

# WEST VIRGINIA LEGISLATURE

## 2020 REGULAR SESSION

Introduced

### House Bill 4879

FISCAL  
NOTE

BY DELEGATES HORNBUCKLE, PUSHKIN, MILLER,

ROHRBACH AND ZUKOFF

[Introduced February 11, 2020; Referred to the Committee  
on Education then the Judiciary]

1 A BILL to amend and reenact §18-2-25 and §18-2-25a of the Code of West Virginia, 1931, as  
 2 amended, relating to granting jurisdiction to supervise youth sport league athletic events  
 3 to county boards of education and the West Virginia Secondary School Activities  
 4 Commission; requiring schools and youth sport leagues to implement certain safety  
 5 measures during athletic events; authorizing fines; and requiring rulemaking.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-25. Authority of county boards to regulate athletic and other extracurricular activities  
 of secondary schools and youth sport leagues; delegation of authority to West  
 Virginia secondary school activities commission; authority of commission;  
 approval of rules and regulations by state board; incorporation; funds; participation  
 by private and parochial schools and youth sport leagues.**

1 (a) The county boards of education are hereby granted and shall exercise the control,  
 2 supervision and regulation of all interscholastic and youth sport league athletic events, and other  
 3 extracurricular activities of the students in public secondary schools, and of said schools of their  
 4 respective counties, and all other youths under 18 years of age regardless of student status. The  
 5 county board of education may delegate such control, supervision and regulation of  
 6 interscholastic athletic events, youth league athletic events, and band activities to the “West  
 7 Virginia Secondary School Activities Commission,” which is hereby established.

8 (b) The West Virginia secondary school activities commission shall be composed of the  
 9 principals, or their representatives, of those secondary schools whose county boards of  
 10 education, and youth sport leagues have certified in writing to the State Superintendent of Schools  
 11 that they have elected to delegate the control, supervision, and regulation of their interscholastic  
 12 and youth sport league athletic events and band activities of the students in the public secondary  
 13 schools in their respective counties, and youth league athletic events to said commission. The  
 14 West Virginia secondary school activities commission is hereby empowered to exercise the

15 control, supervision and regulation of interscholastic and youth sport league athletic events and  
16 band activities of secondary schools, and youth league athletic events, delegated to it pursuant  
17 to this section. The rules and regulations of the West Virginia Secondary School Activities  
18 Commission shall contain a provision for a proper review procedure and review board and be  
19 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all  
20 instances be subject to the prior approval of the state board. The West Virginia Secondary School  
21 Activities Commission, may, with the consent of the State Board of Education, incorporate under  
22 the name of "West Virginia Secondary School Activities Commission, Inc.," as a nonprofit,  
23 nonstock corporation under the provisions of chapter 31 of this code. County boards of education  
24 are hereby authorized to expend moneys for and pay dues to the West Virginia Secondary School  
25 Activities Commission, and all moneys paid to such commission, as well as moneys derived from  
26 any contest or other event sponsored by said commission, shall be quasi-public funds as the  
27 same are defined in §18-5-1 *et seq.* of this code, and such funds of the commission shall be  
28 subject to an annual audit by the State Tax Commissioner.

29 (c) The West Virginia Secondary School Activities Commission shall promulgate  
30 reasonable rules ~~and regulations~~ providing for the control, supervision, and regulation of the  
31 interscholastic athletic events and other extracurricular activities of such private and parochial  
32 secondary schools, ~~as~~ and athletic events in youth sport leagues and elect to delegate to such  
33 commission such control, supervision, and regulation, upon the same terms and conditions,  
34 subject to the same regulations and requirements, and upon the payment of the same fees and  
35 charges as those provided for public secondary schools. Any such private or parochial secondary  
36 school shall receive any monetary or other benefits in the same manner and in the same  
37 proportion as any public secondary school.

38 (d)(1) Pursuant to subsection (c) of this section the West Virginia Secondary School  
39 Activities Commission shall specifically address in those rules the following:

40 (A) Automated external defibrillator (AED) devices shall be present at all sporting events;

41 (B) Coaches and athletic training staff must have received training in proper use of AED  
42 devices;

43 (C) Sports participants and sports staff participating in football, wrestling, and other impact  
44 sports must watch training videos to understand concussion, its prevention, and to identify signs  
45 of potential concussion;

46 (D) High school and middle school sporting events, but not regular physical education.  
47 Classes, should have an ambulance on site; and

48 (E) Schools and youth leagues must make reasonable attempts to teach new football  
49 tackle and wrestling techniques to avoid concussion injuries.

50 (2) Schools, youth leagues, coaches, or athletic training staff who violate the provisions of  
51 subdivision (1) of this subsection, or the rules promulgating those provisions, should result in a  
52 moderate fine or civil penalty against the school or youth league. The fines should come from  
53 their respective budgets.

**§18-2-25a. Management of concussions and head injuries in athletics at West Virginia  
Secondary School Activities Commission member high school or middle school  
and youth sport leagues.**

1 (a) The Legislature makes the following findings:

2 (1) Concussions are one of the most commonly reported injuries in children and  
3 adolescents who participate in sports and recreational activities. The Centers for Disease Control  
4 and Prevention estimates that as many as 3.9 million sports-related and recreation-related  
5 concussions occur in the United States each year;

6 (2) A concussion is caused by a blow or motion to the head or body that causes the brain  
7 to move rapidly inside the skull. The risk of catastrophic injuries or death is significant when a  
8 concussion or head injury is not properly evaluated and managed;

9 (3) Concussions are a type of brain injury that can range from mild to severe and can  
10 disrupt the way the brain normally functions;

11 (4) Concussions can occur in any organized or unorganized sport or recreational activity  
12 and can result from a fall or from players colliding with each other or with obstacles;

13 (5) Concussions occur with or without loss of consciousness, but the vast majority occur  
14 without loss of consciousness;

15 (6) The interscholastic or youth sport league athlete who continues to play or practice with  
16 a concussion or symptoms of head injury is especially vulnerable to greater injury and even death;  
17 and

18 (7) Even with generally recognized return-to-play-and-practice standards for concussion  
19 and head injury, some affected interscholastic and youth sport league athletes are prematurely  
20 returned to play or practice resulting in increased risk of physical injury or death to the athletes in  
21 the state of West Virginia.

22 (b) For the purposes of this section, “interscholastic athlete” and “youth sport league  
23 athlete” means mean any athlete who is participating in interscholastic athletics at a high school,  
24 ~~or~~ middle school or youth sport league that is a member of the West Virginia Secondary School  
25 Activities Commission. “Licensed health care professional” means a health care provider whose  
26 licensed scope of practice includes the ability to diagnose and treat an injury or disease.

27 (c) The West Virginia Secondary School Activities Commission shall promulgate rules  
28 pursuant to §18-2-25 of this code that address concussions and head injuries in interscholastic  
29 and youth sport league athletes: *Provided*, That prior to state board approval and notwithstanding  
30 the exemption provided in §29A-1-3 of this code, the state board shall submit the rule to the  
31 Legislative Oversight Commission on Education Accountability pursuant to §29A-3B-9 of this  
32 code.

33 (d) The rules required by this section shall include, but are not limited to, the following:

34 (1) Guidelines and other pertinent information to inform and educate appropriate school  
35 administrators, coaches, interscholastic athletes, youth sport league administrators, coaches and

36 athletes, and their parents or guardians of the nature and risk of concussion and head injury  
37 including the risks of continuing to play or practice after a concussion or head injury;

38 (2) A concussion and head injury information sheet that shall be signed and returned by  
39 the interscholastic or youth sport league athlete and the athlete's parent or guardian on an annual  
40 basis before the interscholastic or youth sport league athlete begins practice or competition;

41 (3) A requirement that each head coach of an interscholastic sport at a high school or  
42 middle school, or head coach in a youth sport league who is a member of the West Virginia  
43 Secondary School Activities Commission complete a commission-approved concussion and head  
44 injury recognition and return-to-play protocol course annually;

45 (4) A requirement that an interscholastic or youth sport league athlete who is suspected  
46 by a licensed health care professional or by his or her head coach or licensed or registered athletic  
47 trainer of having sustained a concussion or head injury in a practice or game shall be removed  
48 from competition at that time;

49 (5) A requirement that an interscholastic or youth sport league athlete who has been  
50 removed from play or practice may not return to play or practice until the athlete is evaluated by  
51 a licensed health care professional trained in the evaluation and management of concussions and  
52 receives written clearance to return to play and practice from the licensed health care  
53 professional;

54 (6) A list of the respective categories of licensed health care professionals including, but  
55 not limited to, licensed physical therapists and licensed or registered athletic trainers who, if  
56 properly trained in the evaluation and management of concussions, are authorized to provide  
57 written clearance for the interscholastic or youth sport league athlete to return to play; and

58 (7) A requirement that all member schools and youth sport leagues must submit a report  
59 to the West Virginia Secondary School Activities Commission within 30 days of an interscholastic  
60 or youth sport league athlete suffering or being suspected of suffering a concussion or head injury  
61 in a practice or game. The report must state whether an evaluation by a licensed health care

62 professional verified that a concussion or head injury was actually suffered, whether the athlete  
63 received written clearance to return to play or practice and, if written clearance was given, the  
64 number of days between the incident and the actual return to play or practice. If written clearance  
65 to return to play is given after 30 days of the incident, a report update shall be submitted. The  
66 West Virginia Secondary School Activities Commission shall compile and submit the reports to  
67 the appropriate state and national organization, youth sport league, or agencies to analyze and  
68 make determinations on whether the rule required by this section needs to be amended or if  
69 equipment worn by interscholastic and youth sport league athletes needs to be changed  
70 accordingly. The West Virginia School Activities Commission also shall submit the reports to the  
71 Legislative Oversight Commission on Health and Human Resources Accountability.

72 (e) Any member school or youth sport league not complying with the requirements of this  
73 section, and rules promulgated thereof, shall be subject to the disciplinary actions or fines ordered  
74 by the West Virginia Secondary School Activities Commission: *Provided*, That the West Virginia  
75 Secondary School Activities Commission shall promulgate rules to establish guidelines for  
76 noncompliance and related disciplinary actions and fines: *Provided, however*, That prior to state  
77 board approval and notwithstanding the exemption provided in §29A-1-3 of this code, the state  
78 board shall submit the rule to the Legislative Oversight Commission on Education Accountability  
79 pursuant to §29A-3B-9 of this code.

NOTE: The purpose of this bill is to grant jurisdiction to supervise youth sport league athletic events to county boards of education and the West Virginia Secondary School Activities Commission. The bill requires schools and youth sport leagues to implement certain safety measures during athletic events. The bill authorizes fines and requires rulemaking.

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