

- SUBJECT:** Establishing a concussion protocol for student athletes
- COMMITTEE:** Public Health — committee substitute recommended
- VOTE:** 10 ayes — Kolkhorst, Naishtat, Alvarado, Coleman, S. Davis, Gonzales, S. King, Laubenberg, Schwertner, Zerwas
- 1 nay — Truitt
- WITNESSES:** For — William Benson, Young People of Texas; Jane Boutte, Brain Injury Association of Texas; Joseph Browne, NFL; Kathy Ladner, Sportssafe Concussion Testing & Saint Stephen's Episcopal School; Scott Galloway, Spanky Stephens, and Bucky Taylor, Texas State Athletic Trainers Association; Steve Bragg, Munro Cullum; Dennis Hart; Natasha Helmick; N.D. Kalu; Summer Ott; (*Registered, but did not testify:* Jim Grace, Houston Texans Football Team; Deanna Kuykendall, Brain Injury Alliance of Texas; Nef Partida, The Methodist Hospital System; Heather Conover; Britney Webb)
- Against — None
- On — Mark Cousins, University Interscholastic League; John Hart, University of Texas at Dallas Center for Brain Health; D.W. Rutledge, Texas High School Coaches Association; Theodore Spinks, Texas Medical Association, Texas Pediatric Society, and Texas Academy of Family Physicians; Sam Tipton, Texas Girls Coaches Association
- DIGEST:** CSHB 2038 would require school districts or charter schools to establish a protocol for dealing with students who could have sustained a concussion while participating in a school sponsored athletic event or practice.
- The bill would define a concussion as a complex pathophysiological process that affects the brain and is caused by a traumatic physical force or impact to the head or body. A concussion could include temporary or prolonged altered brain function resulting in physical, cognitive, or emotional symptoms or altered sleep patterns and could involve loss of consciousness.

**Administration and applicability of the rules.** The bill would authorize the commissioner of education to adopt necessary rules to administer these provisions. It would apply to an interscholastic athletic activity, including practice and competition, sponsored or sanctioned by a school district, a public school, including a charter school, or the University Interscholastic League.

**Concussion oversight team.** The bill would require the governing body of a school district or charter school that permitted students to participate in an interscholastic athletic activity to appoint or approve a concussion oversight team that would establish a concussion protocol based on peer-reviewed scientific evidence for students suspected to have sustained a concussion during a school-related athletic event or practice.

Every member of the concussion oversight team would be required to complete training in the evaluation, treatment, and oversight of concussions. The oversight team would have to include at least one physician and a district or charter school's athletic trainer if one is employed. The oversight team also would have to include at least one of the following:

- an athletic trainer;
- an advanced practice nurse;
- a neuropsychologist; or
- a physician assistant.

**Concussion information and acknowledgement form.** A student would be prohibited from participating in an interscholastic athletic activity until both the student and a parent or guardian had signed an acknowledgement form stating that written information about concussions and relevant safety policies was received and read. The form would have to be approved by the University Interscholastic League (UIL), and students and their parent or guardian would have to complete a new form each academic year.

**Removal from play.** The bill would require that a student be removed from practice or a competition immediately if a coach, physician, health care professional, or a parent or guardian believed the student might have sustained a concussion while participating in a sport.

**Return to play.** A student removed from an athletics practice or competition would not be permitted to practice or compete again until the student had been evaluated and cleared to play through a school-issued written statement by the family's physician. The student's parent or guardian and student would have to return the physician's statement and complete a consent form indicating that they:

- had been informed and consented to the policies established under the return-to-play protocol;
- understood the risks associated with the student's returning to play and would comply with any ongoing requirements outlined by the concussion policy;
- consented to the physician's disclosure of health information that was related to the concussion treatments; and
- understood the district or school's immunity from liability provisions.

A district or charter school's superintendent or acting head would have to appoint and supervise an athletic trainer or other another relevant person to ensure the athletics program complies with the concussion protocol. The bill would prohibit a coach from acting in this role.

**Training.** The bill would require coaches to attend and submit proof to the governing board that they had completed at least two hours of training on concussions that included information on evaluation and diagnosis, prevention, symptoms, appropriate medical treatment, risks, and long-term effects. The UIL would maintain an updated list of individuals and organizations authorized by the league to provide the training.

The athletic trainer or a licensed health care professional employed by the district or charter school would be required to attend training and submit proof of completing an approved course. An athletic trainer would complete a course on concussions approved by the Department of State Health Services (DSHS) Advisory Board of Athletic Trainers. An athletic trainer or licensed health care professional also could take a concussion related course offered by the licensing authority for continuing educational credit.

A licensed health care professional who acted as a volunteer of the concussion oversight team would also have to complete the training requirement. A physician who volunteered on the oversight team would

also be expected to follow the continuing education regime to the greatest extent practicable.

Training requirements would have to be met by September 1, 2012.

**Immunity.** The bill would provide immunity from any liability or cause of action against a school district or charter school, an employee, or a participant on the concussion oversight team that could arise from the injury or death of a student participating in a school sponsored athletic event or practice that occurred under the guidance of the concussion oversight team.

**Effective date.** The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2011. It would apply beginning with the 2011-2012 school year.

SUPPORTERS  
SAY:

CSHB 2038 would help protect young athletes in Texas from the damaging effects of traumatic brain injury. Research has shown that a young person's brain is still developing. Student athletes often receive multiple hits to the head that can seem superficial and go undetected. Each hit that is sustained has a compounding effect and can produce long-term health problems, such as depression, aggression, Alzheimer's, and other disorders that show themselves long after the impact has occurred. Protocols are in place to pull a student out of the game if the student has a visible physical injury like a broken arm or bloody nose. The same protocol should be established for athletes who have sustained a head injury to make sure that their growing brains are not harmed permanently.

The bill would update the law to provide a more substantive definition of concussion and require school districts to establish a protocol to support student athletes. It was previously thought that an individual would have to be unconscious to have sustained a concussion. This is what is reflected in current law and in the guidance that is provided on how to handle concussions for young people in Texas. This information is outdated and incorrect.

CSHB 2038 would not permit a student athlete to return to the sport until a doctor had granted permission to return. Scholastic sports have become more competitive with athletes getting bigger, stronger, and faster. It also means there is more pressure for the athlete to try to stay in the game even

after a tough blow to the head. The bill would take the pressure off of athletes and coaches by letting a physician make the final call based on sound medical evidence, rather than a desire to win.

The bill also would allow the staff and volunteers working with the athletes to keep up with the latest continuing education. There has been a lot of new research on traumatic brain injury and concussions, and medical experts continuously issue new guidelines on best practices. It would make sense to equip coaches and trainers with the latest information so that our kids were safer when they engaged in sports activities. Coaches and athletic trainers already are attending conferences as currently required by their role. It would not be difficult to add an additional component to protect the health of their teams.

CSHB 2038 would require school districts to establish a concussion oversight team, which would have to include a physician. This group would create the district's protocol on how to handle concussions based on medical information, but allow for parents, school officials, and local health care providers to come together to create a best practice policy that fit the needs of their community. Additional costs likely would be minimal as the bill would allow school districts to share protocols and other information on preventing concussions at no cost. The athletics department from Mesquite ISD has developed a model that has been used by more than 30 school districts or schools from across the state for free.

The bill also would provide some flexibility in the composition of the concussion oversight teams to best meet the needs of medically underserved areas in Texas. A physician could voluntarily serve on more than one oversight team, and many are willing to do this because members of this committee would be immune to prosecution.

Across the state, many athletic programs follow the guidelines established by UIL on concussions. These have served a valuable purpose in protecting student athletes in Texas, but currently they have no force in law. CSHB 2038 would ensure that student athletes were protected by establishing these provisions in the Education Code and would require all parties to look out for the best interest of our young people.

**OPPONENTS  
SAY:**

CSHB 2038 would place an unfunded mandate on schools as they struggle in a tough economic climate. Coaches and athletic trainers currently work a number of additional hours without pay, and this bill would require

additional time and training to establish district policies that already are spelled out under the UIL protocol.

Additionally, many smaller school districts or charter schools with athletic programs do not have an athletic trainer or an employed license health care professional who is onsite. It is unclear what additional costs the bill would impose on rural and small schools in complying with these provisions.

**OTHER  
OPPONENTS  
SAY:**

While CSHB 2038 would help improve awareness about concussions, the bill could use a more standardized approach to improve health outcomes for young athletes. The bill would require each school district or charter school to create their own concussion protocol. This could create more than 1,300 different protocols and could lead to variation in how athletes across the state were initially treated following a head injury.

Smaller school districts and charter schools would be at a particular disadvantage because they have fewer trained professionals and cannot follow teams on away games. Often athletic programs with these constraints permit the athletic or medical staff of the home team to evaluate their students. It is not difficult to imagine that a head injury could go unidentified in this situation because the athlete was unknown. It would be more appropriate and effective to have a single, statewide recommended protocol to ensure that students received the same standard of care as soon as they sustained an injury to the head.

**NOTES:**

The companion bill, SB 835 by Deuell was referred to the Senate Education Committee on March 1.