

HOUSE BILL NO. 94

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES JOHNSON, Doogan, Kerttula, Millett, Muñoz

Introduced: 1/18/11

Referred: Education, Health and Social Services

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to prevention and evaluation of and liability for traumatic brain**
2 **injuries in student athletes."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
5 to read:

6 **TRAUMATIC BRAIN INJURY; FINDINGS.** The legislature finds that

7 (1) concussions rank among the most commonly reported traumatic brain
8 injuries in children and adolescents who participate in sports and recreational activities;

9 (2) the United States Centers for Disease Control and Prevention estimates
10 that as many as 3,900,000 concussions occur each year in the United States as a result of
11 sports and recreational activities;

12 (3) a concussion is caused by a blow to or jarring of the head or body that
13 causes the brain to move rapidly inside the skull, resulting in a mild to severe traumatic brain
14 injury, which may occur with or without loss of consciousness, and may disrupt normal brain

1 function;

2 (4) a concussion may occur during an organized or unorganized sport or
3 recreational activity as a result of a fall or from players colliding with each other or another
4 obstacle;

5 (5) the risk of catastrophic injury or death from a concussion or other head
6 injury increases when the injury is not properly evaluated and managed, and the athlete is
7 allowed to continue to participate in sports or recreational activities following the concussion;

8 (6) although voluntary nationwide guidelines for managing concussion in
9 sports recommend assessing concussions on an individual basis, with gradual return to play,
10 athletes continue to be returned to play prematurely, putting them at risk for greater injury or
11 death.

12 * **Sec. 2.** AS 14.30 is amended by adding new sections to article 3 to read:

13 **Sec. 14.30.142. Traumatic brain injury in student athletes: prevention and**
14 **reporting.** (a) The governing body of a school district shall consult with the Alaska
15 School Activities Association to develop and publish guidelines and other information
16 to educate coaches, student athletes, and parents of student athletes regarding the
17 nature and risks of concussions and other traumatic brain injuries. Guidelines
18 developed under this section must include a description of the risks of return to play
19 and standards for return to play, including the procedures required under (b) and (c) of
20 this section.

21 (b) A student who is suspected of having sustained a concussion or other
22 traumatic brain injury during a practice or game shall be immediately removed from
23 the practice or game.

24 (c) A student who has been removed from participation in a practice or game
25 for suspicion of concussion or other traumatic brain injury may not return to play until
26 the student has been evaluated and cleared for participation by a licensed health care
27 provider who has received training in the evaluation and management of traumatic
28 brain injuries, including concussions.

29 (d) A person who conducts an evaluation under (c) of this section may not be
30 held liable for civil damages resulting from an act or omission during the evaluation,
31 except that the person may be held liable for reckless or intentional misconduct and

1 for gross negligence.

2 **Sec. 14.30.143. Traumatic brain injury: school district immunity.** (a) A
3 school district may not be held liable for an injury to or the death of a person resulting
4 from the action or inaction of a person employed by or under contract with a nonprofit
5 youth organization if

6 (1) the action or inaction occurred on school property during the
7 delivery of services by the district or organization;

8 (2) the organization is under contract with the district to provide the
9 services; and

10 (3) before the provision of services, the organization provided to the
11 district written verification of

12 (A) a valid insurance policy covering the injury or death in an
13 amount not less than \$50,000 for each person and \$100,000 for each incident;

14 (B) compliance with the protocol for prevention and reporting
15 of traumatic brain injury required in AS 14.30.142.

16 (b) This section may not be construed to impair or modify the ability of a
17 person to recover damages for harm caused by the negligent or reckless actions of an
18 employee or contractor of a school district or by the existence of a condition,
19 equipment, program, or structure known by the school district or organization to be
20 unsafe.

21 (c) In this section, "youth organization" means a public or private entity
22 qualified to do business in the state that provides a program or service to persons
23 under 19 years of age.