

**Second Regular Session
Seventy-second General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 20-0301.01 Richard Sweetman x4333

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

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.

SENATE
3rd Reading Unamended
February 12, 2020

SENATE
Amended 2nd Reading
February 11, 2020

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** part 3 to article
7 16 of title 23 as follows:

8 **PART 3**

9 **COMPENSATION AND REPRESENTATION**

10 **OF STUDENT ATHLETES**

11 **23-16-301. Compensation and representation of student**
12 **athletes at institutions of higher education - prohibited acts -**
13 **contracts - definitions.** (1) AS USED IN THIS **PART 3**, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

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

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

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

25 (b) "ATHLETE ADVISOR" MEANS A PERSON WHO ENTERS INTO AN
26 ADVISORY CONTRACT WITH A STUDENT ATHLETE OR, DIRECTLY OR
27 INDIRECTLY, RECRUITS OR SOLICITS A STUDENT ATHLETE TO ENTER INTO

1 AN ADVISORY CONTRACT. THE TERM INCLUDES AN INDIVIDUAL WHO
2 REPRESENTS TO THE PUBLIC THAT THE INDIVIDUAL IS AN ATHLETE
3 ADVISOR. THE TERM DOES NOT INCLUDE A SPOUSE, PARENT, SIBLING,
4 GRANDPARENT, OR GUARDIAN OF A STUDENT ATHLETE.

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

9 (d) "COMPENSATION":

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

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

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

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

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

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

1 INSTITUTION.

2 (2) (a) EXCEPT AS MAY BE REQUIRED BY THE RULES OR
3 REQUIREMENTS OF AN ATHLETIC ASSOCIATION OF WHICH AN INSTITUTION
4 IS A MEMBER, AN INSTITUTION SHALL NOT UPHOLD ANY RULE,
5 REQUIREMENT, STANDARD, OR OTHER LIMITATION THAT PREVENTS A
6 STUDENT ATHLETE OF THE INSTITUTION FROM EARNING COMPENSATION
7 FROM THE USE OF THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS. A
8 STUDENT ATHLETE'S EARNING OF SUCH COMPENSATION DOES NOT AFFECT
9 THE STUDENT ATHLETE'S SCHOLARSHIP ELIGIBILITY.

10 (b) AN ATHLETIC ASSOCIATION SHALL NOT:

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

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

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

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

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

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

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

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

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

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

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

26 (5) FOR THE PURPOSES OF THIS SECTION, AN INSTITUTION SHALL
27 NOT REVOKE A STUDENT ATHLETE'S SCHOLARSHIP BECAUSE THE STUDENT

1 ATHLETE RECEIVES COMPENSATION OR OBTAINS PROFESSIONAL OR LEGAL
2 REPRESENTATION AS DESCRIBED IN THIS SECTION.

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

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

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

11 **23-16-106. Athlete agent interviews - scheduling - rules.** Each
12 institution that participates in intercollegiate athletics may sponsor
13 on-campus athlete agent interviews at which an athlete agent may
14 interview student athletes to discuss the athlete agent's representation of
15 the student athletes in the marketing of the student athletes' athletic ability
16 or reputation. The governing board of the institution or the institution may
17 adopt rules with regard to the scheduling of interview periods, the
18 duration of each interview period, and locations on campus where
19 interviews may be conducted. NOTHING IN THIS SECTION PROHIBITS A
20 STUDENT ATHLETE AND AN ATHLETE ADVISOR, AS DEFINED IN SECTION
21 **23-16-301 (1)(b)**, FROM MEETING AT A TIME AND PLACE OTHER THAN AN
22 ON-CAMPUS ATHLETE AGENT INTERVIEW THAT IS SPONSORED BY AN
23 INSTITUTION PURSUANT TO THIS SECTION.

24 **SECTION 4. Act subject to petition - effective date.** This act
25 takes effect January 1, 2023; except that, if a referendum petition is filed
26 pursuant to section 1 (3) of article V of the state constitution against this
27 act or an item, section, or part of this act within the ninety-day period

1 after final adjournment of the general assembly, then the act, item,
2 section, or part will not take effect unless approved by the people at the
3 general election to be held in November 2020 and, in such case, will take
4 effect January 1, 2023.