

Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 20-0301.01 Richard Sweetman x4333

SENATE BILL 20-123

SENATE SPONSORSHIP

Fields and Bridges, Priola, Tate, Todd

HOUSE SPONSORSHIP

Coleman and Herod, Soper, Bird, Buckner, Exum, Hooton, Larson, Liston, Melton,
Mullica, Van Winkle

Senate Committees
Education

House Committees

A BILL FOR AN ACT

101 CONCERNING THE RIGHTS OF COLLEGE ATHLETES, AND, IN
102 CONNECTION THEREWITH, ESTABLISHING THEIR RIGHT TO
103 RECEIVE COMPENSATION FOR THE USE OF THEIR NAMES,
104 IMAGES, AND LIKENESSES AND THEIR RIGHT TO OBTAIN
105 PROFESSIONAL AND LEGAL REPRESENTATION.

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill states that, except as may be required by an athletic association, conference, or other group or organization with authority

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

over intercollegiate athletics (association), including the National Collegiate Athletic Association, an institution of higher education (institution) shall not uphold any rule, requirement, standard, or other limitation that prevents a student athlete of the institution from earning compensation from the use of the student athlete's name, image, or likeness (compensation). A student athlete's earning of compensation may not affect the student's scholarship eligibility. An association shall neither prevent a student athlete from earning compensation nor prevent an institution from participating in intercollegiate athletics because a student athlete receives compensation. Neither an institution nor an association shall:

- ! Provide compensation or remuneration to a prospective student athlete; nor
- ! Prevent a student athlete from obtaining professional representation in relation to contracts or legal matters, including representation provided by athlete advisors and legal representation provided by attorneys.

A student athlete shall not enter into a contract providing compensation to the student athlete (athlete contract) if the athlete contract conflicts with a contract of the team for which the student athlete competes (team contract). A team contract that is entered into, modified, or renewed on or after the effective date of the bill may not prevent a student athlete from using the student athlete's name, image, or likeness for a commercial purpose when the student athlete is not engaged in official team activities. A student athlete who enters into an athlete contract shall disclose the athlete contract to the athletic director of the institution within 72 hours after the student athlete enters into the athlete contract.

Any commission of an act prohibited by the bill is an unfair trade practice for the purpose of enforcement of the "Colorado Consumer Protection Act", except that the commission of a prohibited act by a student athlete is not an unfair trade practice.

The bill takes effect August 31, 2021.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that every student athlete enrolled at an institution of
4 higher education in this state has a right to:

5 (a) Be paid for the use of the student athlete's name, image, and
6 likeness; and

1 (b) Hire one or more persons to represent the student athlete's
2 interests.

3 (2) The general assembly further declares that a student athlete
4 may not be compelled to forfeit these rights in order to participate in
5 intercollegiate athletics.

6 **SECTION 2.** In Colorado Revised Statutes, **add 6-1-730** as
7 follows:

8 **6-1-730. Compensation and representation of student athletes**
9 **at institutions of higher education - prohibited acts - contracts -**

10 **definitions.** (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT
11 OTHERWISE REQUIRES:

12 (a) "ADVISORY CONTRACT" MEANS AN AGREEMENT IN WHICH A
13 STUDENT ATHLETE AUTHORIZES A PERSON TO NEGOTIATE OR SOLICIT, ON
14 BEHALF OF THE STUDENT ATHLETE, COMPENSATION FROM THE USE OF THE
15 STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS. THE TERM:

16 (I) DOES NOT INCLUDE A PROFESSIONAL-SPORTS-SERVICES
17 CONTRACT, AS DEFINED IN SECTION 23-16-202 (9); AND

18 (II) INCLUDES AN ENDORSEMENT CONTRACT, AS DEFINED IN
19 SECTION 23-16-202 (6), IF THE ENDORSEMENT CONTRACT PROVIDES FOR
20 A STUDENT ATHLETE TO RECEIVE COMPENSATION FROM THE USE OF THE
21 STUDENT'S NAME, IMAGE, OR LIKENESS.

22 (b) "ATHLETE ADVISOR" MEANS A PERSON WHO ENTERS INTO AN
23 ADVISORY CONTRACT WITH A STUDENT ATHLETE OR, DIRECTLY OR
24 INDIRECTLY, RECRUITS OR SOLICITS A STUDENT ATHLETE TO ENTER INTO
25 AN ADVISORY CONTRACT. THE TERM INCLUDES AN INDIVIDUAL WHO
26 REPRESENTS TO THE PUBLIC THAT THE INDIVIDUAL IS AN ATHLETE
27 ADVISOR. THE TERM DOES NOT INCLUDE A SPOUSE, PARENT, SIBLING,

1 GRANDPARENT, OR GUARDIAN OF A STUDENT ATHLETE.

2 (c) "ATHLETIC ASSOCIATION" MEANS AN ATHLETIC ASSOCIATION,
3 CONFERENCE, OR OTHER GROUP OR ORGANIZATION WITH AUTHORITY OVER
4 INTERCOLLEGIATE ATHLETICS. THE TERM INCLUDES THE NATIONAL
5 COLLEGIATE ATHLETIC ASSOCIATION OR ANY SUCCESSOR ORGANIZATION.

6 (d) "COMPENSATION":

7 (I) MEANS MONEY OR OTHER REMUNERATION OR THING OF VALUE
8 GIVEN TO A STUDENT ATHLETE IN EXCHANGE FOR THE USE OF THE
9 STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS; AND

10 (II) DOES NOT INCLUDE A SCHOLARSHIP FROM THE INSTITUTION AT
11 WHICH A STUDENT ATHLETE IS ENROLLED THAT PROVIDES THE STUDENT
12 ATHLETE ALL OR A PORTION OF THE COST OF ATTENDANCE AT THAT
13 INSTITUTION.

14 (e) "INSTITUTION" MEANS A PUBLIC OR PRIVATE INSTITUTION OF
15 HIGHER EDUCATION IN COLORADO.

16 (f) "STUDENT" MEANS AN INDIVIDUAL WHO IS ENROLLED AT AN
17 INSTITUTION.

18 (g) "STUDENT ATHLETE" MEANS A STUDENT WHO COMPETES IN
19 INTERCOLLEGIATE ATHLETICS FOR AN INSTITUTION AT WHICH THE
20 STUDENT IS ENROLLED.

21 (h) "TEAM CONTRACT" MEANS A CONTRACT BETWEEN AN
22 INSTITUTION AND ANOTHER ENTITY OR BETWEEN AN INTERCOLLEGIATE
23 ATHLETIC TEAM OF AN INSTITUTION AND ANOTHER ENTITY, WHICH
24 CONTRACT RELATES TO THE ACTIVITIES OF AN ATHLETIC TEAM OF THE
25 INSTITUTION.

26 (2) (a) EXCEPT AS MAY BE REQUIRED BY THE RULES OR
27 REQUIREMENTS OF AN ATHLETIC ASSOCIATION OF WHICH AN INSTITUTION

1 IS A MEMBER, AN INSTITUTION SHALL NOT UPHOLD ANY RULE,
2 REQUIREMENT, STANDARD, OR OTHER LIMITATION THAT PREVENTS A
3 STUDENT ATHLETE OF THE INSTITUTION FROM EARNING COMPENSATION
4 FROM THE USE OF THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS. A
5 STUDENT ATHLETE'S EARNING OF SUCH COMPENSATION DOES NOT AFFECT
6 THE STUDENT ATHLETE'S SCHOLARSHIP ELIGIBILITY.

7 (b) AN ATHLETIC ASSOCIATION SHALL NOT:

8 (I) PREVENT A STUDENT ATHLETE FROM EARNING COMPENSATION
9 FROM THE USE OF THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS; OR

10 (II) PREVENT AN INSTITUTION FROM PARTICIPATING IN
11 INTERCOLLEGIATE ATHLETICS BECAUSE A STUDENT ATHLETE RECEIVES
12 COMPENSATION FROM THE USE OF THE STUDENT ATHLETE'S NAME, IMAGE,
13 OR LIKENESS.

14 (c) NEITHER AN INSTITUTION NOR AN ATHLETIC ASSOCIATION
15 SHALL:

16 (I) PROVIDE COMPENSATION TO A PROSPECTIVE STUDENT ATHLETE;

17 (II) PROVIDE REMUNERATION TO A PROSPECTIVE STUDENT
18 ATHLETE FOR THE PROSPECTIVE STUDENT ATHLETE'S ATHLETIC ABILITY OR
19 PERFORMANCE OR POTENTIAL ATHLETIC ABILITY OR PERFORMANCE; OR

20 (III) PREVENT A STUDENT ATHLETE FROM OBTAINING
21 PROFESSIONAL REPRESENTATION IN RELATION TO CONTRACTS OR LEGAL
22 MATTERS, INCLUDING REPRESENTATION PROVIDED BY AN ATHLETE
23 ADVISOR AND LEGAL REPRESENTATION PROVIDED BY AN ATTORNEY.

24 (3) (a) A STUDENT ATHLETE SHALL NOT ENTER INTO A CONTRACT
25 PROVIDING COMPENSATION TO THE STUDENT ATHLETE IF THE CONTRACT
26 CONFLICTS WITH A TEAM CONTRACT OF THE TEAM FOR WHICH THE
27 STUDENT ATHLETE COMPETES.

1 (b) A STUDENT ATHLETE WHO ENTERS INTO A CONTRACT
2 PROVIDING COMPENSATION TO THE STUDENT ATHLETE IN EXCHANGE FOR
3 THE USE OF THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS SHALL
4 DISCLOSE THE CONTRACT TO THE ATHLETIC DIRECTOR OF THE STUDENT
5 ATHLETE'S INSTITUTION WITHIN SEVENTY-TWO HOURS AFTER THE STUDENT
6 ATHLETE ENTERS INTO THE CONTRACT OR BEFORE THE NEXT SCHEDULED
7 ATHLETIC EVENT IN WHICH THE STUDENT ATHLETE MAY PARTICIPATE,
8 WHICHEVER OCCURS FIRST.

9 (c) AN INSTITUTION ASSERTING A CONFLICT DESCRIBED IN
10 SUBSECTION (3)(a) OF THIS SECTION SHALL DISCLOSE TO THE STUDENT
11 ATHLETE OR TO THE STUDENT ATHLETE'S PROFESSIONAL OR LEGAL
12 REPRESENTATION THE RELEVANT CONTRACTUAL PROVISIONS THAT ARE IN
13 CONFLICT.

14 (d) A TEAM CONTRACT OF AN INSTITUTION'S ATHLETIC PROGRAM
15 ENTERED INTO, MODIFIED, OR RENEWED ON OR AFTER THE EFFECTIVE DATE
16 OF THIS SECTION MAY NOT PROHIBIT A STUDENT ATHLETE FROM USING THE
17 STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS FOR A COMMERCIAL
18 PURPOSE WHEN THE STUDENT ATHLETE IS NOT ENGAGED IN OFFICIAL TEAM
19 ACTIVITIES.

20 (4) ANY PERSON PROVIDING LEGAL REPRESENTATION TO A
21 STUDENT ATHLETE MUST BE A LICENSED ATTORNEY.

22 (5) FOR THE PURPOSES OF THIS SECTION, AN INSTITUTION SHALL
23 NOT REVOKE A STUDENT ATHLETE'S SCHOLARSHIP BECAUSE THE STUDENT
24 ATHLETE RECEIVES COMPENSATION OR OBTAINS PROFESSIONAL OR LEGAL
25 REPRESENTATION AS DESCRIBED IN THIS SECTION.

26 (6) A VIOLATION OF THIS SECTION IS AN UNFAIR TRADE PRACTICE
27 FOR THE PURPOSE OF SECTION 6-1-105; EXCEPT THAT A VIOLATION OF

1 SUBSECTION (3)(a) OR (3)(b) OF THIS SECTION BY A STUDENT ATHLETE IS
2 NOT AN UNFAIR TRADE PRACTICE.

3 **SECTION 3.** In Colorado Revised Statutes, **amend** 23-16-106 as
4 follows:

5 **23-16-106. Athlete agent interviews - scheduling - rules.** Each
6 institution that participates in intercollegiate athletics may sponsor
7 on-campus athlete agent interviews at which an athlete agent may
8 interview student athletes to discuss the athlete agent's representation of
9 the student athletes in the marketing of the student athletes' athletic ability
10 or reputation. The governing board of the institution or the institution may
11 adopt rules with regard to the scheduling of interview periods, the
12 duration of each interview period, and locations on campus where
13 interviews may be conducted. NOTHING IN THIS SECTION PROHIBITS A
14 STUDENT ATHLETE AND AN ATHLETE ADVISOR, AS DEFINED IN SECTION
15 6-1-730 (1)(b), FROM MEETING AT A TIME AND PLACE OTHER THAN AN
16 ON-CAMPUS ATHLETE AGENT INTERVIEW THAT IS SPONSORED BY AN
17 INSTITUTION PURSUANT TO THIS SECTION.

18 **SECTION 4. Act subject to petition - effective date.** This act
19 takes effect August 31, 2021; except that, if a referendum petition is filed
20 pursuant to section 1 (3) of article V of the state constitution against this
21 act or an item, section, or part of this act within the ninety-day period
22 after final adjournment of the general assembly, then the act, item,
23 section, or part will not take effect unless approved by the people at the
24 general election to be held in November 2020 and, in such case, will take
25 effect August 31, 2021.