

1 Title: To protect the name, image, and likeness rights of student athletes and to promote fair
2 competition among intercollegiate athletics, and for other purposes.
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5 Be it enacted by the Senate and House of Representatives of the United States of America in
6 Congress assembled,

7 SECTION 1. SHORT TITLE.

8 This Act may be cited as the [“_____ Act of 2023”].

9 SEC. 2. DEFINITIONS.

10 In this Act:

- 11 (1) INTERCOLLEGIATE ATHLETIC COMPETITION.—The term “intercollegiate athletic
12 competition” means any contest, game, meet, match, tournament, regatta, or other
13 event in which student athletes or varsity sports teams compete.
- 14 (2) ACADEMIC STIPEND.— The term “academic stipend” shall mean a payment made to a
15 student athlete by (and only by) an institution in or attributable to each academic year
16 (i.e., the annual period commencing on August 1 and ending on July 31 of each
17 calendar year).
- 18 (2) COMPENSATION.—The term “compensation”—
- 19 (A) means any form of payment or remuneration in cash, benefits, awards, or in any
20 other form, including payments for—
- 21 (i) licenses relating to, or the use of, name, image, and likeness rights; or
22 (ii) any other Federal or State intellectual or intangible property right; and
- 23 (B) does not include—
- 24 (i) grants-in-aid;
- 25 (ii) Federal Pell Grants and other Federal or State grants unrelated to and not
26 awarded with regard to participation in intercollegiate athletics;
- 27 (iii) health insurance and the costs of health care, including health insurance
28 and health care costs wholly or partly self-funded by an institution, interstate
29 intercollegiate athletic association, or conference;
- 30 (iv) disability and loss-of-value insurance, including disability and loss-of-
31 value insurance that is wholly or partly self-funded by an institution, interstate
32 intercollegiate athletic association, or conference;
- 33 (v) career counseling, job placement services, and other guidance available to
34 all students at an institution;
- 35 (vi) payment of hourly wages and benefits for work actually performed (and
36 not for participation in intercollegiate athletics) at a rate commensurate with the
37 going rate in the locality of an institution for similar work;
- 38 (vii) any program to connect student athletes with employers and facilitate

1 employment opportunities, if—

2 (I) the financial terms of such employment opportunities are consistent
3 with the terms offered to similarly situated employees who are not student
4 athletes; and

5 (II) such program is not used to induce a student athlete to attend a
6 particular institution; or

7 (viii) payment of an amount not to exceed the academic stipend provided to any
8 student athlete enrolled at an institution during the entire season of competition of
9 a varsity sport team.

10 (3) CONFERENCE.—The term “conference” means an organization or association that—

11 (A) exclusively has as members 2 or more institutions; and

12 (B) arranges championships and sets rules for intercollegiate athletic competition.

13 (4) COST OF ATTENDANCE.—The term “cost of attendance”—

14 (A) has the meaning given the term in section 472 of the Higher Education Act of
15 1965 (20 U.S.C. 10871l); and

16 (B) shall be calculated by the financial aid office of an institution applying the same
17 standards, policies, and procedures for all students.

18 (5) GRANT-IN-AID.—The term “grant-in-aid” means—

19 (A) means a scholarship, grant, stipend, or other form of financial assistance,
20 including the provision of tuition, room, board, books, or funds for fees or personal
21 expenses, that—

22 (i) is paid or provided by an institution to a student for the student’s
23 undergraduate or graduate course of study; and

24 (ii) is in an amount that does not exceed the cost of attendance for such student
25 at the institution; and

26 (B) does not include compensation paid to an individual who is a student athlete or a
27 former student athlete.

28 (6) IMAGE.—With respect to a student athlete, the term “image” means a picture or a
29 video that identifies, is linked to, or is reasonably linked to the student athlete.

30 (7) INSTITUTION.—The term “institution of higher education” or “institution” has the
31 meaning given the term under section 101 of the Higher Education Act of 1965 (20 U.S.C.
32 1001).

33 [(7) INSTITUTIONAL AFFILIATE.—The term “institutional affiliate,” with respect to any
34 institution, shall mean any person, corporation, booster organization, tax-exempt
35 organization, or other entity that provides donations or other support (other than an
36 immediate family member of an individual student athlete, and other than persons and
37 entities that license trademark rights of the institution and do not license NIL rights of
38 student-athletes or make payments earmarked or designated to fund NIL license or other
39 payments to student athletes) directly or indirectly to or for the benefit or support of any

1 student athlete enrolled or who may enroll at the institution, or to or for the benefit or
2 support of the intercollegiate athletics program or any booster organization of the
3 institution.]

4 (8) INTERCOLLEGIATE SPORT.—The term “intercollegiate sport”—

5 (A) means a sport played between institutions for which eligibility requirements for
6 participation by a student athlete are established by an interstate intercollegiate athletic
7 association; and

8 (B) does not include a recreational, intramural, or club sport.

9 (9) INTERSTATE INTERCOLLEGIATE ATHLETIC ASSOCIATION.—The term “interstate
10 intercollegiate athletic association” means—

11 (A) a not-for-profit corporation, an association, or any other group organized in the
12 United States that—

13 (i) sponsors or arranges intercollegiate athletic competition between institutions
14 and conferences;

15 (ii) sets common rules, standards, procedures, or guidelines for the
16 administration of intercollegiate athletic competition at institutions; and

17 (iii) is composed of 2 or more institutions or conferences that are located in
18 different States; and

19 (B) does not include a corporation, association, or other group affiliated with
20 professional athletic competition.

21 (10) LIKENESS.—With respect to a student athlete, the term “likeness” means a physical
22 or digital depiction or representation that identifies, is linked to, or is reasonably linked to
23 the student athlete.

24 (11) NAME.—With respect to a student athlete, the term “name” means the first or last
25 name, or the nickname, of the student athlete when used in a context that identifies, is
26 linked to, or is reasonably linked to the student athlete.

27 (12) NAME, IMAGE, AND LIKENESS AGREEMENT.—The term “name, image, and likeness
28 agreement” means a contract or similar agreement between a student athlete and a third
29 party regarding the commercial use of the name, image, or likeness of the student athlete.

30 (13) NAME, IMAGE, AND LIKENESS RIGHTS.—The term “name, image, and likeness rights”
31 means rights recognized under Federal or State law that allow an individual to control and
32 profit from the commercial use of his or her name, image, likeness, and persona, including
33 all rights commonly referred to as “publicity rights”.

34 (14) STUDENT ATHLETE.—The term “student athlete” means a student who—

35 (A) is enrolled at an institution; and

36 (B) participates in varsity sports or competes for a varsity sports team.

37 (15) THIRD PARTY.—The term “third party”—

38 (A) means any individual or entity that licenses publicity rights from any current or
39 prospective student athlete or group of athletes; and

1 (B) does not include an institution, [institutional affiliate,] conference, or interstate
2 intercollegiate athletic association.

3 (16) THIRD PARTY REPRESENTATION.—The term “third party representation”—

4 (A) means representation of a student athlete by a third party with respect to a name,
5 image, and likeness agreement; and

6 (B) does not include such representation by an immediate family member of the
7 student athlete.

8 (17) VARSITY SPORTS TEAM.—The term “varsity sports team” means a sports team
9 composed of student athletes that is organized by an institution for the purpose of
10 intercollegiate athletic competition.

11 SEC. 3. PROTECTION OF NAME, IMAGE, AND LIKENESS 12 RIGHTS OF STUDENT ATHLETES.

13 (a) Right To Enter Into Name, Image, and Likeness Agreements.—

14 (1) IN GENERAL.—Except as provided in paragraph (2), an institution, interstate
15 intercollegiate athletic association, or conference shall not restrict the ability of a student
16 athlete to enter into a name, image, and likeness agreement.

17 (2) EXCEPTIONS.—An institution, interstate intercollegiate athletic association, or
18 conference may restrict the eligibility for intercollegiate athletics competition of a student
19 athlete who enters into a name, image, and likeness agreement that violates the code of
20 student conduct, reasonably impacts the reputation or public image, or conflicts with the
21 terms of an existing contract or agreement, of the institution at which the student athlete is
22 enrolled.

23 (3) DISCLOSURE.—

24 (A) IN GENERAL.—[30 days] after a student athlete enters into a name, image, and
25 likeness agreement, the student athlete shall disclose the terms of the agreement to the
26 institution at which the student athlete is enrolled.

27 (B) RELEASE OF INFORMATION.—Except as provided in section 6, an institution may
28 not release any information provided by a student athlete in a disclosure under
29 subparagraph (A) without the express written consent of the student athlete or the
30 student athlete’s third party representative.

31 (b) Right to Representation.—An institution, interstate intercollegiate athletic association, or
32 conference may not prohibit the participation of a student athlete in intercollegiate athletic
33 competition, or other events relating to intercollegiate athletic competition, based on the student
34 athlete having obtained third party representation.(c) Amending Consumer Review Fairness Act
35 of 2016 to Include NIL Agreements.—Section 2 of the Consumer Review Fairness Act of 2016
36 (15 U.S.C. 45b) is amended—

37 (1) in subsection (a), by adding at the end the following new paragraph:

38 “(5) NAME, IMAGE, AND LIKENESS AGREEMENT.—The term ‘name, image, and likeness
39 agreement’ has the meaning given that term in section 2 of the [_____ Act of 2023].”;

1 (2) by inserting after subsection (i) the following new subsection:

2 “(j) Requirements for Name, Image, and Likeness Agreements.—A name, image, and likeness
3 agreement is void from the inception of such agreement if such agreement does not satisfy the
4 following requirements:

5 “(1) The agreement is in writing.

6 “(2) The agreement contains—

7 “(A) a description of services rendered;

8 “(B) the names of the parties;

9 “(C) the term of the agreement;

10 “(D) the amount of compensation to be provided to the student athlete under the
11 agreement; and

12 “(E) a provision specifying under what other circumstances or in what other events
13 the agreement may be terminated on account of non-performance of obligations by the
14 student athlete.”.”;

15 (3) in subsection (c), by striking “subsection (b)” and inserting “subsection (b) or (j)”

16 (4) in subsection (d)—

17 (A) in paragraph (2)(A), by striking “The Commission” and inserting “Except as
18 provided in subparagraph (C), the Commission”; and

19 (B) by adding at the end the following new subparagraph:

20 “(C) SCOPE OF JURISDICTION.—Notwithstanding section 4, 5(a)(2), or 6 of the
21 Federal Trade Commission Act, or any other jurisdictional limitation of the
22 Commission, the Commission shall enforce subsection (c), to the extent it relates to
23 subsection (j), in the manner provided in subparagraphs (A) and (B), with respect to
24 organizations not organized to carry on business for their own profit or that of their
25 members.”;

26 (5) in subsection (i)—

27 (A) in paragraph (1)—

28 (i) by inserting “(except to the extent subsection (c) relates to subsection (j))”
29 after “and (c)”; and

30 (ii) by striking “; and” and inserting a semicolon;

31 (B) in paragraph (2), by striking the period at the end and inserting “; and”; and

32 (C) by adding at the end the following new paragraph:

33 “(3) subsections (j) and (c) (to the extent subsection (c) relates to subsection (j)) shall
34 apply with respect to name, image, and likeness agreements in effect on or after the date
35 that is [SLC: insert effective date].”.

36 **SEC. 4. MODIFICATIONS TO SPORTS AGENT**

1 RESPONSIBILITY AND TRUST ACT.

2 The Sports Agent Responsibility and Trust Act (15 U.S.C. 7801 et seq.) is amended—

3 (1) in section 3(b)(3) (15 U.S.C. 7802(b)(3)), by striking “Warning to Student Athlete: If
4 you agree orally or in writing to be represented by an agent now or in the future you may
5 lose your eligibility to compete as a student athlete in your sport.”; and

6 (2) by adding at the end the following:

7 “SEC. 9. DISCLOSURE AND CONSENT RELATING TO 8 NAME, IMAGE, AND LIKENESS AGREEMENTS.

9 “(a) In General.—An athlete agent who assists a student athlete with an endorsement contract
10 shall disclose to the student athlete whether the athlete agent—

11 “(1) is registered with an interstate intercollegiate athletic association (as defined in
12 section 2 of the [_____ Act of 2023]); and

13 “(2) is registered by an interstate intercollegiate athletic association but not by the
14 interstate intercollegiate athletic association of which the institution of higher education at
15 which the student athlete is enrolled is a member.

16 “(b) Consent.—In the case of an athlete agent that is not registered with an interstate
17 intercollegiate athletic association, the athlete agent may only assist a student athlete with an
18 endorsement contract if the student athlete (or, in the case of a student athlete who is under 18
19 years of age, the parent or guardian of the student athlete) provides to the athlete agent written
20 consent for such assistance after receiving written disclosure that the athlete agent is not
21 registered.”

22 SEC. 5. ROLES OF INTERSTATE INTERCOLLEGIATE 23 ATHLETIC ASSOCIATIONS AND CONFERENCES.

24 An interstate intercollegiate athletic association or conference may—

25 (1) establish a process by which a third party seeking to represent a student athlete in a
26 name, image, and likeness agreement may register with the interstate intercollegiate athletic
27 association as an agent of the student athlete;

28 (2) establish and maintain a publicly accessible, searchable database for student athletes
29 and their agents to estimate the fair market value for name, image, and likeness agreements
30 based on the information disclosed under section 6;

31 (3) establish and enforce rules relating to—

32 (A) [manner and time periods for] the recruitment of student athletes before and
33 during their eligibility for intercollegiate athletic competition;

34 (B) [prohibiting or limiting compensation to student athletes by institutions,
35 institutional affiliates, and conferences for the purposes of recruitment or inducing a
36 student athlete to transfer institutions;] and

37 (B) the transfer of student athletes between member institutions;

- 1 (4) provide student athletes and the parents and guardians of student athletes with
2 educational materials relating to name, image, and likeness rights;
- 3 (5) organize championships for intercollegiate athletic competitions; and
- 4 (6) establish bylaws governing membership, under which an interstate intercollegiate
5 athletic association or conference may—
- 6 (A) remove member institutions;
- 7 (B) restrict participation in competition for institutions or student athletes; and
- 8 (C) restrict eligibility of student athletes for intercollegiate athletic competition.

9 SEC. 6. DETERMINATION OF MARKET VALUE FOR 10 STUDENT ATHLETE NAME, IMAGE, AND LIKENESS.

11 (a) Disclosure Requirements.—

12 (1) IN GENERAL.—Not later than July 1 of the first year beginning after the date of the
13 enactment of this Act, and each July 1 thereafter, each institution shall disclose to the
14 interstate intercollegiate athletic association of which the institution is a member, in an
15 anonymized manner, the following data with respect to each name, image, and likeness
16 agreement disclosed to the institution under section 3(a)(3):

17 (A) A description of services rendered.

18 (B) The amount of compensation to be provided to the student athlete under the
19 agreement.

20 (2) PROTECTION OF PERSONALLY IDENTIFIABLE INFORMATION.—In making a disclosure
21 under paragraph (1), an institution shall ensure that no personally identifiable information of
22 a student athlete is transmitted to an interstate intercollegiate athletic association.

23 (b) Database.—

24 (1) IN GENERAL.—An interstate intercollegiate athletic association shall use the
25 anonymized data provided by member institutions under subsection (a) to establish and
26 maintain a publicly accessible, searchable database for student athletes and their agents to
27 estimate the fair market value for name, image, and likeness agreements.

28 (2) PRIVACY.—An interstate intercollegiate athletic association shall take reasonable
29 technical measures to ensure that information available in the database described in
30 paragraph (1) may not be used to identify a student athlete.

31 SEC. 7. LIMITATION ON LIABILITY.

32 An institution, interstate intercollegiate athletic association, or conference that complies with
33 this Act and the amendments made by this Act shall not be in violation of any law or regulation,
34 and shall not be subject to liability under Federal or State law for—

35 (1) the adoption of, agreement to, enforcement of, or compliance with any rule or bylaw
36 of an interstate intercollegiate athletic association, conference, or institution that limits or
37 prohibits a student athlete from receiving compensation from an interstate intercollegiate

- 1 athletic association, conference, institution, or other person or entity;
- 2 (2) restricting the eligibility for intercollegiate athletics of a student athlete who violates a
3 rule of the institution, interstate intercollegiate athletic association, or conference; or
- 4 (3) complying with an agreement, understanding, rule, or bylaw adopted by an institution,
5 conference, or association (or a combination of conferences or institutions) that is
6 reasonably contemplated under this Act.

7 SEC. 8. PREEMPTION.

- 8 (a) In General.—No State or political subdivision of a State may adopt, maintain, enforce, or
9 continue in effect any law, regulation, rule, requirement, or standard that—
- 10 (1) conflicts with this Act; or
- 11 (2) governs or regulates the compensation, employment status, or eligibility for
12 intercollegiate athletic competition of a student athlete or prospective student athlete,
13 including any provision that governs or regulates the commercial use of the name, image, or
14 likeness of a student athlete or prospective student athlete.
- 15 (b) Student Athletes Not Employees.—Notwithstanding any other provision of Federal or
16 State law, a student athlete shall not be considered an employee of an institution, conference, or
17 interstate intercollegiate athletic association for purposes of (or as a basis for imposing liability
18 on or awarding damages or other monetary relief under) any Federal or State law based on the
19 student athlete’s participation in, or status as a member of, any varsity sports team.