Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO

PREAMENDED
This Unofficial Version Includes Committee Amendments Not Yet Adopted on Second Reading

 SENATE BILL 20-123

SENATE SPONSORSHIP
Fields and Bridges, Priola, Tate, Todd, Crowder, Danielson, Donovan, Fenberg, Garcia, Ginal, Hansen, Hill, Lee, Marble, Moreno, Story, Williams A., Winter

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

Senate Committees
Education

House Committees
Education

A BILL FOR 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.

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.

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. (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.