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**DATE:** February 21, 2002

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
HEALTH REGULATION  
ANALYSIS**

**BILL #:** CS/HB 799  
**RELATING TO:** Postsecondary Education  
**SPONSOR(S):** Committee on Colleges & Universities and Representative Barreiro  
**TIED BILL(S):** None.

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

- (1) COLLEGES AND UNIVERSITIES YEAS 13 NAYS 0
- (2) HEALTH REGULATION YEAS 10 NAYS 0
- (3) EDUCATION APPROPRIATIONS
- (4) COUNCIL FOR LIFELONG LEARNING
- (5)

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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.

CS/HB 799 creates the Ramiro "Toti" Mendez Act, and states that each community college, college, and university in this state must require *complete* physical assessments for every student who participates in intercollegiate athletics. The bill requires the assessments to be performed by a physician licensed under ch. 458 or ch. 459, F.S. The physical assessment must include a complete cardiovascular assessment, including an electrocardiogram (EKG). The bill provides that the EKG must be analyzed by a person licensed or trained as a specialist in EKG analysis.

CS/HB 799 also provides a waiver provision which will allow a student to waive the physical and cardiovascular assessments because of religious tenets or practices. If a student chooses to waive the physical and cardiovascular assessments, he or she also waives any rights to sue any person or entity for any injuries incurred while participating in intercollegiate athletics which are not the result of gross negligence, recklessness, or intentional misconduct.

The bill, however, does not define "physical assessment" nor "complete physician assessment" and it is unclear whether the colleges and universities must pay for the physical assessments or whether the student is responsible for payment. It is also unclear what is meant by persons who are "licensed or trained as a specialist in EKG analysis" since Florida does not license EKG analysis specialists. CS/HB 799 does not define what standards will determine if a student passes or fails the physical assessment and cardiovascular assessment, nor is it clear what the consequences of failing the assessment will be. CS/HB 799 does not specify who has ultimate responsibility for the administration and implementation of this program.

The fiscal impact of CS/HB 799 is indeterminate at this time.

**On February 21, 2002, the Committee on Health Regulation adopted one amendment which is traveling with the bill. Please see the Amendments section of this analysis for explanation.**

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |   |  |   |
|-----------------------------------|---|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/>            | No <input checked="" type="checkbox"/> | N/A <input 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 checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 5. <u>Family Empowerment</u>      | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/>            | N/A <input type="checkbox"/>            |

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

The bill provides that each community college, college, and university in this state must require each student who participates in intercollegiate athletics to have a complete physical assessment, including a cardiovascular assessment, before the student is allowed to participate in the sport.

The bill creates a mandatory requirement for every college athlete participating in intercollegiate 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. Oftentimes, 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 232.61, F.S., as amended during the 2001 legislative session, 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 Assistants), ch. 459 (Osteopathic Physicians and Osteopathic Physician Assistants), 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 232.61, 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:

CS/HB 799 creates the Ramiro "Toti" Mendez Act, which states that each community college, college, and university in this state must require every student who participates in intercollegiate athletics to have a complete physical assessment.

CS/HB 799 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.

CS/HB 799 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. CS/HB 799 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.

CS/HB 799 requires that the EKG performed be analyzed by a person licensed or trained as a specialist in EKG analysis. CS/HB 799 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, F.S.

CS/HB 799 contains a provision for students, or parents of minor students, to waive the physical and cardiovascular assessment requirements if such assessments are contrary to the student's religious tenets or practices. The student must object in writing to undergoing the assessments. By waiving the physical and cardiovascular assessment, the student waives his or her rights to sue any person or entity for any injury or other damage suffered while participating in intercollegiate athletic events unless such injuries are the result of gross negligence, recklessness, or intentional misconduct.

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 intercollegiate 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. CS/HB 799 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:**

Please see the Effect of Proposed Changes section above.

**III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

**1. Revenues:**

See Fiscal Comments.

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:

See Fiscal Comments.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

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

D. FISCAL COMMENTS:

The fiscal impact of CS/HB 799 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 appear to 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 in the aggregate.

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 rulemaking authority to implement and oversee the provisions contained within this bill.

C. OTHER COMMENTS:

The bill does not define "physical assessment" nor "complete physical assessment" and it is unclear whether the colleges and universities must pay for the physical assessments or whether the student is responsible for payment. It is also unclear what is meant by persons who are "licensed or trained as a specialist in EKG analysis" since Florida does not license EKG analysis specialists. CS/HB 799 does not define what standards will determine if a student passes or fails the physical assessment and cardiovascular assessment, nor is it clear what the consequences of failing the assessment will be. CS/HB 799 does not specify who has ultimate responsibility for the administration and implementation of this program.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 5, 2002, the Committee on Colleges & Universities passed HB 799 as a committee substitute. CS/HB 799 narrows the language of the original bill by eliminating the requirement that community colleges and universities must *provide* physical assessments for all students participating in *organized* athletics. CS/HB 799 states that community colleges and universities must *require* physical and cardiovascular assessments for students competing in *intercollegiate* athletics. CS/HB 799 also provides a waiver provision for students who object to the physical and cardiovascular assessments for religious reasons.

On February 21, 2002, the Committee on Health Regulation adopted one amendment which is traveling with the bill. The amendment replaces the requirement for a physical assessment and EKG with a medical evaluation and EKG as determined to be medically indicated. The language of the amendment mirrors the legislation passed during the 2001 Legislative session relating to high school athletes and eliminates many of the concerns expressed in the "Other Comments" section above regarding definitions, licensing, consequences of failing the assessment, and responsibility of administration.

***Comment by the staff of the Committee on Health Regulation after consultation with the staff of the Committee on Colleges and Universities: The amendment adopted by the Committee on Health Regulation limits the religious objection exemption to the parent or guardian of the athlete or athletic candidate. This limitation might need to be addressed since many athletes and athletic candidates affected by this bill are no longer minors. The following amendment language is suggested: On page 3, line 3 of the amendment, remove all of said line and insert: team if the student, or the student's parent if the student is under 18 years of age, objects in***

VII. SIGNATURES:

COMMITTEE ON COLLEGES AND UNIVERSITIES:

Prepared by:

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