

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4921**

BY DELEGATES FLUHARTY, HORNBUCKLE AND PYLES

[Introduced February 11, 2020; Referred to the  
Committee on Education then the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
2 designated §18B-1-12, relating to authorizing student athletes to be compensated for use  
3 of their name, image or likeness; prohibiting state institutions of higher educations from  
4 preventing a student athlete from use of the student's name, image or likeness when the  
5 student is not engaged in official team activities; prohibiting athletic associations or other  
6 similar groups from preventing student athlete earning compensation for use of his or her  
7 name, image or likeness; prohibiting athletic associations or other similar groups from  
8 preventing a state institution of higher education from allowing a student athlete earning  
9 compensation from the use of his or her name, image or likeness; allowing the student  
10 athlete to obtain approved professional representation; and requiring the student athlete  
11 to disclose certain information to the state institution of higher education.

*Be it enacted by the Legislature of West Virginia:*

## **ARTICLE 1. GOVERNANCE.**

### **§18B-1-12. Authorizing student-athlete compensation for use of name, image or likeness.**

1 (a) (1) A state institution of higher education may not uphold any rule, requirement,  
2 standard, or other limitation that prevents a student of that institution participating in intercollegiate  
3 athletics from earning compensation as a result of the use of the student's name, image, or  
4 likeness. Earning compensation from the use of a student's name, image, or likeness may not  
5 affect the student's scholarship eligibility.

6 (2) An athletic association, conference, or other group or organization with authority over  
7 intercollegiate athletics, including, but not limited to, the National Collegiate Athletic Association,  
8 may not prevent a student of a state institution of higher education participating in intercollegiate  
9 athletics from earning compensation as a result of the use of the student's name, image, or  
10 likeness.

11 (3) An athletic association, conference, or other group or organization with authority over  
12 intercollegiate athletics, including, but not limited to, the National Collegiate Athletic Association,

13 may not prevent a state institution of higher education from participating in intercollegiate athletics  
14 as a result of the compensation of a student athlete for the use of the student's name, image, or  
15 likeness.

16 (b) A state institution of higher education, athletic association, conference, or other group  
17 or organization with authority over intercollegiate athletics may not provide a prospective student  
18 athlete with compensation in relation to the athlete's name, image, or likeness.

19 (c)(1) A state institution of higher education, athletic association, conference, or other  
20 group or organization with authority over intercollegiate athletics may not prevent a student  
21 participating in intercollegiate athletics from obtaining professional representation in relation to  
22 contracts or legal matters provided by athlete agents licensed pursuant to §30-39-1 et seq. of this  
23 code, or legal representation provided by attorneys licensed in this state.

24 (2) Athlete agents representing student athletes shall comply with the federal Sports Agent  
25 Responsibility and Trust Act, established in 15 U.S.C § 7801 et seq., in their relationships with  
26 student athletes.

27 (d) A scholarship from the state institution of higher education in which a student is enrolled  
28 that provides the student with the cost of attendance at that institution is not compensation for  
29 purposes of this section, and a scholarship may not be revoked as a result of earning  
30 compensation or obtaining legal representation pursuant to this section.

31 (e)(1) A student athlete may not enter into a contract providing compensation to the athlete  
32 for use of the athlete's name, image, or likeness if a provision of the contract is in conflict with a  
33 provision of the athlete's team contract.

34 (2) A student athlete who enters into a contract providing compensation to the athlete for  
35 use of the athlete's name, image, or likeness shall disclose the contract to an official of the  
36 institution, to be designated by the institution.

37 (3) An institution asserting a conflict described in paragraph (1) shall disclose to the athlete  
38 or the athlete's legal representation the relevant contractual provisions that are in conflict.

39 (f) A team contract of a state institution of higher education's athletic program may not  
40 prevent a student athlete from using the athlete's name, image, or likeness for a commercial  
41 purpose when the athlete is not engaged in official team activities: *Provided*, That this prohibition  
42 shall apply only to contracts entered into, modified, or renewed on or after the enactment of this  
43 section.

44 (g) For purposes of this section, "state institution of higher education" means any university  
45 or college in this state providing scholarships to students to participate in athletic events for that  
46 college or university.

NOTE: The purpose of this bill is to allow student athletes to be compensated for use of their name, image or likeness while enrolled in a state college or university; prohibits any athletic association or group from preventing a student athlete from being compensated for use of their name, image or likeness; and prevents a college or university from paying prospective student athletes for use of their name, image or likeness prior to enrollment.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.