

SB0007



99TH GENERAL ASSEMBLY

State of Illinois

2015 and 2016

SB0007

Introduced 1/15/2015, by Sen. Dan Kotowski

SYNOPSIS AS INTRODUCED:

105 ILCS 5/22-80 new
105 ILCS 5/27A-5
105 ILCS 5/10-20.54 rep.
105 ILCS 5/34-18.46 rep.

Amends the School Code. Repeals provisions of the Code concerning concussions and head injuries and student athletes. Sets forth provisions concerning the prevention, treatment, and oversight of concussions affecting student athletes instead. Requires the governing body of each school district and charter school with students enrolled who participate in an interscholastic athletic activity to appoint or approve a concussion oversight team. Requires each concussion oversight team to establish a return-to-play protocol for a student's return to interscholastic athletics practice or competition following a force or impact believed to have caused a concussion. Sets forth provisions concerning the members of the concussion oversight team; the provision of concussion information to a student and the student's parent or guardian or another person with legal authority to make medical decisions for the student; the removal of a student from an interscholastic athletics practice or competition if he or she might have sustained a concussion; training courses for coaches, athletic trainers, and certain other health care professionals; the development of a venue-specific emergency action plan; immunity; and rulemaking. Makes technical changes having a revisory function. Effective immediately.

LRB099 02651 NHT 22657 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The School Code is amended by adding Section
5 22-80 and by changing Section 27A-5 as follows:

6 (105 ILCS 5/22-80 new)

7 Sec. 22-80. Prevention, treatment, and oversight of
8 concussions affecting student athletes.

9 (a) In this Section:

10 "Advanced practice nurse" means an advanced practice nurse
11 licensed under the Nurse Practice Act.

12 "Athletic trainer" means an athletic trainer licensed
13 under the Illinois Athletic Trainers Practice Act.

14 "Coach" includes an assistant coach.

15 "Concussion" means a complex pathophysiological process
16 affecting the brain caused by a traumatic physical force or
17 impact to the head or body, which may:

18 (1) include temporary or prolonged altered brain
19 function resulting in physical, cognitive, or emotional
20 symptoms or altered sleep patterns; and

21 (2) involve loss of consciousness.

22 "Licensed health care professional" means an advanced
23 practice nurse, athletic trainer, neuropsychologist, or

1 physician assistant, as those terms are defined by this
2 Section.

3 "Neuropsychologist" means a psychologist who holds a
4 license under the Clinical Psychologist Licensing Act and
5 specializes in the practice of neuropsychology.

6 "Physician" means a physician licensed to practice
7 medicine in all of its branches under the Medical Practice Act
8 of 1987.

9 "Physician assistant" means a physician assistant licensed
10 under the Physician Assistant Practice Act of 1987.

11 (b) This Section applies to an interscholastic athletic
12 activity, including practice and competition, sponsored or
13 sanctioned by:

14 (1) a school district, including a public school, or
15 charter school; or

16 (2) the Illinois High School Association.

17 This Section applies beginning with the 2015-2016 school
18 year.

19 (c) The governing body of each school district and charter
20 school with students enrolled who participate in an
21 interscholastic athletic activity shall appoint or approve a
22 concussion oversight team. Each concussion oversight team
23 shall establish a return-to-play protocol, based on
24 peer-reviewed scientific evidence, for a student's return to
25 interscholastic athletics practice or competition following a
26 force or impact believed to have caused a concussion.

1 Each concussion oversight team must include at least one
2 physician and, to the greatest extent practicable, considering
3 factors including the population of the metropolitan
4 statistical area in which the school district or charter school
5 is located, district or charter school student enrollment, and
6 the availability of and access to licensed health care
7 professionals in the district or charter school area, must also
8 include one or more of the following:

9 (1) an athletic trainer;

10 (2) an advanced practice nurse;

11 (3) a neuropsychologist; or

12 (4) a physician assistant.

13 If a school district or charter school employs an athletic
14 trainer, the athletic trainer must be a member of the district
15 or charter school concussion oversight team.

16 Each member of the concussion oversight team must have had
17 training in the evaluation, treatment, and oversight of
18 concussions at the time of appointment or approval as a member
19 of the team.

20 (d) A student may not participate in an interscholastic
21 athletic activity for a school year until both the student and
22 the student's parent or guardian or another person with legal
23 authority to make medical decisions for the student have signed
24 a form for that school year that acknowledges receiving and
25 reading written information that explains concussion
26 prevention, symptoms, treatment, and oversight and that

1 includes guidelines for safely resuming participation in an
2 athletic activity following a concussion. The form must be
3 approved by the Illinois High School Association.

4 (e) A student shall be removed from an interscholastic
5 athletics practice or competition immediately if one of the
6 following persons believes the student might have sustained a
7 concussion during the practice or competition:

8 (1) a coach;

9 (2) a physician;

10 (3) a licensed health care professional; or

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

14 (f) A student removed from an interscholastic athletics
15 practice or competition under this Section may not be permitted
16 to practice or compete again following the force or impact
17 believed to have caused the concussion until:

18 (1) the student has been evaluated, using established
19 medical protocols based on peer-reviewed scientific
20 evidence, by a treating physician chosen by the student or
21 the student's parent or guardian or another person with
22 legal authority to make medical decisions for the student;

23 (2) the student has successfully completed each
24 requirement of the return-to-play protocol established
25 under this Section necessary for the student to return to
26 play;

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

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

7 (A) have acknowledged that the student has
8 completed the requirements of the return-to-play
9 protocol necessary for the student to return to play;

10 (B) have provided the treating physician's written
11 statement under subdivision (3) of this subsection (f)
12 to the person responsible for compliance with the
13 return-to-play protocol under this subsection (f) and
14 the person who has supervisory responsibilities under
15 this subsection (f); and

16 (C) have signed a consent form indicating that the
17 person signing:

18 (i) has been informed concerning and consents
19 to the student participating in returning to play
20 in accordance with the return-to-play protocol;

21 (ii) understands the risks associated with the
22 student returning to play and will comply with any
23 ongoing requirements in the return-to-play
24 protocol;

25 (iii) consents to the disclosure to
26 appropriate persons, consistent with the federal

1 Health Insurance Portability and Accountability
2 Act of 1996 (Public Law 104-191), of the treating
3 physician's written statement under subdivision
4 (3) of this subsection (f) and, if any, the
5 return-to-play recommendations of the treating
6 physician; and

7 (iv) understands the immunity provisions under
8 subsection (i) of this Section.

9 A coach of an interscholastic athletics team may not
10 authorize a student's return to play.

11 The school district superintendent or the superintendent's
12 designee or, in the case of a charter school, the chief school
13 administrator or that person's designee shall supervise an
14 athletic trainer or other person responsible for compliance
15 with the return-to-play protocol. The person who has
16 supervisory responsibilities under this paragraph may not be a
17 coach of an interscholastic athletics team.

18 (g) (1) The Illinois High School Association shall approve
19 for coaches of interscholastic athletic activities training
20 courses that provide for not less than 2 hours of training in
21 the subject matter of concussions, including evaluation,
22 prevention, symptoms, risks, and long-term effects. The
23 Association shall maintain an updated list of individuals and
24 organizations authorized by the Association to provide the
25 training.

26 (2) The Illinois Board of Athletic Trainers shall approve

1 for athletic trainers training courses in the subject matter of
2 concussions and shall maintain an updated list of individuals
3 and organizations authorized by the Board to provide the
4 training.

5 (3) The following persons must take a training course in
6 accordance with paragraph (5) of this subsection (g) from an
7 authorized training provider at least once every 2 years:

8 (A) a coach of an interscholastic athletic activity;

9 (B) a licensed health care professional who serves as a
10 member of a concussion oversight team and is an employee,
11 representative, or agent of a school district or charter
12 school; and

13 (C) a licensed health care professional who serves on a
14 volunteer basis as a member of a concussion oversight team
15 for a school district or charter school.

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

20 (5) For purposes of paragraph (3) of this subsection (g):

21 (A) a coach must take a course described in paragraph
22 (1) of this subsection (g);

23 (B) an athletic trainer must take:

24 (i) a course described in paragraph (2) of this
25 subsection (g); or

26 (ii) a course concerning the subject matter of

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

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

6 (i) a course described in paragraph (1) or (2) of
7 this subsection (g); or

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

12 (6) Each person described by paragraph (3) of this
13 subsection (g) must submit proof of timely completion of an
14 approved course in compliance with paragraph (5) of this
15 subsection (g) to the school district superintendent or the
16 superintendent's designee or, in the case of a charter school,
17 the chief school administrator or that person's designee.

18 (7) A licensed health care professional who is not in
19 compliance with the training requirements under this
20 subsection (g) may not serve on a concussion oversight team in
21 any capacity.

22 (8) A person required under this subsection (g) to take a
23 training course in the subject of concussions must initially
24 complete the training course not later than September 1, 2016.

25 (h) The governing body of each school district and charter
26 school with students enrolled who participate in an

1 interscholastic athletic activity shall develop a
2 venue-specific emergency action plan for interscholastic
3 athletic activities to deal with serious injuries and acute
4 medical conditions in which the condition of the patient may
5 deteriorate rapidly. The plan shall include a delineation of
6 roles, methods of communication, available emergency
7 equipment, and access to and a plan for emergency transport.

8 This emergency action plan must be:

9 (1) in writing;

10 (2) reviewed by an athletic trainer;

11 (3) approved by the school district superintendent or,
12 in the case of a charter school, the chief school
13 administrator;

14 (4) distributed to all appropriate personnel;

15 (5) posted conspicuously at all venues; and

16 (6) reviewed and rehearsed annually by all athletic
17 trainers, first responders, coaches, school nurses,
18 athletic directors, and volunteers for interscholastic
19 athletic activities.

20 (i) This Section does not:

21 (1) waive any immunity from liability of a school
22 district or charter school or of district or charter school
23 officers or employees;

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

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

7 (j) The State Board of Education may adopt rules as
8 necessary to administer this Section.

9 (105 ILCS 5/27A-5)

10 Sec. 27A-5. Charter school; legal entity; requirements.

11 (a) A charter school shall be a public, nonsectarian,
12 nonreligious, non-home based, and non-profit school. A charter
13 school shall be organized and operated as a nonprofit
14 corporation or other discrete, legal, nonprofit entity
15 authorized under the laws of the State of Illinois.

16 (b) A charter school may be established under this Article
17 by creating a new school or by converting an existing public
18 school or attendance center to charter school status. Beginning
19 on the effective date of this amendatory Act of the 93rd
20 General Assembly, in all new applications to establish a
21 charter school in a city having a population exceeding 500,000,
22 operation of the charter school shall be limited to one campus.
23 The changes made to this Section by this amendatory Act of the
24 93rd General Assembly do not apply to charter schools existing
25 or approved on or before the effective date of this amendatory

1 Act.

2 (b-5) In this subsection (b-5), "virtual-schooling" means
3 a cyber school where students engage in online curriculum and
4 instruction via the Internet and electronic communication with
5 their teachers at remote locations and with students
6 participating at different times.

7 From April 1, 2013 through December 31, 2016, there is a
8 moratorium on the establishment of charter schools with
9 virtual-schooling components in school districts other than a
10 school district organized under Article 34 of this Code. This
11 moratorium does not apply to a charter school with
12 virtual-schooling components existing or approved prior to
13 April 1, 2013 or to the renewal of the charter of a charter
14 school with virtual-schooling components already approved
15 prior to April 1, 2013.

16 On or before March 1, 2014, the Commission shall submit to
17 the General Assembly a report on the effect of
18 virtual-schooling, including without limitation the effect on
19 student performance, the costs associated with
20 virtual-schooling, and issues with oversight. The report shall
21 include policy recommendations for virtual-schooling.

22 (c) A charter school shall be administered and governed by
23 its board of directors or other governing body in the manner
24 provided in its charter. The governing body of a charter school
25 shall be subject to the Freedom of Information Act and the Open
26 Meetings Act.

1 (d) A charter school shall comply with all applicable
2 health and safety requirements applicable to public schools
3 under the laws of the State of Illinois.

4 (e) Except as otherwise provided in the School Code, a
5 charter school shall not charge tuition; provided that a
6 charter school may charge reasonable fees for textbooks,
7 instructional materials, and student activities.

8 (f) A charter school shall be responsible for the
9 management and operation of its fiscal affairs including, but
10 not limited to, the preparation of its budget. An audit of each
11 charter school's finances shall be conducted annually by an
12 outside, independent contractor retained by the charter
13 school. To ensure financial accountability for the use of
14 public funds, on or before December 1 of every year of
15 operation, each charter school shall submit to its authorizer
16 and the State Board a copy of its audit and a copy of the Form
17 990 the charter school filed that year with the federal
18 Internal Revenue Service. In addition, if deemed necessary for
19 proper financial oversight of the charter school, an authorizer
20 may require quarterly financial statements from each charter
21 school.

22 (g) A charter school shall comply with all provisions of
23 this Article; the Illinois Educational Labor Relations Act; all
24 federal and State laws and rules applicable to public schools
25 that pertain to special education and the instruction of
26 English language learners, referred to in this Code as

1 "children of limited English-speaking ability"; and its
2 charter. A charter school is exempt from all other State laws
3 and regulations in this Code governing public schools and local
4 school board policies, except the following:

5 (1) Sections 10-21.9 and 34-18.5 of this Code regarding
6 criminal history records checks and checks of the Statewide
7 Sex Offender Database and Statewide Murderer and Violent
8 Offender Against Youth Database of applicants for
9 employment;

10 (2) Sections 24-24 and 34-84A of this Code regarding
11 discipline of students;

12 (3) the Local Governmental and Governmental Employees
13 Tort Immunity Act;

14 (4) Section 108.75 of the General Not For Profit
15 Corporation Act of 1986 regarding indemnification of
16 officers, directors, employees, and agents;

17 (5) the Abused and Neglected Child Reporting Act;

18 (6) the Illinois School Student Records Act;

19 (7) Section 10-17a of this Code regarding school report
20 cards;

21 (8) the P-20 Longitudinal Education Data System Act;

22 ~~and~~

23 (9) Section 27-23.7 of this Code regarding bullying
24 prevention;~~;~~

25 (10) ~~(9)~~ Section 2-3.162 ~~2-3.160~~ of this ~~the School~~
26 Code regarding student discipline reporting; and;

1 (11) Section 22-80 of this Code.

2 The change made by Public Act 96-104 to this subsection (g)
3 is declaratory of existing law.

4 (h) A charter school may negotiate and contract with a
5 school district, the governing body of a State college or
6 university or public community college, or any other public or
7 for-profit or nonprofit private entity for: (i) the use of a
8 school building and grounds or any other real property or
9 facilities that the charter school desires to use or convert
10 for use as a charter school site, (ii) the operation and
11 maintenance thereof, and (iii) the provision of any service,
12 activity, or undertaking that the charter school is required to
13 perform in order to carry out the terms of its charter.
14 However, a charter school that is established on or after the
15 effective date of this amendatory Act of the 93rd General
16 Assembly and that operates in a city having a population
17 exceeding 500,000 may not contract with a for-profit entity to
18 manage or operate the school during the period that commences
19 on the effective date of this amendatory Act of the 93rd
20 General Assembly and concludes at the end of the 2004-2005
21 school year. Except as provided in subsection (i) of this
22 Section, a school district may charge a charter school
23 reasonable rent for the use of the district's buildings,
24 grounds, and facilities. Any services for which a charter
25 school contracts with a school district shall be provided by
26 the district at cost. Any services for which a charter school

1 contracts with a local school board or with the governing body
2 of a State college or university or public community college
3 shall be provided by the public entity at cost.

4 (i) In no event shall a charter school that is established
5 by converting an existing school or attendance center to
6 charter school status be required to pay rent for space that is
7 deemed available, as negotiated and provided in the charter
8 agreement, in school district facilities. However, all other
9 costs for the operation and maintenance of school district
10 facilities that are used by the charter school shall be subject
11 to negotiation between the charter school and the local school
12 board and shall be set forth in the charter.

13 (j) A charter school may limit student enrollment by age or
14 grade level.

15 (k) If the charter school is approved by the Commission,
16 then the Commission charter school is its own local education
17 agency.

18 (Source: P.A. 97-152, eff. 7-20-11; 97-154, eff. 1-1-12;
19 97-813, eff. 7-13-12; 98-16, eff. 5-24-13; 98-639, eff. 6-9-14;
20 98-669, eff. 6-26-14; 98-739, eff. 7-16-14; 98-783, eff.
21 1-1-15; 98-1059, eff. 8-26-14; 98-1102, eff. 8-26-14; revised
22 10-14-14.)

23 (105 ILCS 5/10-20.54 rep.)

24 (105 ILCS 5/34-18.46 rep.)

25 Section 10. The School Code is amended by repealing

1 Sections 10-20.54 and 34-18.46.

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.