A BILL FOR AN ACT

CONCERNING THE PROHIBITION OF AMERICAN INDIAN MASCOTS IN COLORADO.

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 prohibits the use of American Indian mascots (mascots) by public schools, including charter and institute charter schools, and public institutions of higher education (school) as of June 1, 2022. The bill imposes a fine of $25,000 per month for each month that a school continues to use a mascot after such date, payable to the state education fund.
Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. Legislative declaration. (1) The general assembly finds and declares that:

(a) The presence and use of derogatory American Indian mascots across Colorado creates an unsafe learning environment for American Indian students by having serious negative impacts on those students' mental health and by promoting bullying of American Indian students;

(b) American Indian mascots teach non-American Indian children inaccurate information about American Indian culture and teach them that it is acceptable to participate in culturally abusive and prejudicial behaviors;

(c) In the early twentieth century, American Indian boarding schools across Colorado forced American Indian children to relinquish their tribal identities and give up inherited customs so that they would better assimilate into the majority white culture;

(d) Young American Indian children were coerced into leaving their families, giving up their culture and language, and changing their appearances to pass for a white person. At the same time, non-American Indian students in many communities in Colorado were dressing up in war bonnets at pep rallies that they called "pow-wows".

(e) In 1925, the same year that La Veta high school became the "R*dsk*ns", a Loveland yearbook stated that the school decided to adopt the "Indian" moniker to depict "bravery, loyalty, patriotism, and dauntless pride". Several years later, Cheyenne Mountain high school would also claim that its "Indian" mascot's purpose was to "preserve the legacy of the
Cheyenne and Ute tribes, which were fading in the area”.

(f) Despite continued claims that such mascots honored American Indian peoples, the majority of such mascots in Colorado regularly employed racist stereotypes, from Eaton high school's large-nosed caricatures to Lamar high school's "Chief Ugh-Lee" mascot;

(g) By the time of the civil rights movement in the 1960s, the first wave of American Indian activists began calling for an end to American Indian mascots. By the end of the 1990s, only three Colorado schools had listened. Although organizations like the National Commission on Civil Rights, the NAACP, the National Congress of American Indians, and the American Psychological Association published statements condemning American Indian mascots, few Colorado schools would take heed, even into the early 2000s.

(h) In 2015, Colorado Governor John Hickenlooper signed an executive order to establish the commission to study American Indian representations in public schools;

(i) The commission, comprised of American Indian leaders from across the state, visited the Colorado schools that wanted to be a part of this conversation. There were only four: Strasburg, Loveland, Eaton, and Lamar. After visiting each of these communities, the commission's recommendation was to completely eliminate American Indian imagery and nomenclature in schools in Colorado.

(j) Since that time, a few Colorado schools have voluntarily abandoned their American Indian mascots, but change, for the most part, has not come easily; and

(k) Currently, public sentiment is moving in favor of abandoning these discriminatory mascots. Many national athletic teams have
abandoned them, and similar changes are happening at the college level
and on down to the local level. In 2019, Maine successfully paved the
way with legislation for an American Indian mascot ban at the state level.

(2) Therefore, the general assembly declares that passing
legislation to retire all American Indian mascots in the state will provide
another step toward justice and healing to the descendants of the
survivors of the Sand Creek Massacre, most notably the Cheyenne and
Arapaho tribes, as well as other American Indians in Colorado who have
been harmed or offended by these discriminatory mascots.

SECTION 2. In Colorado Revised Statutes, add 22-1-131 as
follows:

22-1-131. Prohibition on use of American Indian mascots -
exceptions - definitions. (1) As used in this section, unless the
context otherwise requires:

(a) "American Indian mascot" means a name, symbol, or
image that depicts or refers to an American Indian tribe,
individual, custom, or tradition that is used as a mascot,
nickname, logo, letterhead, or team name for the school.

(b) "Institute charter school" means a charter school
authorized by the State Charter School Institute pursuant to
Part 5 of Article 30.5 of this Title 22.

(c) "Public school" means:

(I) An elementary, middle, junior high, high school, or
district charter school of a school district that serves any of
grades kindergarten through twelve; and

(II) An institute charter school that serves any of grades
kindergarten through twelve.
(2) (a) Except as provided for in subsection (2)(b) of this section, on or after June 1, 2022, a public school in the state is prohibited from using an American Indian mascot. Any public school that is using such an American Indian mascot as of June 1, 2022, shall immediately cease use of such American Indian mascot.

(b) The prohibition set forth in subsection (2)(a) of this section does not apply to:

(I) Any agreement that exists prior to June 30, 2021, between a federally recognized Indian tribe and a public school. A public school that is a party to such an agreement is held to a high standard and expected to honor the agreement. The federally recognized Indian tribe has the right and ability to revoke any such agreement at any time at its discretion.

(II) Any public school that is operated by a federally recognized Indian tribe or with the approval of a federally recognized Indian tribe and existing within the boundaries of such tribe’s reservation.

(III) (A) The ability of any federally recognized Indian tribe to create and maintain a relationship or agreement with a public school that fosters goodwill, emphasizes education and supports a curriculum that teaches American Indian history, and encourages a positive cultural exchange. Such relationships and agreements may include important historical figures, names, imagery, tribal names, and more.

(B) Any such agreement entered into pursuant to this section between a public school and a federally recognized Indian tribe.
INDIAN TRIBE MAY ALLOW ANY AMERICAN INDIAN MASCOT THAT IS CULTURALLY AFFILIATED WITH THAT FEDERALLY RECOGNIZED INDIAN TRIBE AS DETERMINED AT THE DISCRETION OF THE TRIBE'S GOVERNING BODY.

(C) FOR THE PURPOSES OF THIS SECTION, A "FEDERALLY RECOGNIZED INDIAN TRIBE" IS ONE OF THE FORTY-EIGHT CONTEMPORARY TRIBES WITH TIES TO COLORADO, DEVELOPED BY HISTORY COLORADO IN PARTNERSHIP WITH THE COLORADO COMMISSION OF INDIAN AFFAIRS. THIS LIST MAY CHANGE OVER TIME BUT IS THE OFFICIAL LIST TO BE USED FOR THE PURPOSES OF THIS SECTION.

(3) FOR EACH MONTH DURING WHICH A PUBLIC SCHOOL USES AN AMERICAN INDIAN MASCOT AFTER JUNE 1, 2022, THE SCHOOL DISTRICT OF THE PUBLIC SCHOOL, OR IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, THE STATE CHARTER SCHOOL INSTITUTE, SHALL PAY A FINE OF TWENTY-FIVE THOUSAND DOLLARS TO THE STATE TREASURER, WHO SHALL CREDIT THE MONEY RECEIVED TO THE STATE EDUCATION FUND CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

SECTION 3. In Colorado Revised Statutes, add 23-1-137 as follows:

23-1-137. Prohibition on use of American Indian mascots - exemptions - definitions. (1) AS USED IN THIS SECTION, UNLESS THE CONTEXT OTHERWISE REQUIRES:

(a) "AMERICAN INDIAN MASCOT" MEANS A NAME, SYMBOL, OR IMAGE THAT DEPICTS OR REFERS TO AN AMERICAN INDIAN TRIBE, INDIVIDUAL, CUSTOM, OR TRADITION THAT IS USED AS A MASCOT, NICKNAME, LOGO, LETTERHEAD, OR TEAM NAME FOR THE SCHOOL.

(b) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC
COLLEGE, UNIVERSITY, COMMUNITY COLLEGE, AREA VOCATIONAL SCHOOL, EDUCATIONAL CENTER, OR JUNIOR COLLEGE THAT IS SUPPORTED IN WHOLE OR IN PART BY GENERAL FUND MONEY.

(2) (a) Except as provided for in subsection (2)(b) of this section, on or after June 1, 2022, a public institution of higher education in the state is prohibited from using an American Indian mascot. Any public institution of higher education that is using such an American Indian mascot as of June 1, 2022, must immediately cease use of such American Indian mascot.

(b) The prohibition set forth in subsection (2)(a) of this section does not apply to:

(I) Any agreement that exists prior to June 30, 2021, between a federally recognized Indian tribe and a public institution of higher education. A public institution of higher education that is a party to such an agreement is held to a high standard and expected to honor the agreement. The federally recognized Indian tribe has the right and ability to revoke any such agreement at any time at its discretion.

(II) Any public institution of higher education that is operated by a federally recognized Indian tribe or with the approval of a federally recognized Indian tribe and existing within the boundaries of such tribe’s reservation.

(3) For each month during which a public institution of higher education uses an American Indian mascot after June 1, 2022, the public institution of higher education shall pay a fine of twenty-five thousand dollars to the state treasurer, who shall credit the money received to the state education fund.
SECTION 4. Act subject to petition - effective date. This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly; 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 such period, 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 2022 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.