

WEST VIRGINIA LEGISLATURE

2017 REGULAR SESSION

Introduced

Senate Bill 527

BY SENATORS STOLLINGS, MANN, PLYMALE, ROMANO

AND MULLINS

[Introduced March 7, 2017; Referred
to the Committee on Education; and then to the
Committee on Health and Human Resources]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
 2 designated §18-2-41; to amend and reenact §18-10A-15 of said code; and to amend said
 3 code by adding thereto a new section, designated §18B-14-3, all relating to traumatic brain
 4 injury; setting forth findings; requiring State Board of Education, Higher Education Policy
 5 Commission and Council for Community and Technical College Education rules
 6 establishing Return-to-Learn protocols; requiring concussion management team any time
 7 a student suffers a concussion; setting forth members; prohibiting student from returning
 8 to participation in regular classroom activities without adaptive academic accommodations
 9 until authorized; requiring appropriate parental releases to foster communication and to
 10 allow data to be submitted to the Statewide Concussion Surveillance System; requiring
 11 county superintendent designee or designee of institution president, as applicable, to
 12 perform certain duties; requiring all school districts or state institutions of higher education,
 13 as applicable, to report certain information for inclusion in the Statewide Concussion
 14 Surveillance System; expanding provisions relating to the West Virginia University Center
 15 for Excellence in Disabilities central registry of persons who sustain certain head injuries;
 16 and requiring the West Virginia University Center for Excellence in Disabilities to establish
 17 a Statewide Concussion Surveillance System to house certain data.

Be it enacted by the Legislature of West Virginia:

1 That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new
 2 section, designated §18-2-41; that §18-10A-15 of said code be amended and reenacted; and that
 3 said code be amended by adding thereto a new section, designated §18B-14-3, all to read as
 4 follows:

CHAPTER 18. EDUCATION.

ARTICLE 2. STATE BOARD OF EDUCATION.

§18-2-41. Elementary and secondary education return-to-learn protocols.

1 (a) The Legislature finds that:

2 (1) The Centers for Disease Control and Prevention defines concussion as a type of
3 traumatic brain injury caused by a bump, blow or jolt to the head or by a hit to the body that causes
4 the head and brain to move rapidly back and forth;

5 (2) Students who experience a concussion are more successful when provided adaptive
6 academic accommodations within the first twenty-eight days after injury;

7 (3) The West Virginia University Center for Excellence in Disabilities has developed
8 Return-to-Learn recommendations for education institutions to increase the awareness of
9 concussion as a brain injury that requires coordinated management for the best possible student
10 outcomes.

11 (b) The state board shall promulgate rules in accordance with article three-b, chapter
12 twenty-nine-a of this code establishing a Return-to-Learn protocol in accordance with the
13 following:

14 (1) Any time a student suffers a concussion, the school shall create a concussion
15 management team that includes the student, the student's parent or guardian, a representative
16 of the school and a licensed health care professional. The concussion management team shall
17 monitor and report symptoms to the administrator designated by the county superintendent
18 pursuant to subdivision (7) of this subsection;

19 (2) The rule shall include a list of the respective categories of licensed health care
20 professionals who, if properly trained in evaluation and management of concussions, qualify as a
21 licensed health care professional for the purposes of membership on a concussion management
22 team pursuant to subdivision (1) of this subsection and qualify to authorize a student to participate
23 in regular classroom activities without adaptive academic accommodations pursuant to
24 subdivision (5) of this subsection;

25 (3) A concussion management team shall convene within forty-eight to seventy-two hours
26 after a concussion is reported;

27 (4) The concussion management team shall meet weekly to evaluate the student's
28 improvement, with information from family and medical professionals;

29 (5) No student may return to participation in regular classroom activities without adaptive
30 academic accommodations until authorized by the licensed health care professional and the
31 concussion management team;

32 (6) Schools shall obtain the appropriate parental releases to foster communication and to
33 allow data to be submitted to the Statewide Concussion Surveillance System established by the
34 West Virginia University Center for Excellence in Disabilities pursuant to section three, article
35 fourteen, chapter eighteen-b of this code;

36 (7) A county superintendent shall designate an administrator, such as the director of
37 special education, to:

38 (A) Coordinate annual concussion management team training from the West Virginia
39 University Center for Excellence in Disabilities. The training may be online, in person or both;

40 (B) Implement standard procedures for students who need adaptive academic
41 accommodations after twenty-eight days; and

42 (C) Report required information to the Statewide Concussion Surveillance System
43 pursuant to subdivision (8) of this subsection and

44 (8) For inclusion in the Statewide Concussion Surveillance System established pursuant
45 to section three, article fourteen, chapter eighteen-b of this code, all county school districts within
46 the state shall report to the West Virginia University Center for Excellence in Disabilities monthly
47 data for each student with an identified or diagnosed traumatic brain injury, to include mild
48 concussion. Subject to obtaining the appropriate parental releases, the report shall include name,
49 date of birth, county of residence, mode of injury, date of injury, date educational adjustments
50 were implemented, date educational adjustments were discontinued and such additional
51 information as may be considered necessary by the West Virginia University Center for
52 Excellence in Disabilities.

ARTICLE 10A. REHABILITATION SERVICES.**§18-10A-15. Establishment of a central registry of traumatic head injury; ~~acute care facility~~
health and social agencies required to report head injury.**

1 (a) The West Virginia University Center for Excellence in Disabilities shall maintain a
2 central registry of persons who sustain moderate to severe head injury other than through
3 disease, whether or not permanent disability results, in order to facilitate the provision of
4 appropriate services through referral and collaboration with the division and other state agencies
5 for such persons.

6 (b) ~~The current acute care facility~~ Every public and private health agency, private and
7 public social agency, and attending physician shall report to the Center for Excellence in
8 Disabilities by the most expeditious means within seven days after identification of any person
9 sustaining such an injury. The report shall contain the name, ~~and residence of the person and the~~
10 ~~name of the current acute care facility~~ date of birth, phone number, mailing address, county of
11 residence, name of reporting agency with contact information and such additional information as
12 may be considered necessary by the West Virginia University Center for Excellence in Disabilities.

13 (c) Permission to release the medical records of a patient is not required since
14 maintenance of a state registry is protected and not a violation of the Health Insurance Portability
15 and Accountability Act (HIPAA). Data obtained under this section directly from the medical
16 records of a patient is for the confidential use of the West Virginia University Center for Excellence
17 in Disabilities and the persons or public or private entities that the center determines are
18 necessary to carry out the intent of this section. The data is privileged and may not be divulged
19 or made public in a manner that discloses the identity of an individual whose medical records
20 have been used for obtaining data under this section.

CHAPTER 18B. HIGHER EDUCATION.**ARTICLE 14. MISCELLANEOUS.**

§18B-14-3. Return-to-Learn protocols for higher education; creation of Statewide Concussion Surveillance System.

1 (a) The Legislature finds that:

2 (1) The Centers for Disease Control and Prevention defines concussion as a type of
3 traumatic brain injury caused by a bump, blow or jolt to the head or by a hit to the body that causes
4 the head and brain to move rapidly back and forth;

5 (2) Students who experience a concussion are more successful when provided adaptive
6 academic accommodations within the first twenty-eight days after injury;

7 (3) The West Virginia University Center for Excellence in Disabilities has developed
8 Return-to-Learn recommendations for education institutions to increase the awareness of
9 concussion as a brain injury that requires coordinated management for the best possible student
10 outcomes.

11 (b) The commission and council shall propose rules for legislative approval in accordance
12 with article three-a, chapter twenty-nine-a of this code establishing a Return-to-Learn protocol in
13 accordance with the following:

14 (1) Any time a student suffers a concussion, the institution shall create a concussion
15 management team that includes the student, the student's parent or guardian if the student is
16 under eighteen, a representative of the institution and a licensed health care professional. The
17 concussion management team shall monitor and report symptoms to the administrator designated
18 by the president of the institution pursuant to subdivision (7) of this subsection;

19 (2) The rule shall include a list of the respective categories of licensed health care
20 professionals who, if properly trained in evaluation and management of concussions, qualify as a
21 licensed health care professional for the purposes of membership on a concussion management
22 team pursuant to subdivision (1) of this subsection and qualify to authorize a student to participate
23 in regular classroom activities without adaptive academic accommodations pursuant to
24 subdivision (5) of this subsection;

25 (3) A concussion management team shall convene within forty-eight to seventy-two hours
26 after a concussion is reported;

27 (4) The concussion management team shall meet weekly to evaluate the student's
28 improvement, with information from family and medical professionals;

29 (5) No student may return to participation in regular classroom activities without adaptive
30 academic accommodations until authorized by the licensed health care professional and the
31 concussion management team;

32 (6) Institutions shall obtain the appropriate student or parental releases to foster
33 communication and to allow data to be submitted to the Statewide Concussion Surveillance
34 System established by the West Virginia University Center for Excellence in Disabilities pursuant
35 to subsection (c) of this section;

36 (7) The president of the institution shall designate an administrator to:

37 (A) Coordinate annual concussion management team training from the West Virginia
38 University Center for Excellence in Disabilities. The training may be online, in person or both;

39 (B) Implement standard procedures for students who need adaptive academic
40 accommodations after twenty-eight days; and

41 (C) Report required information to the Statewide Concussion Surveillance System
42 pursuant to subdivision (8) of this subsection; and

43 (8) For inclusion in the Statewide Concussion Surveillance System established pursuant
44 to subsection (c) of this section, all state institutions of higher education shall report to the West
45 Virginia University Center for Excellence in Disabilities monthly data for each student with an
46 identified or diagnosed traumatic brain injury, to include mild concussion. Subject to obtaining
47 the appropriate student or parental releases, the report shall include name, date of birth, county
48 of residence, mode of injury, date of injury, date educational adjustments were implemented, date
49 educational adjustments were discontinued and such additional information as may be considered
50 necessary by the West Virginia University Center for Excellence in Disabilities.

- 51 (c) The West Virginia University Center for Excellence in Disabilities shall establish a
52 Statewide Concussion Surveillance System to house data required to be reported pursuant to this
53 section and section forty-one, article two, chapter eighteen of this code.

NOTE: The purpose of this bill is to require State Board of Education, Higher Education Policy Commission and Council for Community and Technical College Education rules establishing Return-to-Learn protocols applicable when a student suffers a concussion; expand provisions relating to the West Virginia University Center for Excellence in Disabilities central registry of persons who sustain certain head injuries; and require the West Virginia University Center for Excellence in Disabilities to establish a Statewide Concussion Surveillance System to house certain data.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.