

HOUSE BILL NO. 487

INTRODUCED BY M. FUNK

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A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO PROTECTING YOUTH ATHLETES FROM PERMANENT INJURY AND DEATH RELATED TO CONCUSSION; EXPANDING EXISTING REQUIREMENTS TO INCLUDE NONPUBLIC SCHOOLS AND YOUTH ATHLETIC ORGANIZATIONS; PROVIDING DEFINITIONS; CLARIFYING THAT ATHLETIC TRAINERS ARE LICENSED HEALTH CARE PROFESSIONALS; PROVIDING IMMUNITY FOR CERTAIN VOLUNTEERS; AND AMENDING SECTIONS 20-7-1301, 20-7-1302, AND 20-7-1303, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 20-7-1301, MCA, is amended to read:

**"20-7-1301. Purpose -- intent -- immunity.** (1) The legislature finds that protecting youth athletes from serious injury is a compelling state interest. The purpose of 20-7-1301 through 20-7-1304 is to prevent permanent injury and death to youth athletes in the state of Montana. To further this interest, the legislature finds:

(a) concussions are one of the most commonly reported injuries in children and adolescents who participate in sports and recreational activities;

(b) a concussion is caused by a blow or motion to the head or body that causes the brain to move rapidly inside the skull;

(c) the risks of catastrophic injuries or death are significant when a concussion or brain injury is not properly evaluated and managed;

(d) concussions are a type of brain injury that can range from mild to severe and can disrupt the way the brain normally works;

(e) concussions can occur in any organized or unorganized sport or recreational activity and can result from a fall or from players colliding with each other, with the ground, or with obstacles;

(f) concussions occur with or without loss of consciousness; and

(g) continuing to play with a concussion or symptoms of brain injury leaves the youth athlete especially vulnerable to greater injury and even death.

(2) (a) Sections 20-7-1301 through 20-7-1304 do not create a new cause of action.

1           (b) A person acting in an individual capacity and not on behalf of the state or any political subdivision  
 2 of the state who volunteers to assist with an organized youth athletic activity is not liable for civil damages arising  
 3 out of an act or omission relating to the requirements of 20-7-1301 through 20-7-1304 unless the person is  
 4 willfully negligent in the person's act or omission."

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6           **Section 2.** Section 20-7-1302, MCA, is amended to read:

7           **"20-7-1302. Definitions.** As used in 20-7-1301 through 20-7-1304, the following definitions apply:

8           (1) "Concussion" means an injury to the brain arising from blunt trauma, an acceleration force, or a  
 9 deceleration force, which may include one of the following observed or self-reported conditions attributable to the  
 10 injury:

11           (a) transient confusion, disorientation, or impaired consciousness;

12           (b) dysfunction of memory;

13           (c) loss of consciousness; or

14           (d) signs of other neurological or neuropsychological dysfunction, including:

15           (i) increased irritability;

16           (ii) lethargy;

17           (iii) vomiting;

18           (iv) headache;

19           (v) dizziness;

20           (vi) fatigue;

21           (vii) decreased balance; and

22           (viii) seizures.

23           (2) "Licensed health care professional" means a registered, licensed, certified, or otherwise statutorily  
 24 recognized health care professional whose training ~~includes the evaluation and management of concussions and~~  
 25 protocols for the evaluation and management of concussions are consistent with the most current medical  
 26 knowledge.

27           (3) (a) "Organized youth athletic activity" means an athletic activity sponsored by a school or school  
 28 district organized or sponsored by a school district, nonpublic school, or youth athletic organization in which the  
 29 participants under 18 years of age are engaged in an athletic game or competition against another team, club,  
 30 or entity, in practice, tryouts, training exercises, or sports camps, or in preparation for an athletic game or

1 competition against another team, club, or entity.

2 (b) The term does not include recess or physical education classes conducted by a school district.

3 (4) "Youth athlete" means an individual who is an active participant in an organized youth athletic activity.

4 (5) "Youth athletic organization" means any entity that organizes or sponsors an organized youth athletic  
5 activity."

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7 **Section 3.** Section 20-7-1303, MCA, is amended to read:

8 **"20-7-1303. Youth athletes -- concussion education requirements.** (1) Each school district, nonpublic  
9 school, or youth athletic organization in this state offering organized youth athletic activities shall adopt policies  
10 and procedures to inform ~~athletic trainers~~, coaches, officials, youth athletes, and parents or guardians of the  
11 nature and risk of brain injuries, including the effects of continuing to play after a concussion. The policies,  
12 content, and protocols must be consistent with current medical knowledge and guidelines provided by the U.S.  
13 department of health and human services, centers for disease control and prevention, as to:

14 (a) the nature and risk of brain injuries associated with athletic activity;

15 (b) the signs, symptoms, and behaviors consistent with a brain injury;

16 (c) the need to alert a licensed health care professional for urgent recognition and treatment when a  
17 youth athlete exhibits signs, symptoms, or behaviors consistent with a concussion; and

18 (d) the need to follow proper medical direction and protocols for treatment and returning to play after a  
19 youth athlete sustains a concussion.

20 (2) A form documenting that educational materials referred to in subsection (1) have been provided to  
21 and viewed by each youth athlete and the youth athlete's parent or guardian must be signed by each youth  
22 athlete and the youth athlete's parent or guardian and returned to an official designated by the ~~school or~~ school  
23 district, nonpublic school, or youth athletic organization prior to the youth athlete's participation in organized youth  
24 athletic activities ~~for the subsequent school year.~~ The form shall apply for a period not to exceed 1 year.

25 (3) School districts and youth athletic organizers shall ensure access to a training program consistent  
26 with subsection (1). Each coach, ~~athletic trainer~~, and official participating in organized youth athletic activities shall  
27 complete the training program at least once each ~~school~~ year.

28 (4) School districts, nonpublic schools, and youth athletic organizations may invite the participation of  
29 appropriate advocacy groups and appropriate sports governing bodies to facilitate the requirements of  
30 subsections (1) through (3)."

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- END -