

118TH CONGRESS  
1ST SESSION

**S.** \_\_\_\_\_

To establish certain standards for student athlete name, image, and likeness agreements and to allow the establishment of a clearinghouse to regulate name, image, and likeness agreements, and for other purposes.

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IN THE SENATE OF THE UNITED STATES

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\_\_\_\_\_ introduced the following bill; which was read twice  
and referred to the Committee on \_\_\_\_\_

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**A BILL**

To establish certain standards for student athlete name, image, and likeness agreements and to allow the establishment of a clearinghouse to regulate name, image, and likeness agreements, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “College Sports NIL  
5 Clearinghouse Act of 2023”.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

1           (1) ATHLETIC ASSOCIATION.—The term “ath-  
2           letic association” means any organization or other  
3           group that—

4                   (A) has 2 or more conferences as members;  
5           and

6                   (B) arranges, sets rules for, or regulates  
7           varsity intercollegiate sports competition.

8           (2) ATHLETIC DEPARTMENT.—The term “ath-  
9           letic department” means a department at an institu-  
10          tion responsible for sponsoring 1 or more varsity  
11          intercollegiate athletic programs.

12          (3) CERTIFIED AGENT.—The term “certified  
13          agent” means an athlete agent (as defined in section  
14          2 of the Sports Agent Responsibility and Trust Act  
15          (15 U.S.C. 7801)), a contract advisor, a financial  
16          advisor, a marketing representative, a brand man-  
17          ager, or a similarly employed individual who is cer-  
18          tified by the NIL Clearinghouse as being in full  
19          compliance with all requirements established by the  
20          NIL Clearinghouse—

21                   (A) to represent a student athlete in a  
22                  name, image, and likeness agreement;

23                   (B) to provide consulting services to a stu-  
24                  dent athlete with respect to a name, image, and  
25                  likeness agreement; or

1 (C) to recruit or solicit, directly or indi-  
2 rectly, a student athlete—

3 (i) to engage in an activity described  
4 in subparagraph (A) or (B); or

5 (ii) to represent or attempt to rep-  
6 resent a student athlete for the purpose of  
7 marketing the name, image, or likeness of  
8 the student athlete.

9 (4) CONFERENCE.—The term “conference”  
10 means any organization that—

11 (A) is not an athletic association;

12 (B) has 2 or more institutions as members;

13 and

14 (C) arranges championships, sets rules for,  
15 or regulates varsity intercollegiate sports com-  
16 petition.

17 (5) COST OF ATTENDANCE.—The term “cost of  
18 attendance”—

19 (A) has the meaning given the term in sec-  
20 tion 472 of the Higher Education Act of 1965  
21 (20 U.S.C. 1087ll); and

22 (B) shall be calculated by the financial aid  
23 office of an institution by applying the same  
24 standards, policies, and procedures for all stu-  
25 dents at such institution.

1 (6) COVERED COMPENSATION.—

2 (A) IN GENERAL.—With respect to a  
3 name, image, and likeness agreement, the term  
4 “covered compensation” means any payment,  
5 remuneration, or benefit, including cash,  
6 awards, gifts, and in-kind contributions, that—

7 (i) is provided by a third party to a  
8 student athlete;

9 (ii) is commensurate with the market  
10 value for the activity carried out under the  
11 name, image, and likeness agreement; and

12 (iii) is not, or is not intended to be,  
13 a recruiting inducement or compensation  
14 for participation in a varsity intercollegiate  
15 sport.

16 (B) EXCLUSION.—The term “covered com-  
17 pensation” does not include grant-in-aid.

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

20 (A) tuition, room, board, books, fees, and  
21 personal expenses paid or provided by an insti-  
22 tution up to the full cost of attendance;

23 (B) Federal Pell Grants and other State  
24 and Federal grants unrelated to, and not

1 awarded with respect to, participation in varsity  
2 intercollegiate sports competition;

3 (C) health insurance and the costs of  
4 health care wholly or partly self-funded by an  
5 athletic association, a conference, or an institu-  
6 tion;

7 (D) disability and loss of value insurance  
8 that is wholly or partly self-funded by an ath-  
9 letic association, a conference, or an institution;

10 (E) career counseling or job placement  
11 services available to all students at an institu-  
12 tion; or

13 (F) payment of hourly wages and benefits  
14 for work actually performed (and not for par-  
15 ticipation in a varsity intercollegiate athletic  
16 program) at a rate commensurate with the pre-  
17 vailing rate in the locality of an institution for  
18 similar work.

19 (8) IMAGE.—The term “image”, with respect to  
20 a student athlete, means a photograph, video, or  
21 computer-generated representation that identifies, is  
22 linked to, or is reasonably linkable to the student  
23 athlete.

24 (9) INSTITUTION.—The term “institution” has  
25 the meaning given the term “institution of higher

1 education” in section 101 of the Higher Education  
2 Act of 1965 (20 U.S.C. 1001).

3 (10) LIKENESS.—The term “likeness”, with re-  
4 spect to a student athlete, means—

5 (A) with respect to a student athlete of a  
6 sport for which the student athlete has a jersey  
7 number, the jersey number associated with the  
8 student athlete and the sport in which the stu-  
9 dent athlete participates at a particular institu-  
10 tion during the period of the participation of  
11 the student athlete in the sport at the institu-  
12 tion, if the jersey number is accompanied by—

13 (i) a logo or color scheme that is  
14 clearly associated with the institution; or

15 (ii) some other means by which the  
16 jersey number is associated with the par-  
17 ticular student athlete; and

18 (B) with respect to any student athlete—

19 (i) the uniquely identifiable voice,  
20 catch phrase, or nickname of the student  
21 athlete; or

22 (ii) any other mark that identifies or  
23 distinguishes the student athlete.

24 (11) LOSS OF VALUE INSURANCE.—The term  
25 “loss of value insurance” means insurance that pro-

1        tects the future contract value of a student athlete  
2        from decreasing below a predetermined amount due  
3        to significant injury or illness suffered by the stu-  
4        dent athlete during the designated coverage period  
5        of the insurance policy.

6            (12) NAME.—The term “name”, with respect to  
7        a student athlete, means the first or last name, the  
8        nickname, or the username on any internet platform  
9        of the student athlete when used in a context that  
10       reasonably identifies the student athlete with speci-  
11       ficity or particularity.

12           (13) NAME, IMAGE, AND LIKENESS AGREE-  
13        MENT.—The term “name, image, and likeness agree-  
14        ment” means a contract or similar arrangement be-  
15        tween a student athlete and a third party regarding  
16        the commercial use of the name, image, or likeness  
17        of the student athlete in exchange for covered com-  
18        pensation.

19           (14) NIL CLEARINGHOUSE.—The term “NIL  
20        Clearinghouse” means a clearinghouse established  
21        under section 4(a).

22           (15) STUDENT ATHLETE.—The term “student  
23        athlete” means any individual enrolled at an institu-  
24        tion who participates as a team member or compet-

1       itor in varsity intercollegiate sports competition  
2       sponsored by the institution.

3           (16) THIRD PARTY.—The term “third party”  
4       means an individual or entity that is not—

5           (A) an institution;

6           (B) an athletic department;

7           (C) an organization or a foundation that  
8       provides financial support to an institution or  
9       athletic department;

10          (D) a conference;

11          (E) an athletic association;

12          (F) a certified agent; or

13          (G) an employee of any such individual or  
14       entity.

15           (17) VARSITY INTERCOLLEGIATE ATHLETIC  
16       PROGRAM.—The term “varsity intercollegiate ath-  
17       letic program” means a sport played at the inter-  
18       collegiate level, administered by an athletic depart-  
19       ment, for which eligibility requirements for partici-  
20       pation by student athletes are established by an ath-  
21       letic association.

22           (18) VARSITY INTERCOLLEGIATE SPORTS COM-  
23       PETITION.—The term “varsity intercollegiate sports  
24       competition” means a competition involving 2 or



1 more varsity intercollegiate athletic programs spon-  
2 sored by different institutions.

3 **SEC. 3. NAME, IMAGE, AND LIKENESS AGREEMENTS.**

4 (a) PROTECTIONS FOR STUDENT ATHLETES.—

5 (1) IN GENERAL.—With respect to a student  
6 athlete who may enter, or who has entered, into a  
7 name, image, and likeness agreement, an institution  
8 may not retaliate against the student athlete for  
9 considering, or having entered into, such an agree-  
10 ment by—

11 (A) limiting the playing time of the stu-  
12 dent athlete; or

13 (B) making adverse changes to—

14 (i) the student athlete's eligibility for  
15 or opportunity to apply for scholarships,  
16 grant-in-aid, or educational loans; or

17 (ii) the amount, duration, or renewal  
18 of the student athlete's grant-in-aid.

19 (2) INSTITUTION AND TEAM POLICIES.—An in-  
20 stitution may enforce against a student athlete de-  
21 scribed in paragraph (1) institution and team codes  
22 of conduct and policies relating to the student ath-  
23 lete's scholastic achievement, timely attendance of  
24 team practices, and the donning of a logo during an  
25 official team event of an entity other than a team

1 sponsor, if such enforcement is carried out equally  
2 to other student athletes enrolled in the institution.

3 (b) PROHIBITIONS.—

4 (1) PARTICULAR INDUSTRIES.—

5 (A) IN GENERAL.—An institution may pro-  
6 hibit student athletes enrolled in the institution  
7 from entering into name, image and likeness  
8 agreements with entities in a particular indus-  
9 try if—

10 (i) applicable State law prohibits all  
11 institutions located in the State from en-  
12 tering into agreements with such entities;  
13 and

14 (ii) such a name, image, and likeness  
15 agreement would violate the student code  
16 of conduct of the institution.

17 (B) NOTIFICATION OF ENROLLED STU-  
18 DENT ATHLETES.—An institution shall provide  
19 to each enrolled student athlete a list of entities  
20 with which student athletes are prohibited from  
21 entering into name, image, and likeness agree-  
22 ments under subparagraph (A).

23 (2) CONFLICTS WITH INSTITUTION OR TEAM  
24 SPONSORSHIP AGREEMENTS.—

1           (A) IN GENERAL.—Subject to subpara-  
2 graph (B) and paragraph (3)(B), an institution  
3 may prohibit a student athlete from carrying  
4 out an activity pursuant to a name, image, and  
5 likeness agreement during any period in which  
6 the student athlete is engaged in a mandatory  
7 team activity if such activity pursuant to the  
8 name, image, and likeness agreement conflicts  
9 with a sponsorship agreement of the institution  
10 or the team of the student athlete.

11           (B) WAIVER.—An institution may waive  
12 the application of subparagraph (A) only if such  
13 waiver applies to all—

14                   (i) student athletes enrolled in the in-  
15 stitution; and

16                   (ii) conflicts described in that sub-  
17 paragraph.

18           (3) PUBLIC DISCLOSURE.—

19           (A) IN GENERAL.—Not later than January  
20 1 each year, each institution shall make avail-  
21 able to the public a description of any prohibi-  
22 tion under paragraph (1) or (2) that will apply  
23 to student athletes during the subsequent aca-  
24 demic year.

1 (B) EFFECT OF FAILURE TO DISCLOSE  
2 CONFLICTS.—The prohibition on conflicts under  
3 paragraph (2) shall not apply to an institution  
4 that fails to make a timely disclosure of con-  
5 flicts under subparagraph (A).

6 (C) EFFECTIVE DATE.—This paragraph  
7 shall take effect on the date that is 1 year after  
8 the date of the enactment of this Act.

9 **SEC. 4. NIL CLEARINGHOUSE FOR REGULATION OF NAME,**  
10 **IMAGE, AND LIKENESS AGREEMENTS.**

11 (a) ESTABLISHMENT.—Institutions and conferences  
12 may establish a clearinghouse for the purpose of regu-  
13 lating name, image, and likeness agreements in accord-  
14 ance with this Act.

15 (b) DUTIES.—The NIL Clearinghouse shall—

- 16 (1) monitor compliance with this Act;  
17 (2) establish and enforce penalties for violations  
18 of this Act; and  
19 (3) provide to student athletes educational in-  
20 formation with respect to the legal and tax implica-  
21 tions of name, image, and likeness agreements.

22 (c) ANTITRUST EXEMPTION.—

- 23 (1) IN GENERAL.—Subject to paragraph (2),  
24 section 1 of the Sherman Act (15 U.S.C. 1) shall  
25 not apply to the NIL Clearinghouse.

1           (2) LIMITATION.—Paragraph (1) shall not  
2           apply to the NIL Clearinghouse if the NIL Clearing-  
3           house takes an action that is in excess of the action  
4           authorized under this Act.

5 **SEC. 5. INFORMATION SHARING.**

6           On request, the NIL Clearinghouse shall provide to  
7           the Federal Trade Commission, the Department of Jus-  
8           tice, or the attorney general of any State any record of  
9           the NIL Clearinghouse.

10 **SEC. 6. ENFORCEMENT.**

11           (a) ACTIONS BY NIL CLEARINGHOUSE.—

12           (1) IN GENERAL.—The NIL Clearinghouse  
13           shall carry out enforcement actions for any violation  
14           of this Act, including by—

15                   (A) levying fines;

16                   (B) imposing penalties, including suspen-  
17                   sion or a permanent ban of an individual or en-  
18                   tity from participation in varsity intercollegiate  
19                   sports competition for a period determined by  
20                   the NIL Clearinghouse; and

21                   (C) commencing civil actions and seeking  
22                   all appropriate legal, equitable, or other relief,  
23                   including damages and injunctions.

24           (2) NOTICE.—With respect to an enforcement  
25           action carried out under this subsection, the NIL

1 Clearinghouse shall provide to the individual or enti-  
2 ty concerned notice of the enforcement action and an  
3 opportunity for a hearing.

4 (3) IMPOSITION OF FINES.—With respect to a  
5 violation of this Act that has damaged or unjustly  
6 enriched a regulated party, the NIL Clearinghouse  
7 shall impose a fine in an amount not less than the  
8 value of the damage or unjust enrichment.

9 (4) REPRESENTATION.—The NIL Clearing-  
10 house may act in its own name and through its own  
11 attorneys—

12 (A) in enforcing any provision of this Act  
13 or any other law or regulation; and

14 (B) in any civil action, suit, or proceeding  
15 to which the NIL Clearinghouse is a party.

16 (5) COMPROMISE OF ACTIONS.—The NIL  
17 Clearinghouse may compromise or settle any civil ac-  
18 tion if such compromise or settlement is approved by  
19 the court.

20 (6) FORUM.—A civil action under this Act may  
21 be brought by the NIL Clearinghouse in a Federal  
22 district court of competent jurisdiction.

23 (b) ACTIONS BY ATTORNEY GENERAL.—The Attor-  
24 ney General may bring a civil action for a violation of this  
25 Act in any appropriate district court of the United States.

1 (c) ACTIONS BY STATE.—

2 (1) IN GENERAL.—In any case in which the at-  
3 torney general of a State, or such other official as  
4 the State may designate, has reason to believe that  
5 an interest of the residents of such State has been  
6 or is threatened or adversely affected by an act or  
7 practice in violation of this Act, the State may bring  
8 a civil action on behalf of the residents of the State  
9 in an appropriate State court or a district court of  
10 the United States that is located in the State and  
11 has jurisdiction over the defendant—

12 (A) to enforce compliance with this Act;

13 and

14 (B) for all appropriate remedies.

15 (2) NOTICE.—

16 (A) IN GENERAL.—Before filing an action  
17 under this subsection or commencing any other  
18 administrative or regulatory proceeding to en-  
19 force this Act, the attorney general, official, or  
20 agency of the State involved shall provide to the  
21 NIL Clearinghouse—

22 (i) a written notice of such action or  
23 proceeding; and

24 (ii) a copy of the complaint for such  
25 action or proceeding.

1 (B) CONTENTS OF NOTICE.—The written  
2 notice required by subparagraph (A) shall in-  
3 clude—

4 (i) the identity of the parties;

5 (ii) a description of the alleged facts  
6 underlying the action or proceeding; and

7 (iii) an assessment as to whether  
8 there is a need to coordinate the prosecu-  
9 tion of the action or proceeding so as not  
10 to interfere with any action or proceeding  
11 undertaken by the NIL Clearinghouse or a  
12 Federal agency.

13 (C) NIL CLEARINGHOUSE RESPONSE.—On  
14 receiving notice under this paragraph of an ac-  
15 tion or proceeding under this subsection, the  
16 NIL Clearinghouse shall have the right—

17 (i) to intervene in the action or pro-  
18 ceeding;

19 (ii) upon so intervening—

20 (I) to remove the action or pro-  
21 ceeding to the appropriate United  
22 States district court, if the action or  
23 proceeding was not originally brought  
24 there; and



1 (II) to be heard on all matters  
2 arising in the action or proceeding;  
3 and

4 (iii) to appeal any order or judgment,  
5 to the same extent as any other party in  
6 the proceeding.

7 (3) REGULATIONS.—The NIL Clearinghouse  
8 shall prescribe regulations to implement this sub-  
9 section and, from time to time, provide guidance to  
10 further coordinate actions with State attorneys gen-  
11 eral and other regulators.

12 (4) RULE OF CONSTRUCTION.—Nothing in this  
13 subsection may be construed as altering, limiting, or  
14 affecting the authority of a State attorney general or  
15 any other regulatory or enforcement agency or au-  
16 thority to bring an action or other regulatory pro-  
17 ceeding arising solely under the law in effect in that  
18 State.

19 (d) NO PRIVATE RIGHT OF ACTION.—Nothing in this  
20 Act may be construed as providing for a private right of  
21 action for civil enforcement of this Act by any individual  
22 other than a student athlete or certified agent.

23 **SEC. 7. RULE OF CONSTRUCTION.**

24 Nothing in this Act may be construed to limit the  
25 ability of an institution, conference, or athletic association

1 to prohibit a third party from providing to a student ath-  
2 lete—

3 (1) a recruitment inducement; or

4 (2) compensation for participation in a varsity

5 intercollegiate sport.