

By: Representatives Huddleston, Stamps

To: Universities and
Colleges; Judiciary AHOUSE BILL NO. 1030
(As Passed the House)

1 AN ACT TO CREATE THE "MISSISSIPPI INTERCOLLEGIATE ATHLETICS
2 COMPENSATION RIGHTS ACT"; TO DEFINE TERMINOLOGY; TO PROVIDE THAT A
3 STUDENT-ATHLETE MAY EARN COMPENSATION FOR THE USE OF HIS OR HER
4 NAME, IMAGE OR LIKENESS WHILE ENROLLED IN A POSTSECONDARY
5 INSTITUTION AND OBTAIN A CERTIFIED AGENT FOR MATTERS RELATING TO
6 THAT COMPENSATION; TO PROHIBIT STUDENT-ATHLETES FROM EARNING
7 COMPENSATION IN EXCHANGE FOR HIS OR HER ABILITY OR PARTICIPATION
8 IN INTERCOLLEGIATE ATHLETICS OR SPORTS COMPETITIONS; TO PROVIDE
9 THAT A STUDENT-ATHLETE SHALL NOT BE DEEMED AN EMPLOYEE OR
10 INDEPENDENT CONTRACTOR OF ANY ATHLETIC ORGANIZATIONAL ENTITY BASED
11 ON HIS OR HER PARTICIPATION IN AN INTERCOLLEGIATE ATHLETIC
12 PROGRAM; TO PROHIBIT POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM
13 UPHOLDING REQUIREMENTS THAT RESTRICT A STUDENT-ATHLETES ABILITY TO
14 RECEIVE COMPENSATION FOR THE STUDENT'S NAME, IMAGE OR LIKENESS; TO
15 PROHIBIT ATHLETIC ORGANIZATIONAL ENTITIES FROM INTERFERING WITH A
16 CONTRACT OR OTHER REQUIREMENTS THAT PREVENT A STUDENT-ATHLETE FROM
17 RECEIVING COMPENSATION FOR HIS OR HER NAME, IMAGE OR LIKENESS OR
18 PREVENT A POSTSECONDARY EDUCATIONAL INSTITUTION FROM PARTICIPATING
19 IN AN INTERCOLLEGIATE ATHLETIC PROGRAM AS A RESULT OF THE
20 STUDENT-ATHLETE RECEIVING COMPENSATION FOR HIS OR HER NAME, IMAGE
21 OR LIKENESS; TO ALLOW POSTSECONDARY EDUCATIONAL INSTITUTIONS TO
22 IMPOSE REASONABLE LIMITATIONS ON THE TIMES A STUDENT-ATHLETE MAY
23 PARTICIPATE IN CERTAIN PROMOTIONAL ACTIVITIES RELATED TO THE
24 LICENSE OR USE OF THE STUDENT'S NAME, IMAGE OR LIKENESS; TO
25 PROHIBIT POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM PREVENTING
26 STUDENT-ATHLETES FROM OBTAINING PROFESSIONAL REPRESENTATION; TO
27 REQUIRE PERSONS OBTAINED BY STUDENT-ATHLETES AS PROFESSIONAL
28 REPRESENTATIVES TO BE REGISTERED AS ATHLETE AGENTS AND ATTORNEYS
29 WHO PROVIDE LEGAL REPRESENTATION TO BE LICENSED BY THE MISSISSIPPI
30 BAR ASSOCIATION; TO REQUIRE STUDENT-ATHLETES TO DISCLOSE CONTRACTS
31 FOR COMPENSATION TO THE POSTSECONDARY EDUCATIONAL INSTITUTION OF
32 ENROLLMENT THE EARLIER OF THREE DAYS OF ITS EXECUTION OR THREE
33 DAYS OF THE NEXT COMPETITION; TO PROVIDE THAT NO MALE



STUDENT-ATHLETE MAY EARN COMPENSATION OR CONTRACT FOR A NAME,
IMAGE AND LIKENESS AGREEMENT AS A FEMALE OR FOR ANY ATHLETIC TEAM
SPORT DESIGNATED FOR FEMALES; TO REQUIRE DISPUTES OF SEXUAL GENDER
IDENTITY TO BE RESOLVED WITH THE PRESENTATION OF A SIGNED
PHYSICIAN'S STATEMENT INDICATING THE STUDENT-ATHLETE'S SEX BASED
ON CERTAIN QUALIFYING BIOLOGICAL ATTRIBUTES; TO PROHIBIT CONFLICTS
OF INTEREST BETWEEN THIRD-PARTY LICENSEES AND STUDENT-ATHLETES; TO
EXEMPT POSTSECONDARY EDUCATIONAL INSTITUTIONS FROM PRIVATE CAUSES
OF ACTION FOR UNFAIR TRADE OR TORTIOUS INTERFERENCE; TO DEFINE THE
TERM "PRIVATE CAUSE OF ACTION" TO PROVIDE A LEGAL RECOURSE TO
THOSE STUDENT-ATHLETES WHOSE NAMES, IMAGES AND LIKENESSES WERE
USED WITHOUT THEIR CONSENT; TO CREATE NEW SECTION 93-19-17,
MISSISSIPPI CODE OF 1972, TO PROVIDE THAT QUALIFYING INDIVIDUALS
18 YEARS OF AGE AND OLDER SHALL HAVE THE CAPACITY TO ENTER INTO
BINDING CONTRACTS AFFECTING THEIR NAME, IMAGE AND LIKENESS WHILE
PARTICIPATING IN COLLEGIATE SPORTS AS STUDENT-ATHLETES; TO PROVIDE
THAT ANY LEGAL ACTION FOUNDED ON A STUDENT-ATHLETE'S NAME, IMAGE
AND LIKENESS BY A QUALIFYING STUDENT-ATHLETE MAY BE BOUGHT IN THE
STUDENT-ATHLETE'S OWN NAME; TO AMEND SECTION 73-42-3, MISSISSIPPI
CODE OF 1972, IN CONFORMITY TO THE PRECEDING PROVISIONS; AND FOR
RELATED PURPOSES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

SECTION 1. This act shall be known, and may be cited as the
"Mississippi Intercollegiate Athletics Compensation Rights Act."

SECTION 2. As used in this chapter, the following terms
shall have the following meanings unless the context clearly
indicates otherwise:

(a) "Compensation" means any form of payment or
remuneration, including, but not limited to, cash, gifts, in-kind
items of value, social media compensation, payments for licensing
or use of publicity rights, payments for other intellectual or
intangible property rights under federal or state law and any
other form of payment or remuneration, except as excluded under



the provisions of this act. For the purposes of this act,
"compensation" shall not mean or include the following:

(i) Tuition, room, board, books, fees and personal expenses that a postsecondary educational institution provides a student-athlete in accordance with the rules of the athletic association or conference of which the postsecondary educational institution is a member;

(ii) Federal Pell Grants and other state and federal grants or scholarships unrelated to, and not awarded because of a student-athlete's participation in intercollegiate athletics or sports competition;

(iii) Any other financial aid, benefits or awards that a postsecondary educational institution provides a student-athlete in accordance with the rules of the athletic association or conference of which the postsecondary educational institution is a member; or

(iv) The payment of wages and benefits to a student-athlete for work actually performed, but not for athletic ability or participation in intercollegiate athletics, at a rate commensurate with the prevailing rate for similar work in the locality of the student-athlete's postsecondary educational institution.

(b) "Image" means a picture of the student-athlete.

(c) "Intercollegiate athletics program" means an intercollegiate athletics program played at the collegiate level



for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

(d) "Likeness" means a physical, digital or other depiction or representation of a student-athlete.

(e) "Name" means the first or last name, or the nickname, of a student-athlete when used in a context that reasonably identifies the student-athlete with particularity.

(f) "Name, image and likeness agreement" means a contract or similar arrangement between a student-athlete and a third-party licensee regarding the commercial use of the name, image or likeness of the student-athlete.

(g) "Publicity right" means any right that is:

(i) Licensed under a name, image and likeness agreement; or

(ii) Recognized under a federal or state law that permits an individual to control and profit from the commercial use of the name, image or likeness of the individual.

(h) "Postsecondary educational institution" means a public university or community college or private university or college.

(i) "Social media compensation" means all forms of payment for engagement on social media received by a student-athlete as a result of the use of that student-athlete's name, image or likeness.



(j) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, intercollegiate athletics program at a postsecondary educational institution. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

(k) "Third party licensee" means any individual or entity that licenses publicity rights or the use of name, image or likeness from any prospective or current student-athlete or group of student-athletes. The term "third-party licensee" shall not include any national association for the promotion or regulation of collegiate athletics, athletics conference or postsecondary educational institution.

SECTION 3. (1) Except as provided in Sections 4 and 5 of this act, a student-athlete may:

(a) Earn compensation, commensurate with market value, for the use of the name, image or likeness of the student-athlete while enrolled at a postsecondary educational institution; and

(b) Obtain and retain a certified agent for any matter or activity relating to such compensation.

(2) No student-athlete may earn compensation in exchange for the student-athlete's athletic ability or participation in intercollegiate athletics or sports competition.



(3) Notwithstanding any other provision of applicable law or agreement to the contrary, a student-athlete shall not be deemed an employee or independent contractor of an association, a conference, or a postsecondary educational institution based on the student-athlete's participation in an intercollegiate athletics program.

SECTION 4. (1) (a) Except as provided for under this act, a postsecondary educational institution shall not uphold any contract, rule, regulation, standard, or other requirement that prevents a student-athlete of that institution from earning compensation as a result of the use of the student's name, image or likeness. Any such contract, rule, regulation, standard or other requirement shall be void and unenforceable against the postsecondary educational institution or the student-athlete. Compensation from the use of a student-athlete name, image or likeness may not affect the student-athlete's scholarship eligibility, grant-in-aid or other financial aid, awards or benefits or the student-athlete's intercollegiate athletic eligibility. Nothing in this act is intended to alter any state and federal laws or regulations regarding the award of financial aid at postsecondary educational institutions.

(b) Except as provided for in this act, an athletic association, conference or other group or organization with authority over intercollegiate athletic programs, including, but not limited to, the National Collegiate Athletic Association



(NCAA) and the National Junior College Athletic Association, shall not prevent or otherwise enforce a contract, rule, regulation, standard or other requirement that prevents a student-athlete of a postsecondary educational institution from earning compensation as a result of the use of the student-athlete's name, image or likeness. To protect the integrity of its educational mission and intercollegiate athletics program, a postsecondary educational institution may impose reasonable limitations on the dates and time that a student-athlete may participate in endorsement, promotional, social media, or other activities related to the license or use of the student-athlete's name, image and likeness. Nothing in this act shall restrict a postsecondary educational institution from exercising its sole discretion to control the authorized use of its trademarks or logos or to determine a student-athlete's apparel, gear or other wearables during an intercollegiate athletics competition or university-sponsored event.

(c) An athletic association, conference or other group or organization with authority over intercollegiate athletics programs, including, but not limited to, the National Collegiate Athletic Association and the National Junior College Athletic Association, shall not prevent or otherwise enforce a contract, rule, regulation, standard or other requirement that prevents a postsecondary educational institution from participating in an intercollegiate athletics program as a result of the compensation



of a student-athlete for the use of the student-athlete's name, image, or likeness.

(2) A postsecondary educational institution, athletic association, conference or other group or organization with authority over intercollegiate athletics programs, including, but not limited to, the National Collegiate Athletic Association and the National Junior College Athletic Association, shall not, directly or indirectly:

(a) Enter into, or offer to enter into, a name, image and likeness agreement with a prospective or current student-athlete; or

(b) Provide a prospective or current student-athlete or the student-athlete's family compensation in relation to the use of the student-athlete's name, image or likeness.

(3) (a) A postsecondary educational institution, athletic association, conference or other group or organization with authority over intercollegiate athletics programs, including, but not limited to, the National Collegiate Athletic Association and the National Junior College Athletic Association shall not prevent a student-athlete from obtaining professional representation in relation to name, image or likeness, or to secure a name, image and likeness agreement, including, but not limited to, representation provided by athlete agents or legal representation provided by attorneys.



(b) Professional representation obtained by student-athletes must be from persons registered as athlete agents as provided in Section 73-42-1 et seq., of the Uniform Athlete Agent Law. Attorneys who provide legal representation to student-athletes must be licensed to practice law in the State of Mississippi and in good standing with The Mississippi Bar.

(c) Athlete agents representing student-athletes shall comply with the Uniform Athlete Agents Law, established under Section 73-42-1, et seq., and the federal Sports Agent Responsibility and Trust Act, established under 15 USCS Sections 7801-7807, in their relationships with student-athletes.

(4) A grant-in-aid, including cost of attendance, and other permissible financial aid, awards or benefits from the postsecondary educational institution in which a student-athlete is enrolled shall not be revoked, reduced, nor the terms and conditions altered, as a result of a student-athlete earning compensation or obtaining professional or legal representation pursuant to this act.

(5) A student-athlete who enters into a name, image and likeness agreement for compensation shall disclose the contract to a designated official of the postsecondary educational institution in which the student is enrolled. The disclosure shall be made within three (3) calendar days of the execution of the name, image and likeness agreement, or three (3) calendar days before the next scheduled intercollegiate athletics competition in which the



student-athlete may participate, whichever occurs earlier in time.
The postsecondary educational institution shall designate the
official to whom the student-athlete must disclose these
contracts.

(6) A third-party licensee may not enter into, or offer to
enter into, a name, image and likeness agreement with a
student-athlete or otherwise compensate a student-athlete for the
use of the student-athlete's name, image and likeness rights if a
provision of the name, image and likeness agreement or the use of
the student-athlete's name, image and likeness rights conflicts
with a provision of a contract, rule, regulation, standard or
other requirement of the postsecondary educational institution
unless such contract or use is expressly approved in writing by
the postsecondary educational institution.

(7) (a) No postsecondary educational institution, booster,
third-party licensee, or any other individual or entity shall
provide a prospective or current student-athlete compensation or
enter into a name, image and likeness agreement as an inducement
for the student-athlete to attend or enroll in a specific
institution or group of institutions.

(b) No student-athlete shall enter into a name, image
and likeness agreement or receive compensation from a third-party
licensee relating to the name, image or likeness of the
student-athlete:



(i) Before the date on which the student-athlete enrolls at a postsecondary educational institution; or

(ii) For the endorsement or promotion of gambling, sports betting, marijuana, tobacco or alcohol products, performance enhancing supplements, adult entertainment or any other product or service that is reasonably considered to be inconsistent with the values or mission of a postsecondary educational institution.

(8) Nothing in this act shall be interpreted to modify any requirements or obligations imposed under Title IX of the Education Amendments of 1972 (20 USCS Section 1681, et seq.).

SECTION 5. (1) Notwithstanding any other provision of this act, no male student-athlete may earn compensation or contract for the use, image or likeness of the student-athlete as a female athlete or on an athletic team or sport designated for females.

(2) If a student-athlete's sex is disputed, the student-athlete may establish his or her sex by presenting a signed physician's statement which shall indicate the student-athlete's sex based solely upon:

(a) The student-athlete's internal and external reproductive anatomy;

(b) The student-athlete's normal endogenously produced levels of testosterone; and

(c) An analysis of the student-athlete's genetic makeup.



289 (3) Any postsecondary educational institution, athletic
290 association or conference that suffers any direct or indirect harm
291 as a result of a violation of this act by a student-athlete shall
292 have a private cause of action for injunctive relief, damages and
293 any other relief available under law.

294 (4) Any student-athlete who is deprived of any opportunity
295 granted by any other section of this act or suffers any direct or
296 indirect harm as a result of a violation of this section shall
297 have a private cause of action for injunctive relief, damages and
298 any other relief available under law.

299 (5) All civil actions must be initiated within two (2) years
300 after the harm occurred. Persons or organizations who prevail on
301 a claim brought pursuant to this section shall be entitled to
302 monetary damages, including for any psychological, emotional and
303 physical harm suffered, reasonable attorneys' fees and costs, and
304 any other appropriate relief. The causes of action pursuant to
305 this section shall be in addition to any other civil or criminal
306 proceeding authorized by the laws of this state or by federal law.

307 **SECTION 6.** The following shall be codified as Section
308 93-19-17, Mississippi Code of 1972:

309 93-19-17. (1) All persons eighteen (18) years of age or
310 older, if not otherwise disqualified, or prohibited by law, shall
311 have the capacity to enter into binding contractual relationships
312 affecting the use of their name, image or likeness while
313 participating in intercollegiate sports as student-athletes.



Nothing in this section shall be construed to affect any contracts entered into prior to the effective date of this act.

(2) In any legal action founded on a student-athlete name, image or likeness contract entered into by a person eighteen (18) years of age or older, the person may sue in his or her own name as an adult and be sued in his or her own name as an adult and be served with process as an adult.

(3) For purposes of this section:

(a) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics; and

(b) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate athletics program at a postsecondary educational institution. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

SECTION 7. No postsecondary educational institution, athletic association or conference shall be subject to a private cause of action or any claim for damages of any kind under this act, including, without limitation, a claim for unfair trade or competition or tortious interference. No postsecondary



educational institution, athletic association or conference shall be subject to a private cause of action or any claim for damages related to its adoption, implementation or enforcement of any contract, rule, regulation, standard or other requirement in compliance with this act. This act is not intended to and shall not waive or diminish any applicable defenses and immunities, including, without limitation, sovereign immunity applicable to postsecondary educational institutions. For purposes of this section, the words "private cause of action or any claim for damages of any kind" means any claim or action brought by any person or current or former student-athlete who is not a party to a name, image and likeness agreement or contract with the postsecondary educational institution, athletic association, conference or other group or organization with authority over intercollegiate athletic programs. The words "private cause of action or any claim for damages of any kind" shall not be construed to include any claim or action by the student-athlete that is engaged in a name, image and likeness agreement for compensation.

SECTION 8. Section 73-42-3, Mississippi Code of 1972, is amended as follows:

73-42-3. In this chapter:

(a) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services



contract, an endorsement contract, compensation for the use of the student-athlete's name, image or likeness, or enrollment at any educational institution that offers an athletic scholarship to the student-athlete.

(b) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits, induces or solicits a student-athlete to enter into an agency contract. The term does not include a spouse, parent, sibling, grandparent or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. The term includes an individual who represents to the public that the individual is an athlete agent.

(c) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(d) "Contact" means a communication, direct or indirect, written or oral, between an athlete agent and a student-athlete, to recruit, induce or solicit the student-athlete to enter into an agency contract.

(e) "Endorsement contract" means:



388 (i) An agreement under which a student-athlete is
389 employed or receives consideration or anything of value for the
390 student-athlete's publicity, reputation, following * * * or fame
391 obtained because of the student-athlete's athletic ability or
392 performance; and

393 (ii) An agreement under which a student-athlete
394 receives compensation, consideration or anything of value for the
395 use of the student-athlete's name, image or likeness.

396 (f) "Intercollegiate sport" means a sport played at the
397 collegiate level for which eligibility requirements for
398 participation by a student-athlete are established by a national
399 association for the promotion or regulation of collegiate
400 athletics.

401 (g) "Person" means an individual, corporation, business
402 trust, estate, trust, partnership, limited liability company,
403 association, joint venture, government; governmental subdivision,
404 agency or instrumentality; public corporation, or any other legal
405 or commercial entity.

406 (h) "Professional-sports-services contract" means an
407 agreement under which an individual is employed or agrees to
408 render services as a player on a professional sports team, with a
409 professional sports organization, or as a professional athlete.

410 (i) "Record" means information that is inscribed on a
411 tangible medium or that is stored in an electronic or other medium
412 and is retrievable in perceivable form.



413 (j) "Registration" means registration as an athlete
414 agent pursuant to this chapter.

415 (k) "State" means a state of the United States, the
416 District of Columbia, Puerto Rico, the United States Virgin
417 Islands, or any territory or insular possession subject to the
418 jurisdiction of the United States.

419 (l) "Student-athlete" means an individual who engages
420 in, is eligible to engage in, or may be eligible in the future to
421 engage in, a sport for a professional sports team or in any
422 intercollegiate sport at any educational institution. If an
423 individual is permanently ineligible to participate in a
424 particular intercollegiate sport, the individual is not a
425 student-athlete for purposes of that sport.

426 **SECTION 9.** This act shall take effect and be in force from
427 and after July 1, 2021, and shall stand repealed on June 30, 2021.

