



2011 SENATE BILL 243

October 19, 2011 – Introduced by Senators DARLING, WIRCH and HANSEN, cosponsored by Representatives FIELDS, RIPP, KUGLITSCH, BERNARD SCHABER, JACQUE, SPANBAUER, KRUG, WYNN, BERNIER, PASCH, HULSEY, ENDSLEY, BERCEAU and STASKUNAS. Referred to Committee on Public Health, Human Services, and Revenue.

- 1 **AN ACT** *to amend* 119.04 (1); and *to create* 118.293 of the statutes; **relating to:**
2 concussions and other head injuries sustained in youth athletic activities.

Analysis by the Legislative Reference Bureau

This bill requires each person operating a youth athletic activity seasonally to distribute a concussion and head injury information sheet to each person who will be coaching the activity and to each person who wishes to participate in the activity and prohibits a person from participating in a youth athletic activity until he or she has returned the sheet signed by the person and, if he or she is under the age of 19, by his or her parent or guardian. The bill defines “youth athletic activity,” with certain exceptions, as 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.

The bill requires that a person who is suspected of sustaining a concussion or head injury in a youth athletic activity be removed from the activity immediately. The bill provides that if an athletic coach, official, or volunteer fails to remove a person from the activity, he or she is immune from civil liability for any injury resulting from that omission unless it constitutes gross negligence or willful misconduct.

A person who has been removed from a youth athletic activity because he or she is suspected of sustaining a concussion or head injury may not participate in a youth athletic activity until he or she is evaluated by a health care provider who has been trained in the evaluation and management of concussion and head injuries and

SENATE BILL 243

receives a written clearance to participate in the activity from the health care provider. The bill provides that if a health care provider who is a volunteer authorizes a person to participate in a youth athletic activity, he or she is immune from civil liability for any injury resulting from that act unless the act constitutes gross negligence or willful or wanton misconduct.

Finally, the bill provides that it does not create any liability for, or a cause of action against, any person.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 118.293 of the statutes is created to read:

2 **118.293 Concussion and head injury. (1)** In this section, “youth athletic
3 activity” means an organized athletic activity in which the participants, a majority
4 of whom are under 19 years of age, are engaged in an athletic game or competition
5 against another team, club, or entity, or in practice or preparation for an organized
6 athletic game or competition against another team, club, or entity. “Youth athletic
7 activity” does not include a college or university activity or an activity that is
8 incidental to a nonathletic program.

9 **(2)** In conjunction with the Wisconsin Interscholastic Athletic Association, the
10 department shall develop guidelines and other information for the purpose of
11 educating athletic coaches and pupil athletes and their parents or guardians about
12 the nature and risk of concussion and head injury in youth athletic activities.

13 **(3)** At the beginning of a season for a youth athletic activity, the person
14 operating the youth athletic activity shall distribute a concussion and head injury
15 information sheet to each person who will be coaching that youth athletic activity
16 and to each person who wishes to participate in that youth athletic activity. No
17 person may participate in a youth athletic activity unless the person returns the

SENATE BILL 243

1 information sheet signed by the person and, if he or she is under the age of 19, by his
2 or her parent or guardian.

3 (4) (a) A person who is suspected of sustaining a concussion or head injury in
4 a youth athletic activity shall be removed from the youth athletic activity
5 immediately.

6 (b) A person who has been removed from a youth athletic activity under par.
7 (a) may not participate in a youth athletic activity until he or she is evaluated by a
8 health care provider who has been trained in the evaluation and management of
9 concussion and head injuries and receives a written clearance to participate in the
10 activity from the health care provider.

11 (5) (a) Any athletic coach, official involved in an athletic activity, or volunteer
12 who fails to remove a person from a youth athletic activity under sub. (4) (a) is
13 immune from civil liability for any injury resulting from that omission unless it
14 constitutes gross negligence or willful or wanton misconduct.

15 (b) Any volunteer who authorizes a person to participate in a youth athletic
16 activity under sub. (4) (b) is immune from civil liability for any injury resulting from
17 that act unless the act constitutes gross negligence or willful or wanton misconduct.

18 (6) This section does not create any liability for, or a cause of action against,
19 any person.

20 **SECTION 2.** 119.04 (1) of the statutes, as affected by 2011 Wisconsin Acts 10 and
21 32, is amended to read:

22 119.04 (1) Subchapters IV, V and VII of ch. 115, ch. 121 and ss. 66.0235 (3) (c),
23 66.0603 (1m) to (3), 115.01 (1) and (2), 115.28, 115.31, 115.33, 115.34, 115.343,
24 115.345, 115.365 (3), 115.38 (2), 115.445, 118.001 to 118.04, 118.045, 118.06, 118.07,
25 118.075, 118.076, 118.10, 118.12, 118.125 to 118.14, 118.145 (4), 118.15, 118.153,

SENATE BILL 243**SECTION 2**

1 118.16, 118.162, 118.163, 118.164, 118.18, 118.19, 118.20, 118.223, 118.225, 118.24
2 (1), (2) (c) to (f), (6), (8), and (10), 118.245, 118.255, 118.258, 118.291, 118.293, 118.30
3 to 118.43, 118.46, 118.51, 118.52, 118.55, 120.12 (4m), (5), and (15) to (27), 120.125,
4 120.13 (1), (2) (b) to (g), (3), (14), (17) to (19), (26), (34), (35), (37), (37m), and (38),
5 120.14, 120.21 (3), and 120.25 are applicable to a 1st class city school district and
6 board.

7 **(END)**