To promote minimum State requirements for the prevention and treatment of concussions caused by participation in school sports, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 25 (legislative day, SEPTEMBER 24), 2013

Mr. DURBIN introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

A BILL

To promote minimum State requirements for the prevention and treatment of concussions caused by participation in school sports, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Protecting Student Athletes from Concussions Act of 2013”.

SEC. 2. MINIMUM STATE REQUIREMENTS.

(a) MINIMUM REQUIREMENTS.—Each State that receives funds under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) and does not
meet the requirements described in this section, as of the date of enactment of this Act, shall, not later than the last day of the fifth full fiscal year after the date of enactment of this Act (referred to in this Act as the “compliance deadline”), enact legislation or issue regulations establishing the following minimum requirements:

(1) LOCAL EDUCATIONAL AGENCY CONCUSSION SAFETY AND MANAGEMENT PLAN.—Each local educational agency in the State, in consultation with members of the community in which such agency is located, shall develop and implement a standard plan for concussion safety and management that—

(A) educates students, parents, and school personnel about concussions, through activities such as—

(i) training school personnel, including coaches, teachers, athletic trainers, related services personnel, and school nurses, on concussion safety and management, including training on the prevention, recognition, and academic consequences of concussions and response to concussions; and

(ii) using, maintaining, and disseminating to students and parents—
(I) release forms and other appropriate forms for reporting and recordkeeping;

(II) treatment plans; and

(III) prevention and post-injury observation and monitoring fact sheets about concussion;

(B) encourages supports, where feasible, for a student recovering from a concussion (regardless of whether or not the concussion occurred during school-sponsored activities, during school hours, on school property, or during an athletic activity), such as—

(i) guiding the student in resuming participation in athletic activity and academic activities with the help of a multi-disciplinary concussion management team, which may include—

(I) a health care professional, the parents of such student, a school nurse, relevant related services personnel, and other relevant school personnel; and

(II) an individual who is assigned by a public school to oversee and
manage the recovery of such student;

and

(ii) providing appropriate academic accommodations aimed at progressively re-introducing cognitive demands on the student; and

(C) encourages the use of best practices designed to ensure, with respect to concussions, the uniformity of safety standards, treatment, and management, such as—

(i) disseminating information on concussion safety and management to the public; and

(ii) applying uniform best practice standards for concussion safety and management to all students enrolled in public schools.

(2) POSTING OF INFORMATION ON CONCUSSIONS.—Each public elementary school and each public secondary school shall post on school grounds, in a manner that is visible to students and school personnel, and make publicly available on the school website, information on concussions that—

(A) is based on peer-reviewed scientific evidence (such as information made available by
the Centers for Disease Control and Prevention); 

  (B) shall include information on—

  (i) the risks posed by sustaining a concussion;

  (ii) the actions a student should take in response to sustaining a concussion, including the notification of school personnel; and

  (iii) the signs and symptoms of a concussion; and

  (C) may include information on—

  (i) the definition of a concussion;

  (ii) the means available to the student to reduce the incidence or recurrence of a concussion; and

  (iii) the effects of a concussion on academic learning and performance.

  (3) RESPONSE TO CONCUSSION.—If an individual designated from among school personnel for purposes of this Act suspects that a student has sustained a concussion (regardless of whether or not the concussion occurred during school-sponsored activities, during school hours, on school property, or during an athletic activity)—
(A) the student shall be—

(i) immediately removed from participation in a school-sponsored athletic activity; and

(ii) prohibited from returning to participate in a school-sponsored athletic activity—

(I) on the day such student is removed from such participation; and

(II) until such student submits a written release from a health care professional stating that the student is capable of resuming participation in school-sponsored athletic activities; and

(B) the designated individual shall report to the parent or guardian of such student—

(i) any information that the designated school employee is aware of regarding the date, time, and type of the injury suffered by such student (regardless of where, when, or how a concussion may have occurred); and

(ii) any actions taken to treat such student.
(4) RETURN TO ATHLETICS.—If a student has sustained a concussion (regardless of whether or not the concussion occurred during school-sponsored activities, during school hours, on school property, or during an athletic activity), before such student resumes participation in school-sponsored athletic activities, the school shall receive a written release from a health care professional, that—

(A) states that the student is capable of resuming participation in such activities; and

(B) may require the student to follow a plan designed to aid the student in recovering and resuming participation in such activities in a manner that—

(i) is coordinated, as appropriate, with periods of cognitive and physical rest while symptoms of a concussion persist; and

(ii) reintroduces cognitive and physical demands on such student on a progressive basis only as such increases in exertion do not cause the reemergence or worsening of symptoms of a concussion.

(b) NONCOMPLIANCE.—

(1) FIRST YEAR.—If a State described in subsection (a) fails to comply with subsection (a) by the
compliance deadline, the Secretary of Education shall reduce by 5 percent the amount of funds the State receives under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) for the first fiscal year following the compliance deadline.

(2) SUCCEEDING YEARS.—If the State fails to so comply by the last day of any fiscal year following the compliance deadline, the Secretary of Education shall reduce by 10 percent the amount of funds the State receives under that Act for the following fiscal year.

(3) NOTIFICATION OF NONCOMPLIANCE.—Prior to reducing any funds that a State receives under the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) in accordance with this subsection, the Secretary of Education shall provide a written notification of the intended reduction of funds to the State and to the appropriate committees of Congress.

SEC. 3. RULE OF CONSTRUCTION.

Nothing in this Act shall be construed to affect civil or criminal liability under Federal or State law.

SEC. 4. DEFINITIONS.

In this Act:
(1) CONCUSSION.—The term “concussion” means a type of mild traumatic brain injury that—

(A) is caused by a blow, jolt, or motion to the head or body that causes the brain to move rapidly in the skull;

(B) disrupts normal brain functioning and alters the mental state of the individual, causing the individual to experience—

(i) any period of observed or self-reported—

(I) transient confusion, disorientation, or impaired consciousness;

(II) dysfunction of memory around the time of injury; or

(III) loss of consciousness lasting less than 30 minutes; or

(ii) any 1 of 4 types of symptoms, including—

(I) physical symptoms, such as headache, fatigue, or dizziness;

(II) cognitive symptoms, such as memory disturbance or slowed thinking;

(III) emotional symptoms, such as irritability or sadness; or
(IV) difficulty sleeping; and

(C) can occur—

(i) with or without the loss of con-
sciousness; and

(ii) during participation in any orga-
nized sport or recreational activity.

(2) Health care professional.—The term
“health care professional”—

(A) means an individual who has been
trained in diagnosis and management of trau-
matic brain injury in a pediatric population;
and

(B) includes a physician (M.D. or D.O.) or
certified athletic trainer who is registered, li-
censed, certified, or otherwise statutorily recog-
nized by the State to provide such diagnosis
and management.

(3) Local educational agency; State.—
The terms “local educational agency” and “State”
have the meanings given such terms in section 9101
of the Elementary and Secondary Education Act of

(4) Related services personnel.—The
term “related services personnel” means individuals
who provide related services, as defined under sec-
tion 602 of the Individuals with Disabilities Edu-
cation Act (20 U.S.C. 1401).

(5) **SCHOOL-SPONSORED ATHLETIC ACTIVITY.**—
The term “school-sponsored athletic activity”
means—

(A) any physical education class or pro-
gram of a school;

(B) any athletic activity authorized during
the school day on school grounds that is not an
instructional activity;

(C) any extracurricular sports team, club,
or league organized by a school on or off school
grounds; and

(D) any recess activity.