

CHAPTER 35

EDUCATION - POSTSECONDARY

SENATE BILL 20-123

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 also REPRESENTATIVE(S) Coleman and Herod, Soper, Bird, Buckner, Exum, Hooton, Larson, Liston, Melton, Mullica, Van Winkle, Arndt, Baisley, Cutter, Duran, Esgar, Gonzales-Gutierrez, Gray, Humphrey, Jaquez Lewis, Kipp, Lontine, Michaelson Jenet, Neville, Rich, Snyder, Tipper, Titone, Valdez D., Williams D., Woodrow.

AN ACT

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

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

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

- (a) Be paid for the use of the student athlete's name, image, and likeness; and
- (b) Hire one or more persons to represent the student athlete's interests.

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

SECTION 2. In Colorado Revised Statutes, **add** part 3 to article 16 of title 23 as follows:

**PART 3
 COMPENSATION AND REPRESENTATION
 OF STUDENT ATHLETES**

23-16-301. Compensation and representation of student athletes at institutions of higher education - prohibited acts - contracts - definitions.

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

(1) AS USED IN THIS PART 3, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

(d) "COMPENSATION":

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

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

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

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

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

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

(2) (a) EXCEPT AS MAY BE REQUIRED BY THE RULES OR REQUIREMENTS OF AN

ATHLETIC ASSOCIATION OF WHICH AN INSTITUTION IS A MEMBER, AN 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. A STUDENT ATHLETE'S EARNING OF SUCH COMPENSATION DOES NOT AFFECT THE STUDENT ATHLETE'S SCHOLARSHIP ELIGIBILITY.

(b) AN ATHLETIC ASSOCIATION SHALL NOT:

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

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

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

(I) PROVIDE COMPENSATION TO A CURRENT OR PROSPECTIVE STUDENT ATHLETE;

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

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

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

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

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

(d) A TEAM CONTRACT OF AN INSTITUTION'S ATHLETIC PROGRAM ENTERED INTO, MODIFIED, OR RENEWED ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION MAY NOT PROHIBIT 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.

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

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

(6) (a) A POLICY OF AN INSTITUTION OR AN ATHLETIC ASSOCIATION THAT DOES NOT COMPORT WITH THIS PART 3 IS VOID AND UNENFORCEABLE.

(b) A STUDENT ATHLETE WHO IS AGGRIEVED BY AN ACTION TAKEN BY AN INSTITUTION OR AN ATHLETIC ASSOCIATION IN VIOLATION OF THIS PART 3 MAY BRING AN ACTION FOR INJUNCTIVE RELIEF.

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

23-16-106. Athlete agent interviews - scheduling - rules. Each institution that participates in intercollegiate athletics may sponsor on-campus athlete agent interviews at which an athlete agent may interview student athletes to discuss the athlete agent's representation of the student athletes in the marketing of the student athletes' athletic ability or reputation. The governing board of the institution or the institution may adopt rules with regard to the scheduling of interview periods, the duration of each interview period, and locations on campus where interviews may be conducted. NOTHING IN THIS SECTION PROHIBITS A STUDENT ATHLETE AND AN ATHLETE ADVISOR, AS DEFINED IN SECTION 23-16-301 (1)(b), FROM MEETING AT A TIME AND PLACE OTHER THAN AN ON-CAMPUS ATHLETE AGENT INTERVIEW THAT IS SPONSORED BY AN INSTITUTION PURSUANT TO THIS SECTION.

SECTION 4. Act subject to petition - effective date. This act takes effect January 1, 2023; except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act or an item, section, or part of this act within the ninety-day period after final adjournment of the general assembly, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2020 and, in such case, will take effect January 1, 2023.

Approved: March 20, 2020