

Council Substitute for House Bill No. 461

An act relating to high school athletics; amending s. 1006.20, F.S.; requiring the Florida High School Athletic Association to facilitate a 1-year drug testing program to randomly test certain students for anabolic steroid use; requiring schools to consent to the provisions of the program as a prerequisite for membership in the organization; requiring the organization to establish procedures for the conduct of the program, including contracting with a testing agency to administer the program; providing that records relating to drug tests and challenge and appeal proceedings shall be maintained separately from a student's educational record; requiring students and their parents to consent to the provisions of the program as a prerequisite for eligibility to participate in specified sports; requiring the administration of a school to meet with a student who tests positive and his or her parent to review the finding, penalties, and procedures for challenge and appeal; providing penalties for positive findings; providing due process procedures for challenge and appeal; providing that the result of a drug test is not admissible in a criminal prosecution; requiring a report to the Legislature on the results of the program; providing an exemption from civil liability resulting from implementation of the program; requiring the Department of Legal Affairs to provide defense in claims of civil liability; requiring program expenses to be paid through legislative appropriation; providing for repeal of the program; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (10) is added to section 1006.20, Florida Statutes, to read:

1006.20 Athletics in public K-12 schools.—

(10) RANDOM DRUG TESTING PROGRAM.—

(a) Contingent upon funding, and to the extent funded, the organization shall facilitate a 1-year program during the 2007-2008 academic year in which students in grades 9 through 12 in its member schools who participate in regular and postseason competition in football, baseball, or weightlifting governed by the organization shall be subject to random testing for the use of anabolic steroids as defined in s. 893.03(3)(d). All schools, both public and private, shall consent to the provisions of this subsection as a prerequisite for membership in the organization for the duration of the program.

(b) The organization's board of directors shall establish procedures for the conduct of the program that, at a minimum, shall provide for the following:

1. The organization shall select and enter into a contract with a testing agency that will administer the testing program. The laboratory utilized by

the testing agency to analyze specimens shall be accredited by the World Anti-Doping Agency.

2. Each member school shall report to the organization the names of all students who will represent the school in football, baseball, and weightlifting. A student shall not be eligible to participate in interscholastic athletics in any of these sports in a member school until the student's name has been reported to the organization by the school.

3. The organization shall provide to the testing agency all names of students that are submitted by its member schools. A maximum of 1 percent of the total number of students who participate in football, baseball, and weightlifting shall be randomly selected by the testing agency to undergo testing.

4. The testing agency shall notify not fewer than 7 days in advance both the administration of a school and the organization of the date on which its representatives will be present at the school to collect a specimen from a randomly selected student. However, the name of the student from which a specimen is to be collected shall not be disclosed.

5. Records relating to drug tests under this subsection and to the challenge and appeal proceedings under paragraph (h) shall be maintained separately from a student's educational records.

(c) Each student who wishes to participate in football, baseball, or weightlifting and his or her parent must consent to the provisions of this subsection as a prerequisite for athletic eligibility. This consent shall be in writing on a form prescribed by the organization and provided to the student by his or her school. Failure to complete and sign the consent form shall result in the student's ineligibility to participate in the sport for which the consent form is required. The consent form shall include the following information:

1. A brief description of the drug testing program.
2. The penalties for a positive finding.
3. The procedure for challenging a positive finding.
4. The procedure for appealing a prescribed penalty.

(d) A student who is selected for testing and fails to provide a specimen shall be immediately suspended from interscholastic athletic practice and competition until such time as a specimen is provided.

(e) If a student tests positive in a test administered under this subsection, the administration of the school the student attends shall immediately:

1. Suspend the student from participation in all interscholastic athletic practice and competition.

2. Notify and schedule a meeting with the student and his or her parent during which the principal or his or her designee shall review with them the

positive finding, the procedure for challenging the positive finding, the prescribed penalties, and the procedure for appealing the prescribed penalties.

(f) For a positive finding, the student shall be suspended from all interscholastic athletic practice and competition for a period of 90 school days and shall be subject to a mandatory exit test for restoration of eligibility no sooner than the 60th school day of the suspension. If the exit test is negative, the organization shall immediately restore the eligibility of the student. If the exit test is positive, the student shall remain suspended from all interscholastic athletic practice and competition until such time as a subsequent retest of the student results in a negative finding. The student shall be subject to repeated tests for the duration of his or her high school athletic eligibility.

(g) In addition to the penalties prescribed in paragraph (f), a student who tests positive in a test administered under this subsection shall attend and complete an appropriate mandatory drug education program conducted by the student's school, the student's school district, or a third-party organization contracted by the school or school district to conduct such an education program.

(h) The following due process shall be afforded each student who tests positive in a test administered under this subsection:

1. The member school may challenge a positive finding and must challenge a positive finding at the request of the student. A sample of the original specimen provided by the student and retained by the testing agency shall be analyzed. The member school or the student's parent shall pay the cost of the analysis. If the analysis results in a positive finding, the student shall remain ineligible until the prescribed penalty is fulfilled. If the analysis results in a negative finding, the organization shall immediately restore the eligibility of the student and shall refund to the member school or student's parent the cost of the analysis. The student shall remain suspended from interscholastic athletic practice and competition during the challenge.

2.a. The member school may appeal to the organization's commissioner the period of ineligibility imposed on a student as a result of a positive finding and must appeal at the request of the student. The commissioner may require the student to complete the prescribed penalty, reduce the prescribed penalty by one-half, or provide complete relief from the prescribed penalty. Regardless of the decision of the commissioner, the student shall remain ineligible until the student tests negative on an exit drug test and the student's eligibility is restored by the organization.

b. Should the member school or student be dissatisfied with the decision of the commissioner, the school may pursue the appeal before the organization's board of directors and must do so at the request of the student. The board of directors may require the student to complete the prescribed penalty, reduce the prescribed penalty by one-half, or provide complete relief from the prescribed penalty. Regardless of the decision of the board of directors, the student shall remain ineligible until the student tests negative on

an exit drug test and the student's eligibility is restored by the organization. The decision of the board of directors on each appeal shall be final.

c. Technical experts may serve as consultants to both the organization's commissioner and its board of directors in connection with such appeals.

(i) The result of a drug test under this subsection shall not be admissible as evidence in a criminal prosecution.

(j) No later than October 1, 2008, the organization shall submit to the President of the Senate and the Speaker of the House of Representatives a report on the results of the program. The report shall include statistics on the number of students tested; the number of violations; the number of challenges and their results; the number of appeals and their dispositions; and the costs incurred by the organization in the administration of the program, including attorney's fees and other expenses of litigation.

(k) The organization, members of its board of directors, and its employees and member schools and their employees are exempt from civil liability arising from any act or omission in connection with the program conducted under this subsection. The Department of Legal Affairs shall defend the organization, members of its board of directors, and its employees and member schools and their employees in any action against such parties arising from any such act or omission. In providing such defense, the Department of Legal Affairs may employ or utilize the legal services of outside counsel.

(l) The program shall be conducted to the extent funded by the Legislature. In order to conduct the program within appropriated funds, the organization is authorized to implement the program in only one or two of the named sports. All expenses of the program shall be paid with funds appropriated by the Legislature. Such expenses shall include, but not be limited to, all fees and expenses charged by the testing agency for administrative services, specimen collection services, and specimen analysis; all administrative expenses incurred by the organization in the facilitation of the program; and all attorney's fees and other expenses of litigation resulting from legal challenges related to the program.

(m) This subsection shall stand repealed on October 2, 2008, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. This act shall take effect July 1, 2007.

Approved by the Governor June 19, 2007.

Filed in Office Secretary of State June 19, 2007.