

STORAGE NAME: h0799.cu.doc
DATE: February 1, 2002

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COLLEGES AND UNIVERSITIES
ANALYSIS**

BILL #: HB 799
RELATING TO: Postsecondary Education
SPONSOR(S): Representative(s) Barreiro
TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) COLLEGES AND UNIVERSITIES
 - (2) HEALTH REGULATION
 - (3) EDUCATION APPROPRIATIONS
 - (4) COUNCIL FOR LIFELONG LEARNING
 - (5)
-

I. SUMMARY:

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

HB 799 creates the Ramiro "Toti" Mendez Act, and requires community colleges and universities in this state to provide complete physical assessments for every student who participates in organized athletics. The bill does not specify if this provision is to apply to private colleges and universities or only public colleges and public universities. The bill does not define "physical assessment" and it is unclear whether the colleges and universities pay for the physicals or whether the student is responsible for payment.

The bill requires the assessments to be performed by a physician licensed under ch. 458 (Physicians and Physician's Assistants) or ch. 459 (Osteopathic Physicians). The physical assessment must include a complete cardiovascular assessment, including an electrocardiogram (EKG). The bill does not define the term "complete". The bill provides that the EKG must be analyzed by a person licensed or trained as a specialist in EKG analysis. It is unclear which persons are "licensed" or "trained" for the purposes of performing the EKG analysis.

The bill does not define what standards will determine if a student passes or fails the physical assessment and cardiovascular assessment. It is unclear what the consequences of failing the assessment will be.

The bill does not specify who has ultimate responsibility for the administration and implementation of this program.

The fiscal impact of this bill is indeterminable at this time.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

The bill creates a mandatory requirement for every college athlete participating in organized athletics to undergo a physical and cardiovascular assessment, including an EKG.

B. PRESENT SITUATION:

Ramiro "Toti" Mendez died on April 2, 2000, as a result of a heart condition called Viral Cardiomyopathy. Toti Mendez was a 20 year old sophomore at Florida International University (FIU) and a pitcher for the FIU baseball team.

Department of Education personnel state that both the National Junior College Athletic Association (NJCAA) and the National Collegiate Athletic Association (NCAA) require that, prior to participating in any intercollegiate athletic activities, a student athlete must have passed a physical examination administered by a qualified health care professional that is licensed to complete physical examinations. Qualified health care professionals can include physicians, physician's assistants, nurse practitioners, and other licensed health care professionals.

Typically, large university athletic programs have a physician or team of physicians on staff. This is not usually true, however, for community colleges or small universities. Often times, a student (particularly those enrolled at a community college) will meet the NJCAA or NCAA requirement by obtaining a physical examination from his or her primary care provider prior to attending school. This exam is paid for by the student and proper documentation is submitted to the college. In other instances, local health care professionals will volunteer their services or provide a reduced rate for examinations. NJCAA and NCAA regulations do not require student athletes to have an EKG for athletic participation.

An EKG is a test that records the electrical activity of a person's heart through a number of small electrode patches attached to the skin of the chest, arms and legs. An EKG may be part of a complete physical exam or it may be used to further investigate symptoms related to heart problems. A doctor uses the EKG to:

- Assess heart rhythm
- Diagnose poor blood flow to the heart muscle (ischemia)
- Diagnose a heart attack
- Diagnose abnormalities of the heart, such as heart chamber enlargement or abnormal electrical conduction.

In an EKG, the heart's electrical activity, communicated via the electrodes, is either displayed on a screen or recorded as a trace on paper. EKG's from a normal, healthy heart have a characteristic

shape. Any irregularity in the heart rhythm or damage to the heart muscle can alter the electrical activity of the heart and will be recorded on the EKG trace differently from the normal waveform.

Section 233.61, F.S., provides a physical examination requirement for high school athletes in Florida. That section requires that prior to a student participating in interscholastic athletic competition, he or she must pass a medical evaluation each year. That medical evaluation must comply with the following guidelines:

- It must be conducted by a practitioner licensed under ch. 458 (Physicians and Physician's Assistants), ch. 459 (Osteopathic Physicians), ch. 460 (Chiropractors), or s. 464.012 (Advanced Registered Nurse Practitioners).
- It must be signed and the medical evaluation attested to by the practitioner performing the evaluation.
- It must indicate if the student was referred to another physician, be signed, and the evaluations attested to by the physician to whom the student was referred.
- If any abnormality is found in the cardiovascular system, an EKG or other cardiovascular assessment must be done. The results of such cardiovascular assessment must be submitted to the school. The student is not allowed to participate in interscholastic athletics unless the cardiovascular assessment indicates that the abnormality will not place the student at risk during such participation.

Section 233.61, F.S., states that the student must complete the medical evaluation prior to participating in interscholastic athletic competition or engaging in any practice, tryout, workout, or other physical activity associated with the athletic team. The Florida High School Activities Association (FHSAA) states that whether a student pays for the medical evaluation or the evaluation is provided by the school varies from district to district. However, the FHSAA also states that as a general rule, there is a presumption that the student will pay for the medical evaluation through his or her own means.

Current Florida law does not require physical or cardiovascular assessments to be performed on students participating in athletics at postsecondary institutions.

C. EFFECT OF PROPOSED CHANGES:

HB 799 creates the Ramiro "Toti" Mendez Act, requiring each community college and university in this state to provide for each student who participates in organized athletics to have a complete physical assessment. It is unclear if the requirement extends to private colleges and universities in the state or only public community colleges and public universities.

The bill does not define the term "organized athletics". It is unclear whether the requirement applies only to school sponsored intercollegiate athletics or whether it applies to students who participate in clubs or intramural sports competitions.

The bill does not define the term "complete physical assessment". It is unclear what the parameters are that will determine if a student passes or fails the physical and cardiovascular assessment. It is unclear whether the student or the postsecondary institution will be responsible for payment of the physical assessment.

The bill requires that the assessment be performed by a physician licensed under ch. 458, F.S., or ch. 459, F.S., and requires that the assessment include a complete cardiovascular assessment, including but not limited to an EKG. The bill does not specify what additional procedures would be performed outside of an EKG, or who will have the final decision-making authority as to what tests must be performed to remain eligible for participation in intercollegiate athletics.

HB 799 requires that the EKG performed be analyzed by a person licensed or trained as a specialist in EKG analysis. The bill does not define which persons will qualify as licensed or trained for the purposes of complying with this section. Current Florida law does not provide for EKG licensure. It is unclear whether the person performing the analysis must be licensed under either ch. 458 or ch. 459.

The Department of Education states that it is uncertain what the fiscal impact of this bill will be. There are approximately 5,000 intercollegiate athletes in the community colleges and state universities and many pay for their own physical examinations before participating in intercollegiate athletics. Most athletes do not pay for EKG's or have them done prior to participating in athletics. If EKG's are paid for by the state, it will cost between \$250,000 and \$750,000. It is uncertain what the costs will be for providing a complete physical assessment to every student who participates in organized athletics.

In addition to the cost, the Department of Education states that college officials are concerned that the time required for conducting EKG's would make providing athletic physical exams a multi-day process. This could make it difficult to find physicians to take part in a process that would take days instead of hours. This would be particularly difficult when athletes come in at the beginning of spring semester and must be cleared quickly in order to participate.

It is unclear which body will be vested with ultimate responsibility for the administration and implementation of this program. The bill does not address what happens when a student fails the complete physical assessment and it is unclear what the consequences are if a student fails the assessment.

D. SECTION-BY-SECTION ANALYSIS:

See above.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

It is unclear whether the student or institution is required to pay for the required complete physical assessment, including the cardiovascular assessment and EKG.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill does not appear to have a fiscal impact on local revenues.

2. Expenditures:

This bill does not appear to have a fiscal impact on local expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

It is unclear whether private colleges and private universities will be responsible to pay for the required complete physical assessment, including the cardiovascular assessment and EKG.

D. FISCAL COMMENTS:

The fiscal impact of this bill is indeterminable at this time. Institutions already require physical examinations for athletes and most are performed by the athlete's own physician. Some of the exams are covered by insurance, some are performed at the student's own expense, and the institutions pay for some of the examinations. In most cases, an EKG is not required. There are approximately 5,000 intercollegiate athletes in the community colleges and state universities. If EKG's were paid for by the state, it would cost between \$250,000 and \$750,000.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take action which requires the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities have to raise revenues.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

This bill does not appear to violate any constitutional provisions.

B. RULE-MAKING AUTHORITY:

It is unclear which entity will be charged with final rule-making authority to implement and oversee the mandates contained within this bill.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VII. SIGNATURES:

COMMITTEE ON COLLEGES AND UNIVERSITIES:

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