

**LEGISLATIVE EDUCATION STUDY COMMITTEE
BILL ANALYSIS**

Bill Number: SB 492

52nd Legislature, 1st Session, 2015

Tracking Number: .1998618.1

Short Title: Student Athlete Brain Injury Safety Protocols

Sponsor(s): Senator Michael S. Sanchez

Analyst: Kevin Force

Date: March 4, 2015

Bill Summary:

SB 492 proposes to create a new section in statute to provide enhanced safety protocols to protect student athletes and young people who participate in non-scholastic youth athletic activities from brain injury.

Specifically, Section 1 would amend the section of the *Public School Code*¹ dealing with student athletes' brain injuries by:

- specifying that a student athlete who receives a brain injury must have a *written* medical release from a licensed healthcare professional before returning to school athletic activity; and
- clarifying that persons included in the definition of "licensed health care professional"² must be:
 - trained and experienced in evaluating and managing pediatric concussions and head injuries; and
 - working within their scope of practice.

Section 2 creates a new section of state law that would apply provisions parallel to those in Section 22-13-31 NMSA 1978 to "youth athletes" and "youth athletic activities," including:

- definitions specific to that section, for:
 - "brain injury," which means a body-altering physical trauma to the brain, skull or neck caused by blunt or penetrating force, concussion, diffuse axonal injury³, hypoxia-anoxia⁴ or electrical charge;
 - "licensed health care professional," identical to that found in §22-13-31 NMSA 1978;

¹ Section 22-13-31 NMSA 1978, "Brain Injury – Protocols to be Used by Coaches for Brain Injuries Received by Students in School Athletic Activities – Training of Coaches – Information to be Provided to Coaches, Student Athletes and Student Athletes' Parents or Guardians"

² "licensed healthcare professionals" include: practicing physicians and physicians' assistants, practicing osteopathic physicians and physicians' assistants, practicing nurse practitioners, practicing psychologists, and practicing athletic trainers.

³ "Diffuse axonal injury" is a brain injury in which damage in the form of extensive lesions in white matter tracts occurs over a widespread area.

⁴ "hypoxia-anoxia" is a condition of low oxygen or total depletion of oxygen.

- “youth athlete,” which means an individual under 19 years of age who engages in, is eligible to engage in, or seeks to engage in a community athletic activity; and
- “youth athletic activity,” which means an organized athletic activity in which the participants, a majority of whom are under 19 years of age, are engaged in an athletic game or competition against another team, club or entity, or in practice or preparation for an organized athletic game or competition against another team, club or entity, but does not include an elementary school, middle school, high school, college or university activity, or an activity that is incidental to a non-athletic program.

Section 2 of the bill also includes:

- a prohibition against a coach allowing a youth athlete to participate in youth athletic activities who has been diagnosed with a brain injury or who exhibits signs and symptoms of a brain injury after a coach, league official or youth athlete reports, observes or suspects a youth athlete has sustained a brain injury;
- a requirement that the youth athlete not be permitted to return to youth athletic activity any sooner than a week after the injury, and only when he or she:
 - no longer exhibits and signs, symptoms, or behaviors consistent with brain injury; and
 - receives written medical release from a licensed healthcare professional;
- a requirement that all youth athletic leagues ensure that their coaches receive training, according to rule promulgated by the Department of Health (DOH), that includes:
 - protocols and content consistent with current medical knowledge;
 - the nature and risk of brain injury associated with athletic activity;
 - recognition of signs, symptoms, and behaviors consistent with brain injury;
 - the need to alert appropriate medical professionals for urgent diagnosis and treatment; and
 - the need to follow medical direction for proper medical protocols;
- a requirement to provide a brain injury information form, at the beginning of each athletic season or participation in youth athletic activities, to youth athletes and their parents or guardians, containing informational materials that, according to rules promulgated by DOH, include:
 - the nature and risk of brain injury resulting from athletic activity; and
 - the risk of continuing or returning to youth athletic activity after sustaining a brain injury; and
- a requirement that the youth athletic league not allow the youth athlete to begin or return to athletic activity until the athlete and his or her parents sign the information form.

Fiscal Impact:

SB 492 does not contain an appropriation.

Technical Issues:

The new section of the bill that addresses youth athletic activity mirrors the current provision that addresses students and school athletic activities and, in lieu of a school, addresses “youth athletic leagues” as the organization pertinent to the new requirements and responsible for youth athletes. SB 492 does not, however, include a definition for this body. The sponsor may wish to consider amending the bill to include a definition for this term.

Substantive Issues:

Originally enacted by Laws 2010, Chapter 96, Section 22-13-31 NMSA 1978 required the New Mexico Activities Association (NMAA) to consult with the Brain Injury Advisory Council (BIAC) and school districts to promulgate rules regarding the training of athletic coaches on the issue of brain injuries. Title 6, Chapter 13 of the *New Mexico Administrative Code* addresses interscholastic activities and the procedure by which rules promulgated by the NMAA are approved by the Public Education Department (PED). SB 492 would require DOH, in consultation with BIAC, to promulgate corresponding rules for youth athletic activities.

As noted in the analysis by PED, a recent article in the *Santa Fe New Mexican*⁵ criticized similar laws in other parts of the country for the lack of:

- specificity regarding what age groups are implicated by the required training;
- medical release forms required to resume athletic activity; and
- a requirement for both students and parents to indicate their understanding of relevant information on brain injuries.

The amendments proposed by SB 492, however, address at least some of these issues:

- a “youth athlete” is defined as a person “*younger than nineteen*” who engages in, is eligible to engage in, or seeks to engage in a community athletic activity” [emphasis added];
- youth athletes must:
 - wait a minimum of one week before returning to athletics;
 - no longer exhibit any signs or symptoms of brain injury; and
 - receive a written medical release from a licensed healthcare professional; and
- youth athletes and their parents or guardians must acknowledge, with signatures, that they understand the information they have received regarding brain injury.

The analysis from DOH notes that:

- the provisions of SB 492 expand legal coverage regarding traumatic brain injuries to all youth engaged in a wide range of athletic activities outside the jurisdiction of school districts;

⁵ See: “Analysis: Youth Concussion Laws Pushed by NFL Lack Bite,” Fendrich and Pells, Associated Press, *Santa Fe New Mexican*, January 28, 2015, at: http://www.santafenewmexican.com/news/analysis-youth-concussion-laws-pushed-by-%20%20nfl-lack-bite/article_8b7b8054-4dd7-5cfa-9dcd-22014521ad61.html?mode=print.

- many student athletes engage in the same sports in which they participate at school during the weekends, evenings, and the off-season, in private youth clubs and leagues in order to improve their skills;
- currently, 53 school-based health centers offer a comprehensive, integrated approach to healthcare for adolescents, including ease of access, and consistent relationships with their healthcare providers; and
- school-based health centers would offer a valuable additional resource for educating coaches, parents, and athletes on the prevention of brain injuries, as well as for assisting in the coordination of care of youth who sustain injuries outside the school setting.

Additionally, according to the DOH analysis for SB 431 which proposes to amend the same section of the *Public School Code* as SB 492:

- young people between the ages of 10 and 17 made up more than 80 percent of sports-related brain injuries in New Mexico for persons under the age of 19;
- boys account for 77 percent of sports-related brain injuries of persons under 19, as they are injured approximately 3.3 times more frequently than girls; and
- young people under the age of 19 made 810 visits to New Mexico emergency rooms.

Further, according to the Centers for Disease Control (CDC):⁶

- 31 percent of concussions occurred in a sports facility and 20 percent in a school facility;
- 71 percent of all sports- and recreation-related traumatic brain injury emergency department visits were among males;
- 70.5 percent of sports- and recreation-related traumatic brain injury emergency department visits were among persons aged 10-19 years;
- traumatic brain injury represented almost 9.0 percent of all injuries reported, with rates highest for boys' football and girls' soccer; and
- high schools nationwide reported 55,007 traumatic brain injuries for one year among male football players and 29,167 traumatic brain injuries among female soccer players.

The Governor's Commission on Disability, the entity that administers the Brain Injury Advisory Council, noted a University of New Mexico Health Sciences Center Brain and Behavioral Institute survey on sports concussions among New Mexico youth. Data were collected from 20,000 students who participated in school athletics and 7,000 students who participated in physical education (PE). Among its findings:

- 392 male and 206 female students were removed from athletics as a result of concussion;
- the rate of concussion among youth participating in sports was more than 2.5 times greater than the rate reported by a similar study in another state;
- the rate of concussion in PE was 60 percent higher than in sports;
- while nearly all of New Mexico's middle and high school coaches received the state-mandated training on concussions, it is less clear how many PE teachers or youth club sports coaches received similar training;
- more than 50 percent of New Mexico schools indicated there are inadequate resources to diagnose and manage concussions;

⁶ Please see, <http://www.cdc.gov/concussion/sports/facts.html>.

- less than 40 percent of schools in the state employ athletic trainers to assist in concussion management; and
- more than 70 percent indicated strong interest in more education and training.

Finally, it should be noted that the sponsor previously has addressed the issue of traumatic brain injury among youth athletes:

- during the 2013 legislative session, when the Legislature passed and the Governor signed Senate Memorial 97, the provisions of which requested:
 - the Children, Youth and Families Department and DOH to convene a working group to study and evaluate the possible benefits of creating a youth sports commission, and include representatives from the:
 - University of New Mexico Health Sciences Center;
 - New Mexico Medical and Pediatric Societies;
 - New Mexico Athletic Trainers Association and the NMAA;
 - The Young America Football League and Young America Cheerleading;
 - American Youth Soccer Association;
 - Youth Baseball Little League Association; and
 - other groups involved with student and youth athletic activities, including junior wrestling, boxing, swimming, and other activities deemed appropriate to be represented;
 - the working group to provide recommendations for a process to use background checks, acquire insurance, adopt codes of conduct, and implement coach and volunteer training procedures, to be adopted by student and youth athletic programs; and
 - the working group to report its findings and recommendations to the Legislative Health and Human Services Committee (LHHSC) by November 1, 2013; and
- during the 2014 legislative session, when the sponsor proposed SM 84, which requested that the working group continue its work and report its findings and recommendations by November 1, 2014, and which was not passed by the Legislature.

A review of both the November and December 2013 minutes of the LHHSC, as well as the 2013 LHHSC Interim Report, did not find that the report requested by SM 97 had ever been presented to the committee.

Committee Referrals:

SEC/SPAC

Related Bills:

SB 308 *Require Motorcycle Helmets*

SB 431 *Student Athlete Brain Injury Training*