

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3533**

By Delegates Hornbuckle and Adkins

[Introduced February 14, 2023; Referred to the  
Committee on Health and Human Resources then  
Education]

1 A BILL to amend and reenact §18-2-25 and §18-2-25a of the Code of West Virginia, 1931, as  
 2 amended, all relating to creating the West Virginia Youth Sports Safety Commission  
 3 granting jurisdiction to supervise youth sport league athletic training and safety to county  
 4 boards of education and the West Virginia Youth Sports Safety Commission; requiring  
 5 schools and youth sport leagues to implement certain safety measures during athletic  
 6 events; requiring training of coaching staff in acclimatization, requiring authorizing fines;  
 7 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; creation of the West Virginia Youth Sports Safety Commission; delegation of authority for safety and training to the West Virginia Youth Sports Safety Commission, authority of commission; approval of rules by state board; incorporation; funds; participation by private and parochial schools; ~~and, by home-schooled students~~ and youth sport leagues.**

1 (a) The county boards of education shall exercise the control, supervision, and regulation  
 2 of all interscholastic and youth sport league athletic events, and other extracurricular activities of  
 3 the students in public secondary schools, and of those schools of their respective counties, and all  
 4 other youths under 18 years of age regardless of student status. The county board of education  
 5 may delegate control, supervision, and regulation of interscholastic athletic events and band  
 6 activities to the West Virginia Secondary School Activities Commission. The county board of  
 7 education shall delegate control, supervision, and regulation of youth sport league and  
 8 interscholastic athletic, band, and dance training safety procedures to the West Virginia Youth  
 9 Sports Safety Commission.

10 (b) The West Virginia Secondary School Activities Commission is composed of the

11 principals, or their representatives, of those secondary schools whose county boards of education,  
12 and youth sport leagues have certified in writing to the State Superintendent of Schools that they  
13 have elected to delegate the control, supervision, and regulation of their interscholastic and youth  
14 sport league athletic events and band activities of the students in the public secondary schools in  
15 their respective counties and youth league athletic events to the commission. The West Virginia  
16 Secondary School Activities Commission may exercise the control, supervision, and regulation of  
17 interscholastic and youth sport league athletic events and band activities of secondary schools,  
18 delegated to it pursuant to this section. The rules of the West Virginia Secondary School Activities  
19 Commission shall contain a provision for a proper review procedure and review board and be  
20 promulgated in accordance with the provisions of chapter 29A of this code, but shall, in all  
21 instances, be subject to the prior approval of the state board. The West Virginia Secondary School  
22 Activities Commission, may, with the consent of the State Board of Education, incorporate under  
23 the name of West Virginia Secondary School Activities Commission, Inc., as a nonprofit, nonstock  
24 corporation under the provisions of chapter 31 of this code. County boards of education may  
25 expend moneys for and pay dues to the West Virginia Secondary School Activities Commission,  
26 and all moneys paid to the commission, as well as moneys derived from any contest or other event  
27 sponsored by the commission, are quasi-public funds as defined in §18-5-1 *et seq.* of this code,  
28 and the funds of the commission are subject to an annual audit by the State Tax Commissioner.

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

37 (d) Notwithstanding any other provision of this section, or the commission's rules, the  
38 commission shall consider eligible for participation in interscholastic athletic events and other  
39 extracurricular activities of secondary schools a student who is receiving home instruction  
40 pursuant to §18-8-1(c) of this code and who:

41 (1) Has demonstrated satisfactory evidence of academic progress for one year in  
42 compliance with the provisions of that subsection: *Provided*, That the student's average test  
43 results are within or above the fourth stanine in all subject areas;

44 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the  
45 applicable virtual instruction policy of the county board in which the home-schooled student lives  
46 and the State Board;

47 (3) Has not reached the age of 19 by August 1 of the current school year;

48 (4) Is an amateur who receives no compensation but participates solely for the  
49 educational, physical, mental, and social benefits of the activity;

50 (5) Agrees to comply with all disciplinary rules of the West Virginia Secondary School  
51 Activities Commission and the county board in which the home-schooled student lives; and

52 (6) Agrees to obey all rules of the West Virginia Secondary School Activities Commission  
53 governing awards, all-star games, parental consents, physical examinations, and vaccinations  
54 applicable to all high school athletes.

55 Eligibility is limited to participation in interscholastic athletic events and other  
56 extracurricular activities at the public secondary school serving the attendance zone in which the  
57 student lives: *Provided*, That home-schooled students who leave a member school during the  
58 school year are subject to the same transfer protocols that apply to member-to-member transfers.  
59 Reasonable fees may be charged to the student to cover the costs of participation in  
60 interscholastic athletic events and other extracurricular activities.

61 (e) The West Virginia Secondary School Activities Commission shall recognize  
62 preparatory athletic programs, whose participants attend a secondary school in West Virginia for

63 academic instruction, as nonparticipating members of the commission solely for the purpose of  
64 competing on the national level: *Provided*, That the preparatory athletic program shall pay the  
65 same fees as member schools. Such recognition does not entitle the preparatory athletic program  
66 to compete against a member school during the regular season or in any commission state  
67 championship events. The commission may promulgate an emergency rule pursuant to  
68 subsection (b) of this section, if necessary, to carry out the intent of this subsection.

69 (f) Pursuant to subsection (c) of this section the West Virginia Secondary School Activities  
70 Commission shall specifically address in those rules the following:

71 (1) Automated external defibrillator (AED) devices shall be present at all sporting events;

72 (2) Coaches and athletic training staff shall have received training in proper use of AED  
73 devices;

74 (3) Sports participants and sports staff participating in football, wrestling, and other impact  
75 sports shall watch training videos to understand concussion, its prevention, and to identify signs of  
76 potential concussion;

77 (4) High school and middle school sporting events, but not regular physical education  
78 classes, shall have an ambulance onsite; and

79 (5) Schools and youth leagues shall make reasonable attempts to teach new football  
80 tackle and wrestling techniques to avoid concussion injuries.

81 (6) Schools, youth leagues, coaches, or athletic training staff who violate the provisions of  
82 subdivision (1) of this subsection, or the rules promulgating those provisions, shall result in a  
83 moderate fine or civil penalty against the school or youth league. The fines shall come from their  
84 respective budgets.

85 (g) The West Virginia Youth Sports Safety Commission is composed of seven members,  
86 comprised of two higher education athletic training departments; four with a background in youth  
87 and interscholastic sports coaching from four separate regions of the state, to be decided upon by  
88 the West Virginia Secondary Schools Athletic Commission; and one from a private entity that is

89 involved in sports and athletic training safety; The West Virginia Youth Sports Safety Commission  
90 may exercise the control, supervision, and regulation of interscholastic and youth sport league  
91 athletic and physical fitness training for athletic teams and marching band and dance and show  
92 choir physical conditioning of secondary school and youth leagues, delegated to it pursuant to this  
93 section. The rules and policies of the West Virginia Youth Sports Safety Commission shall contain  
94 a provision for a proper review procedure and review board and be promulgated in accordance  
95 with the provisions of chapter 29A of this code, but shall, in all instances, be subject to the prior  
96 approval of the state board. West Virginia Youth Sports Safety Commission, may, with the consent  
97 of the State Board of Education, incorporate under the name of West Virginia Youth Sports Safety  
98 Commission, Inc., as a nonprofit, nonstock corporation under the provisions of chapter 31 of this  
99 code. County boards of education may expend moneys for and pay dues to the West Virginia  
100 Youth Sports Safety Commission, and all moneys paid to the commission, as well as moneys  
101 derived from any contest or other event sponsored by the commission, are quasi-public funds as  
102 defined in §18-5-1 et seq. of this code, and the funds of the commission are subject to an annual  
103 audit by the State Tax Commissioner.

104 (h) The West Virginia Youth Sports Safety Commission shall promulgate reasonable rules  
105 providing for the control, supervision, and regulation of the interscholastic athletic training and  
106 other extracurricular activities of private and parochial secondary schools and athletic training in  
107 youth sport leagues and elect to delegate to the commission control, supervision, and regulation,  
108 upon the same terms and conditions, subject to the same rules and requirements and upon the  
109 payment of the same fees and charges as those provided for public secondary schools. Any such  
110 private or parochial secondary school shall receive any monetary or other benefits in the same  
111 manner and in the same proportion as any public secondary school.

112 (i) Notwithstanding any other provision of this section, or the commission's rules, the  
113 commission shall consider eligible for participation in interscholastic athletic training and other  
114 extracurricular activities of secondary schools a student who is receiving home instruction

115 pursuant to §18-8-1(c) of this code and who:

116 (1) Has demonstrated satisfactory evidence of academic progress for one year in  
117 compliance with the provisions of that subsection: *Provided*, That the student's average test  
118 results are within or above the fourth stanine in all subject areas;

119 (2) Is enrolled in at least one virtual instructional course per semester, consistent with the  
120 applicable virtual instruction policy of the county board in which the home-schooled student lives  
121 and the State Board;

122 (3) Has not reached the age of 19 by August 1 of the current school year;

123 (4) Is an amateur who receives no compensation but participates solely for the  
124 educational, physical, mental, and social benefits of the activity;

125 (5) Agrees to comply with all disciplinary rules of the West Virginia Youth Sports Safety  
126 Commission and the county board in which the home-schooled student lives; and

127 (6) Agrees to obey all rules of West Virginia Youth Sports Safety Commission governing  
128 awards, all-star games, parental consents, physical examinations, training and conditioning, and  
129 vaccinations applicable to all high school athletes.

130 (j) The West Virginia Youth Sports Safety Commission shall recognize preparatory athletic  
131 programs, whose participants attend a secondary school in West Virginia for academic instruction,  
132 as nonparticipating members of the commission solely for the purpose of competing on the  
133 national level: *Provided*, That the preparatory athletic program shall pay the same fees as member  
134 schools.

135 (k) The West Virginia Youth Sports Safety Commission shall develop all safety regulations  
136 for athletic training programs within this state, especially pertaining to concussions and heat  
137 acclimatization and issuing prohibitions on temperature as it applies to the developing  
138 thermoregulatory systems of youth and secondary school athletes, musicians, and dancers.

**§18-2-25a. Management of concussions, and head injuries, and heat-induced injuries in  
athletics at ~~West Virginia Secondary School Activities Commission~~ West Virginia**

**Youth Sports Safety 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 to  
7 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 the  
39 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~~ the West Virginia Youth Sports Safety Commission  
44 complete a commission-approved concussion and head injury recognition and return-to-play  
45 protocol course annually;

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

50 (5) A requirement that an interscholastic or youth sport league athlete who has been

51 removed from play or practice may not return to play or practice until the athlete is evaluated by a  
52 licensed health care professional trained in the evaluation and management of concussions and  
53 receives written clearance to return to play and practice from the licensed health care 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~~ shall submit a  
59 report to the West Virginia Secondary School Activities Commission within 30 days of an  
60 interscholastic or youth sport league athlete suffering or being suspected of suffering a concussion  
61 or head injury in a practice or game. The report ~~must~~ shall state whether an evaluation by a  
62 licensed health care professional verified that a concussion or head injury was actually suffered,  
63 whether the athlete received written clearance to return to play or practice and, if written clearance  
64 was given, the number of days between the incident and the actual return to play or practice. If  
65 written clearance to return to play is given after 30 days of the incident, a report update shall be  
66 submitted. The West Virginia Secondary School Activities Commission shall compile and submit  
67 the reports to the appropriate state and national organization, youth sport league, or agencies to  
68 analyze and make determinations on whether the rule required by this section needs to be  
69 amended or if equipment worn by interscholastic and youth sport league athletes needs to be  
70 changed accordingly. The West Virginia School Activities Commission also shall submit the  
71 reports to the 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 or the The West Virginia Youth  
75 Sports Safety Commission: *Provided*, That the West Virginia Secondary School Activities  
76 Commission and the West Virginia Youth Sports Safety Commission shall promulgate rules to

77 establish guidelines for noncompliance and related disciplinary actions and fines: *Provided,*  
78 *however,* That prior to state board approval and notwithstanding the exemption provided in §29A-  
79 1-3 of this code, the state board shall submit the rule to the Legislative Oversight Commission on  
80 Education Accountability pursuant to §29A-3B-9 of this code.

81 (f) The Legislature finds that heat exhaustion, heat stroke, and other heat-related injuries  
82 and adverse conditions are more likely to happen in athletes whose thermoregulatory systems  
83 have not completely developed yet. The West Virginia Youth Sports Safety Commission shall  
84 promulgate rules that require safety in all athletic training for secondary students and youth sports  
85 leagues and require heat acclimatization training for all coaches and assistant coaches for youth  
86 sports leagues and interscholastic secondary schools sports, band, show choir, and dance.

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 and to establish the West Virginia Youth Sports Safety Commission and empower it to create and enforce safety procedures for physical training for youth sports leagues and secondary schools interscholastic activities. 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.