

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Health Regulation Committee

BILL: SB 256

INTRODUCER: Senator Flores

SUBJECT: Youth and Student Athletes

DATE: November 29, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Matthews	ED	Favorable
2.	Wilson	Stovall	HR	Favorable
3.	_____	_____	BC	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill requires independent sanctioning authorities of youth athletic teams, and the Florida High School Athletic Association, to adopt guidelines, bylaws or policies for:

- Educating officials, administrators, coaches, and youth or student athletes and their parents on sports-related concussions and head injuries;
- Requiring parents or guardians to sign a consent form that explains the nature and risk of concussion and head injury;
- Requiring a youth or student athlete suspected of sustaining a concussion or head injury in a practice or competition to be immediately removed from the activity; and
- Prohibiting a youth or student athlete who has been removed from a practice or competition from returning to practice or competition until the youth receives written clearance from a medical physician or osteopathic physician.

At the direction of the physician, specified health care practitioners are authorized to provide medical examinations and treatment for purposes of the clearances.

This bill substantially amends sections 943.0438 and 1006.20 of the Florida Statutes.

II. Present Situation:

Independent Sanctioning Authorities

An independent sanctioning authority is defined in statute as a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in Florida if the team includes one

or more minors and is not affiliated with a private school.¹ An independent sanctioning authority is currently required to screen each current and prospective athletic coach against state and federal registries of sexual predators and sexual offenders. The independent sanctioning authority must disqualify any person from acting as an athletic coach if he or she is identified on one of these registries.

The Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA), established in s. 1006.20, F.S., is the governing body of Florida public school athletics. Currently, the FHSAA is required to adopt bylaws to

- Establish eligibility requirements for all students;
- Prohibit recruiting students for athletic purposes; and
- Require students participating in athletics to satisfactorily pass an annual medical evaluation.

Unless otherwise specifically provided by statute, the bylaws are the rules by which high school athletic programs in its member schools, and the students who participate in them, are governed. The bylaws are published in a handbook that is available online.² Currently, the FHSAA governs almost 800 public and private member schools.³

On June 14, 2011, the FHSAA Board of Directors adopted the *FHSAA Concussion Action Plan*, which is now Appendix B in the 2011-12 FHSAA Handbook; added language to the *Consent and Release from Liability Certificate* (FHSAA Form EL3) about the potential dangers of concussions and/or health and neck injuries in interscholastic athletics; and added a required course, *Concussion in Sports – What You Need to Know*, for all FHSAA-member school head coaches and paid/supplemental coaches.⁴

Sports-related Head Injury

The Centers for Disease Control and Prevention (CDC) defines a concussion as a traumatic brain injury caused by a bump, blow, or jolt to the head that can change the way the brain normally works. Concussions can also occur from a blow to the body that causes the head to move rapidly back and forth. The risk of catastrophic injuries or death can be significant especially in youth athletes when a concussion or head injury is not properly evaluated or managed. In an effort to raise awareness and provide education to coaches, athletes and parents of athletes, the CDC has created free tools that provide important information on preventing, recognizing, and responding to a concussion.⁵

¹ See s. 943.0438, F.S.

² Florida High School Athletic Association Handbook, 2011-2012 Edition. Found at: <http://www.fhsaa.org/sites/default/files/attachments/2010/09/16/node-235/complete_handbook_276pgs.pdf> (Last visited on November 29, 2011).

³ About the FHSAA. Found at: <<http://www.fhsaa.org/about>> (Last visited on November 29, 2011).

⁴ See 2012 Agency Legislative Bill Analysis for SB 256, Florida Department of Education, on file with the Florida Senate Health Regulation Committee.

⁵ CDC, Injury Prevention and Control: Traumatic Brain Injury, *Concussion in Sports*. Found at: <<http://www.cdc.gov/concussion/sports/index.html>> (Last visited on November 29, 2011).

According to the CDC:

- Approximately 173,000 young people 19 years old or younger receive treatment in emergency department settings annually for nonfatal traumatic brain injuries resulting from sports and recreation activities;
- Researchers observed a considerable increase in the number of emergency department visits for traumatic brain injuries in the years studied (2001-2009), from 153,375 to 248,418 visits, most significantly among males aged 10-19 years; and
- From 2001-2009, the number of sports and recreation-related emergency department visits for traumatic brain injury among persons 19 years old or younger increased 62 percent and the rate of traumatic brain injury visits increased 57 percent.⁶

For persons suspected of incurring a traumatic brain injury during sports play, the CDC recommends immediate removal from play with a blanket prohibition on return the same day, and return to play only after evaluation and clearance by a health care provider with specific expertise in diagnosing and managing traumatic brain injury.⁷ The CDC provides the following information to help coaches recognize a possible concussion in an athlete.⁸ To help recognize a concussion, a coach should watch for two things:

- A forceful bump, blow, or jolt to the head or body that results in rapid movement of the head.
- Any change in the athlete’s behavior, thinking, or physical functioning.

The changes in the athlete’s behavior, thinking, or physical functioning include *any* of the following:

Signs Observed by Coaching Staff	Symptoms Reported by Athlete
Appears dazed or stunned	Headache or “pressure” in head
Is confused about assignment or position	Nausea or vomiting
Forgets an instruction	Balance problems or dizziness
Is unsure of game, score, or opponent	Double or blurry vision
Moves clumsily	Sensitivity to light
Answers questions slowly	Sensitivity to noise
Loses consciousness (<i>even briefly</i>)	Feeling sluggish, hazy, foggy, or groggy
Shows mood, behavior or personality changes	Concentration or memory problems
Can’t recall events <i>prior</i> to hit or fall	Confusion
Can’t recall events <i>after</i> hit or fall	Does not “feel right” or is “feeling down”

⁶ *Nonfatal Traumatic Brain Injuries Related to Sports and Recreation Activities Among Persons Aged Less Than or Equal to 19 Years --- United States, 2001-2009*, CDC, Morbidity and Mortality Weekly Report (MMWR), October 7, 2011/60(39);1337-1342. Found at: <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6039a1.htm?s_cid=mm6039a1_w> (Last visited on November 29, 2011).

⁷ *Id.*

⁸ CDC, *Injury Prevention and Control: Traumatic Brain Injury, Concussion in Sports*. Found at: <<http://www.cdc.gov/concussion/sports/recognize.html>> (Last visited on November 29, 2011).

The CDC has also developed online training for health care professionals that addresses concussion in sports among young athletes.⁹ The training includes a 5-step Return to Play progression for determining if an athlete should be cleared to return to athletic activities.

The “Zackery Lystedt Law”

Named for a young football player who sustained serious injury in 2006 after he returned to play too soon following a concussion, the “Zackery Lystedt Law” was enacted by the Washington State Legislature in 2009. The law took effect on July 26, 2009. The law provided for education on the dangers of concussions, removal of head-injured athletes from competition, and delayed return to play until a medical professional provides a clearance.

On May 21, 2010, Roger Goodell, Commissioner of the National Football League sent a letter to state governors urging their support of legislation that would better protect young athletes by mandating a more formal and aggressive approach to treatment of concussions.¹⁰ The letter cites the Zackery Lystedt Law. As of November 2011, thirty-four states have enacted legislation that targets youth sports-related head injuries.¹¹ Most of these laws are similar in content to the Zackery Lystedt Law.

Health Care Practitioners

Health care practitioners are regulated under the general provisions of ch. 456, F.S., and specific licensing statutes for each type of practitioner.

- Medical practice is governed by ch. 458, F.S., under the Board of Medicine within the Department of Health.
- The practice of osteopathic medicine is governed by ch. 459, F.S., under the Board of Osteopathic Medicine within the Department of Health
- Nursing practice is governed by ch. 464, F.S., under the Board of Nursing within the Department of Health. Section 464.012, F.S., provides for the certification of registered nurses as advanced registered nurse practitioners. A nurse practitioner may perform certain acts within the framework of an established protocol with a physician.
- Physician assistants are governed by sections 458.347 and 459.022, F.S., under the Board of Medicine and the Board of Osteopathic Medicine within the Department of Health. Physician assistants perform certain medical services delegated by a supervising physician.
- Athletic trainers are governed by part XIII, ch. 468, F.S., under the Board of Athletic Trainers within the Department of Health. Athletic trainers practice within a written protocol established between the athletic trainer and a supervising physician licensed under ch. 458, ch. 459, or ch. 460 (chiropractic medicine), F.S.
- The practice of psychology is governed by ch. 490, F.S., under the Board of Psychology within the Department of Health.

⁹ CDC, *Heads Up to Clinicians: Addressing Concussion in Sports among Kids and Teens*. Found at: <<http://www.cdc.gov/concussion/headsup/clinicians.html>> (Last visited on November 29, 2011).

¹⁰ NFL Commissioner Goodell’s Letter to New Jersey Governor Christie. Found at: <<http://nflhealthandsafety.files.wordpress.com/2011/01/njgovernorletterrg-508.pdf>> (Last visited on November 29, 2011).

¹¹ National Conference of State Legislatures, *State Laws on Traumatic Brain Injury: 2009-2011*. Found at: <<http://www.ncsl.org/default.aspx?tabid=18687>> (Last visited on November 29, 2011).

Each of these health care practitioners must be licensed in order to practice in this state. They must practice only within their specific scope of practice as established in the applicable licensing law and rules adopted by the applicable board. A health care practitioner may seek a declaratory statement from the applicable board if the practitioner is unclear about whether a specific act is within his or her scope of practice.

III. Effect of Proposed Changes:

The bill requires independent sanctioning authorities for youth athletic teams and the FHSAA to adopt guidelines to educate officials, administrators, athletic coaches, and youth athletes and their parents or guardians of the nature and risk of concussion and head injury.

In addition, the bill requires independent sanctioning authorities and the FHSAA to adopt bylaws or policies requiring:

- The parent or guardian of a minor, before the minor participates in a competition, practice, or other activity, to sign and return a consent form which explains the nature and risk of concussion and head injury, including the risk of continuing to play after a concussion or head injury has occurred; and
- A youth or student athlete who is suspected of sustaining a concussion or head injury in a practice or competition to be immediately removed from the activity and prohibiting the youth or student athlete from returning to practice or competition until the youth receives written clearance to return from a medical physician or osteopathic physician.

The bill authorizes a medical physician or osteopathic physician to delegate the performance of medical care of a youth or student athlete who has sustained a concussion to a nurse practitioner, physician assistant or athletic trainer with whom the physician maintains a formal supervisory relationship or established written protocol that:

- Identifies the medical care or evaluations to be performed,
- Identifies the conditions for performing medical care or evaluations, and
- Attests to proficiency in the evaluation and management of concussions.

A physician may also consult with or use testing and the evaluation of cognitive functions performed by a neuropsychologist who is licensed in this state.

The effective date of the bill is July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The provisions of this bill have no impact on municipalities and the counties under the requirements of Article VII, Section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

The provisions of the bill have no impact on public records or open meetings issues under the requirements of Article I, Section 24(a) and (b) of the Florida Constitution.

C. Trust Funds Restrictions:

The provisions of this bill have no impact on the trust fund restrictions under the requirements of Article III, Subsection 19(f) of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Independent sanctioning authorities and the FHSAA may have to expend resources developing guidelines and bylaws or policies, if they have not already adopted such guidelines, bylaws or policies.

Independent sanctioning authorities that fail to implement the law could be vulnerable to liability issues related to concussion and head injury. Conversely, the provisions relating to informed consent and a prohibition on athletes returning to play until they are medically cleared, if implemented, may reduce liability for sports-related injuries.

Adoption of this legislation would hopefully lessen the severity of sports-related head injuries to children, with a possible reduction of personal medical and other costs in the long term.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Chapter 943, F.S., relates to the organization and duties of the Florida Department of Law Enforcement (FDLE). The logical nexus for the placement in ch. 943, F.S., of provisions relevant to an athletic coach of a youth athletic team is that those provisions involve a search of the coach's name and other identifying information against the Florida and federal registries of sexual predators and sexual offenders. The FDLE operates the Florida registry. In comparison, the provisions of this bill do not require the FDLE to do anything or require an independent sanctioning authority to do something which requires FDLE's assistance or access to a service the FDLE provides. Since the bill is concerned with the health of youth athletes, it may be appropriate to transfer s. 943.0438, F.S., to ch. 381, F.S., the general public health provisions.

The bill does not contain any provision for sanctions or penalties if the independent sanctioning authority fails to comply with the requirements of the bill. However, current provisions of the

statute do not include sanctions or penalties for failure of an independent sanctioning authority to comply with requirements of the statute.

The FHSAA requires member schools to maintain a record of the consent to participate forms for student athletes. It is not clear from the bill what the independent athletic sanctioning authorities will do with the informed consent forms for the athletes that participate in their programs.

The bill requires the FHSAA to adopt bylaws or policies that require a parent or guardian of a student athlete to sign the consent form *annually*. No timeframe is authorized for the bylaws or policies adopted by independent sanctioning authorities in section 1 of the bill. Therefore it is not clear whether a consent form must be signed before the minor participates in each competition, practice, or other activity or whether a consent form could cover a series of activities.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.