athlete who is suspected of sustaining a concussion or other head injury in a practice or game will go to a personal health care provider or the emergency room to be evaluated. If local school systems choose to supply on-call or on-location licensed health care providers, then local school system expenditures will increase accordingly.

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### Additional Information

**Prior Introductions:** None.

**Cross File:** SB 865 (Senators Lenett and Zirkin) - Education, Health, and Environmental Affairs.

**Information Source(s):** Maryland State Department of Education; Department of Health and Mental Hygiene; Maryland Insurance Administration; Judiciary (Administrative Office of the Courts); State Treasurer's Office; Carroll, Cecil, Harford, and Montgomery counties; Centers for Disease Control and Prevention; Department of Legislative Services

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