

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Rules

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BILL: HB 7-B

INTRODUCER: Representative LaMarca

SUBJECT: Intercollegiate Athlete Compensation and Rights

DATE: February 9, 2023

REVISED: \_\_\_\_\_

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ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Jahnke	Twogood	RC	<b>Pre-meeting</b>

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**I. Summary:**

HB 7-B modifies provisions relating to intercollegiate athlete compensation and rights in Florida. The bill removes:

- Requirements regarding compensation that intercollegiate athletes may earn from the use of their NIL and restrictions on institutional involvement in NIL activities.
- Requirements and prohibitions for postsecondary educational institutions whose intercollegiate athletes seek to earn compensation or to have professional representation.
- Restrictions relating to contracts for the use of an intercollegiate athlete's NIL.

The bill retains the requirement that institutions offer a financial literacy and life skills workshop for intercollegiate athletes, but requires each workshop to include entrepreneurship, modifies the timing of the training, and requires the second workshop to be more rigorous than the first.

The bill protects postsecondary institutions and their staff from liability related to loss of an athlete's ability to NIL compensation due to routine decisions taken in the course of intercollegiate athletics.

Additionally, the bill removes an unnecessary provision relating to an athlete agent representing an intercollegiate athlete for NIL purposes. However, the bill maintains in statute the requirement that an athlete agent must be licensed for the purposes of contracts that allow an intercollegiate athlete to profit from the commercial use of her or his NIL, and be protected from unauthorized appropriation and commercial exploitation of her or his right to publicity.

The bill is effective upon becoming a law.

## II. Present Situation:

### **National Collegiate Athletic Association**

The National Collegiate Athletic Association (NCAA) is a voluntary, self-governing organization of four-year colleges, universities, and conferences. The basic purpose of the NCAA is to support and promote healthy and safe intercollegiate athletics, including national championships, as an integral part of the education program and the student-athlete as an integral part of the student body.<sup>1</sup>

The NCAA governance structure consists of legislative bodies made up of volunteers from member schools. These legislative bodies, as well as a group of committees, govern each division and set NCAA-wide policies regarding sports rules, championships, and athlete health and safety. The Board of Governors, the NCAA's highest governing body, consists primarily of presidents and chancellors from each division. The board provides strategic planning for the NCAA as a whole, such as adopting and implementing policies to resolve core issues and other Association-wide matters.<sup>2</sup> It is the responsibility of each member institution to control its intercollegiate athletics program in compliance with the rules and regulations of the NCAA.<sup>3</sup>

### **Name, Image, and Likeness**

"Name, image, and likeness" (NIL) is synonymous with the established legal doctrine known as the Right of Publicity. The Right of Publicity concerns itself with the right to control the commercial use of one's identity.<sup>4</sup>

NIL in college athletics refers to a student athlete's ability to receive compensation for their NIL through promotional and marketing activities.

### ***NCAA Interim Rules and Guidelines***

For much of its history, the NCAA maintained that student athletes' participation should be motivated primarily by education and by the physical, mental, and social benefits. NCAA policy forbade compensation for student athletes, in order to protect student athletes from exploitation by professional and commercial enterprises.<sup>5</sup> NCAA bylaws held that a student athlete may lose eligibility if that athlete received payment in any form resulting from his or her athletic skill, or entered into an agreement with an agent.<sup>6</sup>

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<sup>1</sup> National Collegiate Athletic Association, 2022-2023 *NCAA Division I Manual* (2022), Preamble, available at <https://web3.ncaa.org/lstdbi/reports/getReport/90008>, at 1.

<sup>2</sup> National Collegiate Athletic Association, *Governance*, <https://www.ncaa.org/sports/2021/2/9/governance.aspx> (last visited Jan. 30, 2023).

<sup>3</sup> National Collegiate Athletic Association, 2022-2023 *NCAA Division I Manual* (2022), Preamble, available at <https://web3.ncaa.org/lstdbi/reports/getReport/90008>, at 12.

<sup>4</sup> Right of Publicity, *A Concise History of the Right of Publicity*, <https://rightofpublicity.com/brief-history-of-rop> (last visited Jan. 30, 2023).

<sup>5</sup> National Collegiate Athletic Association, 2017-2018 *NCAA Division I Manual* (2017), Art. 2.9, available at <https://www.ncaapublications.com/productdownloads/D118.pdf>.

<sup>6</sup> *Id.* at Bylaw 12.1.2.

However, facing increasing pressure from student athletes, states, Congress, and the courts, in July 2021, the NCAA adopted an NIL Interim Policy that granted intercollegiate athletes the opportunity to benefit from their NIL, which applied to Divisions I-III for incoming and current student athletes.<sup>7</sup> The policy provided that:

- Individuals can engage in NIL activities that are consistent with the law of the state where the school is located.
- Individuals can use a professional services provider (e.g., athlete agents, attorneys, and financial advisors) for NIL activities.
- College athletes who attend a school in a state without an NIL law can engage in NIL activity without violating NCAA rules related to NIL.

Under the Interim Policy, however, an NIL agreement may not be guaranteed or promised contingent upon initial or continued enrollment at a particular institution (recruitment), or may not be provided as compensation or incentive for athletic performance or membership on a team (pay-for-play).<sup>8</sup>

In May 2022, the NCAA issued additional guidance to clarify issues related to “booster” involvement. Boosters are individuals or entities who are known (or should have been known) by a member of the institution’s executive or athletic administration to have participated in promoting the institution’s intercollegiate program or to have provided benefits to student athletes or their families.<sup>9</sup> The NCAA precludes such groups from recruiting activities on behalf of the school and from providing benefits to prospective student athletes (PSAs). The guidance also prohibited institutional staff members from involvement with the provision of benefits to a PSA.<sup>10</sup> However, the guidance did not specifically extend this prohibition to institutional involvement with NIL activities for currently enrolled student athletes.<sup>11</sup>

Additional guidance on October 26, 2022, applied NCAA Bylaws and Interim Policy to institution involvement in current student-athlete NIL activities.<sup>12</sup> For example:<sup>13</sup>

- Schools may inform student athletes of NIL opportunities and assist in matching students and opportunities, but may not negotiate on behalf of an NIL entity or student athlete for a specific NIL opportunity.
- Schools may request donors to provide funds to collectives or other NIL entities, but such requests may not be directed toward a specific sport or athlete.

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<sup>7</sup> National Collegiate Athletic Association, *Name, Image, and Likeness Interim Policy*, <https://www.ncaa.org/sports/2021/2/8/about-taking-action.aspx> (last visited Jan. 30, 2023).

<sup>8</sup> National Collegiate Athletic Association, *Interim Name, Image and Likeness Policy Guidance Regarding Third Party Involvement* (2022), available at [https://ncaaorg.s3.amazonaws.com/ncaa/NIL/May2022NIL\\_Guidance.pdf](https://ncaaorg.s3.amazonaws.com/ncaa/NIL/May2022NIL_Guidance.pdf).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> National Collegiate Athletic Association, *NCAA Division I Institutional Involvement in a Student-Athlete’s Name, Image and Likeness Activities* (2022), available at [https://ncaaorg.s3.amazonaws.com/ncaa/NIL/D1NIL\\_InstitutionalInvolvementNILActivities.pdf](https://ncaaorg.s3.amazonaws.com/ncaa/NIL/D1NIL_InstitutionalInvolvementNILActivities.pdf), at 1.

<sup>12</sup> *Id.*

<sup>13</sup> National Collegiate Athletic Association, *DI board approves clarifications for interim NIL policy*, <https://www.ncaa.org/news/2022/10/26/media-center-di-board-approves-clarifications-for-interim-nil-policy.aspx> (last visited Jan. 30, 2023).

The NCAA NIL rules do not supersede state laws or college, university, or conference NIL policies. A college or university in a state that does not have a law in effect must develop its own policies based on the NCAA guidelines designed to prevent pay-for-play deals and payments that are used as recruiting inducements.<sup>14</sup>

### ***Other Intercollegiate Athletic Associations***

The National Association of Intercollegiate Athletics (NAIA) is a governing body of over 250 small athletics programs,<sup>15</sup> comprised mostly of smaller private institutions that are a four-year college or university or upper-level, two-year institution that awards a bachelor's degree, or its equivalent.<sup>16</sup> There are nine private colleges and universities in Florida that are members of the NAIA.<sup>17</sup> The NAIA athletic competition is comparable to NCAA Division II and III.<sup>18</sup>

The National Christian College Athletic Association (NCCAA) was established in 1968, and includes 89 member institutions.<sup>19</sup> There are six private colleges and universities in Florida that are members of the NCCAA.<sup>20</sup>

The National Junior College Athletic Association (NJCAA) is a governing body for two-year collegiate athletics.<sup>21</sup> The NJCAA is the second-largest national intercollegiate athletic organization in the United States with over 500 member schools in 44 states. The NJCAA is comprised of Division I, II, II and non-divisional level of competition.<sup>22</sup> Twenty-five of the Florida College System institutions are members of the NJCAA.

Both the NAIA<sup>23</sup> and NJCAA<sup>24</sup> bylaws permit student athletes to receive compensation for use of their NIL to promote any commercial product or enterprise, or public or media appearance.

<sup>14</sup> National Collegiate Athletic Association, *Interim Name, Image and Likeness Policy, Question and Answer* (2021), available at [https://ncaaorg.s3.amazonaws.com/ncaa/NIL/NIL\\_QandA.pdf](https://ncaaorg.s3.amazonaws.com/ncaa/NIL/NIL_QandA.pdf).

<sup>15</sup> National Association of Intercollegiate Athletics, *Why NAIA, NAIA Member Schools*, [https://www.naia.org/why-naia/member-schools?utm\\_source=google&utm\\_medium=cpc&utm\\_campaign=NAIA22%20Search%20\(US\)%20-%20Consideration&utm\\_term=&gclid=Cj0KCQIA2-2eBhCIARIsAGLQ2Rk5CzM-ckA6V4FY2AwHch87cV65CufUF4EI3CPiG\\_pIhneLriC-4IaAnq7EALw\\_wcB](https://www.naia.org/why-naia/member-schools?utm_source=google&utm_medium=cpc&utm_campaign=NAIA22%20Search%20(US)%20-%20Consideration&utm_term=&gclid=Cj0KCQIA2-2eBhCIARIsAGLQ2Rk5CzM-ckA6V4FY2AwHch87cV65CufUF4EI3CPiG_pIhneLriC-4IaAnq7EALw_wcB) (last visited Feb. 2, 2023).

<sup>16</sup> National Association of Intercollegiate Athletics, *NAIA Handbook 2022-2023* (2022), available at [https://d2o2figo6ddd0g.cloudfront.net/t/6/9wuekvoa39wlhz/D\\_NAIA\\_Official\\_Handbook\\_Bylaws\\_Articles1-10\\_BW.pdf](https://d2o2figo6ddd0g.cloudfront.net/t/6/9wuekvoa39wlhz/D_NAIA_Official_Handbook_Bylaws_Articles1-10_BW.pdf).

<sup>17</sup> Ave Maria University, Florida College, Florida Memorial University, Florida National University, Keiser University, Southeastern University, St. Thomas University, Warner University, and Webber International University. National Association of Intercollegiate Athletics, *2022-23 NAIA Member Institutions* (2022), available at [https://www.naia.org/schools/files/2022-23\\_NAIA\\_Institutions.pdf](https://www.naia.org/schools/files/2022-23_NAIA_Institutions.pdf).

<sup>18</sup> U.S. News, *Playing a Sport in Each NCAA Division: What to Know*, <https://www.usnews.com/education/articles/playing-a-sport-in-each-ncaa-division-what-to-know> (last visited Feb. 2, 2023).

<sup>19</sup> National Christian College Athletic Association, *About Us*, available at <https://thenccaa.org/tournaments/?id=567>.

<sup>20</sup> Johnson University Florida, Pensacola Christian College, Trinity Baptist College, Trinity College of Florida, University of Ft. Lauderdale, Warner University.

<sup>21</sup> National Junior College Athletic Association, *2021-22 NJCAA Annual Report* (2022), available at [https://d2o2figo6ddd0g.cloudfront.net/h/z/x5oxckgwtxf4r/2021-22\\_NJCAA\\_Annual\\_Report\\_09-28-22.pdf](https://d2o2figo6ddd0g.cloudfront.net/h/z/x5oxckgwtxf4r/2021-22_NJCAA_Annual_Report_09-28-22.pdf).

<sup>22</sup> *Id.*

<sup>23</sup> National Association of Intercollegiate Athletics, *Why NAIA, NAIA Member Schools*, [https://www.naia.org/why-naia/member-schools?utm\\_source=google&utm\\_medium=cpc&utm\\_campaign=NAIA22%20Search%20\(US\)%20-%20Consideration&utm\\_term=&gclid=Cj0KCQIA2-2eBhCIARIsAGLQ2Rk5CzM-ckA6V4FY2AwHch87cV65CufUF4EI3CPiG\\_pIhneLriC-4IaAnq7EALw\\_wcB](https://www.naia.org/why-naia/member-schools?utm_source=google&utm_medium=cpc&utm_campaign=NAIA22%20Search%20(US)%20-%20Consideration&utm_term=&gclid=Cj0KCQIA2-2eBhCIARIsAGLQ2Rk5CzM-ckA6V4FY2AwHch87cV65CufUF4EI3CPiG_pIhneLriC-4IaAnq7EALw_wcB) (last visited Feb. 2, 2023).

<sup>24</sup> National Junior College Athletic Association, *NJCAA Handbook Bylaws 2022-2023* (2022), available at [https://d2o2figo6ddd0g.cloudfront.net/7/i/y6putkurxwhob3/NJCAA\\_Handbook\\_-\\_Bylaws\\_12-05-22.pdf](https://d2o2figo6ddd0g.cloudfront.net/7/i/y6putkurxwhob3/NJCAA_Handbook_-_Bylaws_12-05-22.pdf).

The NAIA also requires the student athlete to notify their institution's athletics director in writing of any compensation the student receives from the use of their NIL.

### ***Florida Law***

Florida was one of the first states to pass an NIL law for its colleges and universities.<sup>25</sup> The law, effective on July 1, 2021, specified that an intercollegiate athlete must have an equal opportunity to control and profit from the commercial use of her or his NIL, and be protected from unauthorized appropriation and commercial exploitation of her or his right to publicity.<sup>26</sup>

Florida law specifies that a postsecondary institution may not adopt or maintain a rule or other requirement that prevents or restricts the ability of an intercollegiate athlete from earning compensation for the use of her or his NIL. Additionally, earning such compensation may not affect the intercollegiate athlete's grant-in-aid<sup>27</sup> or athletic eligibility.<sup>28</sup>

Relating to compensation for an athlete's NIL, Florida law specifies that:

- Compensation for an athlete's NIL may not be provided in exchange for athletic performance or attendance at a particular institution, which is consistent with NCAA Interim Rules.<sup>29</sup>
- Compensation may only be provided by a third party unaffiliated with the intercollegiate athlete's postsecondary educational institution.<sup>30</sup>
- A postsecondary institution and an institution or athletic program support organization, including employees of such institutions or organizations, may not compensate or cause compensation to be directed to a current or prospective intercollegiate athlete for her or his NIL.<sup>31</sup>
- Compensation must be commensurate with the market value of the authorized use of the athlete's NIL.<sup>32</sup>

Florida law specifies that a postsecondary institution may not prevent or unduly restrict an intercollegiate athlete from obtaining professional representation by an athlete agent or attorney for the purpose of securing compensation for the use of her or his NIL. An athlete's grant-in-aid may not be revoked or reduced based on such representation.<sup>33</sup> However, an athlete agent representing an intercollegiate athlete for purposes of securing compensation for the use of her or his NIL must be licensed, and must be a member in good standing of The Florida Bar.<sup>34</sup>

<sup>25</sup> Section 1006.74, F.S., created in ch. 2020-28, s. 1, Laws of Fla. Florida has 13 college and university athletic programs in the NCAA Division I, and 13 in Division II. There are no Florida institution athletic programs in the NCAA Division III.

<sup>26</sup> Section 1006.74, F.S.

<sup>27</sup> A "grant-in-aid" is financial aid that consists of tuition and fees, room and board, books and other expenses related to attendance at the institution up to the cost of attendance. National Collegiate Athletic Association, *2022-2023 Division I Manual* (Aug. 1, 2022), available at <https://web3.ncaa.org/lstdbi/reports/getReport/90008>, at Bylaw 15.02.6.

<sup>28</sup> Section 1006.74(2)(b), F.S.

<sup>29</sup> Section 1006.74(2)(a), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> Section 1006.74(2)(c), F.S.

<sup>32</sup> Section 1006.74(2)(a), F.S.

<sup>33</sup> Section 1006.74(2)(d) and (e), F.S.

<sup>34</sup> Section 1006.74(2)(d), F.S. *See also* s. 468.453(8), F.S.

Provisions in Florida law relating to contracts for an intercollegiate athlete's NIL include the following:

- An athlete who enters into a contract for compensation for the use of her or his NIL must disclose the contract to the postsecondary institution at which she or he is enrolled, in a manner designated by the institution.<sup>35</sup>
- An athlete may not enter into a contract for compensation for the use of her or his NIL if a term of the contract conflicts with a term of the intercollegiate athlete's team contract.<sup>36</sup>
- An athlete under 18 years of age must have any contract for compensation for the use of her or his NIL approved under ss. 743.08 and 743.09, Florida Statutes.<sup>37</sup>
- The duration of an NIL contract may not extend beyond the athlete's participation in an athletic program at a postsecondary institution.<sup>38</sup>

Finally, Florida law requires each postsecondary institution to conduct a financial literacy and life skills workshop for a minimum of 5 hours at the beginning of the intercollegiate athlete's first and third academic years. The workshop must include information on financial planning, time management, and academic resources. The workshop may not include any marketing, advertising, referral, or solicitation by providers of financial products or services.<sup>39</sup>

### **NIL Legislation in Other States**

The majority of states have passed legislation allowing athletes to receive compensation for their NIL.<sup>40</sup> However, some states are considering modifications or repealing their NIL laws, due to concerns that existing laws could be more restrictive for athletes than NCAA guidelines.<sup>41</sup> After the NCAA released its Interim Rules, seven states have amended their NIL laws,<sup>42</sup> generally to provide more flexibility to institutions in arranging NIL deals for their student athletes or to address institution trademark issues. Two states, Alabama and South Carolina, have repealed or suspended their NIL laws.<sup>43</sup>

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<sup>35</sup> Section 1006.74(2)(i), F.S.

<sup>36</sup> Section 1006.74(2)(h), F.S.

<sup>37</sup> Section 1006.74(2)(f), F.S.

<sup>38</sup> Section 1006.74(2)(j), F.S.

<sup>39</sup> Section 1006.74(2)(k), F.S.

<sup>40</sup> States that have active laws authorizing student athletes to be compensated for their NIL are Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Kentucky (Executive Order), Louisiana, Maine, Maryland, Michigan, Mississippi, Missouri, Montana, Nebraska, Nevada, New Jersey, New Mexico, New York, North Carolina, Ohio, Oklahoma, Oregon, Pennsylvania, Tennessee, Texas, and Virginia. Opendorse, *NIL Incoming: Comparing State Laws and Proposed Legislation*, <https://biz.opendorse.com/blog/comparing-state-nil-laws-proposed-legislation/> (last visited Jan. 30, 2023).

<sup>41</sup> National Conference of State Legislatures, *Student-Athlete Compensation*, <https://www.ncsl.org/research/education/student-athlete-compensation.aspx> (last visited Jan. 30, 2023).

<sup>42</sup> Connecticut, Illinois, Mississippi, Nebraska, Oregon, Pennsylvania, Tennessee. Opendorse, *NIL Incoming: Comparing State Laws and Proposed Legislation*, <https://biz.opendorse.com/blog/comparing-state-nil-laws-proposed-legislation/> (last visited Jan. 30, 2023).

<sup>43</sup> Opendorse, *NIL Incoming: Comparing State Laws and Proposed Legislation*, <https://biz.opendorse.com/blog/comparing-state-nil-laws-proposed-legislation/> (last visited Jan. 30, 2023).

### ***Liability***

Illinois<sup>44</sup> and Mississippi<sup>45</sup> have included in their NIL laws a broad protection from liability for postsecondary educational institutions related to the implementation and enforcement of each state's law regarding compensation for use of an athlete's NIL.

### **Student Athlete Development Programs**

The NCAA requires each Division I institution to conduct a life skills program on its campus for intercollegiate athletes.<sup>46</sup> Despite only being required at Division I institutions, many Division II and III institutions have adopted aspects of a life skills program or have implemented entire curricula.<sup>47</sup> However, the NCAA does not prescribe the content of each institution's program. In 2016, the NCAA partnered with the National Association of Academic Advisors for Athletics (N4A), for daily oversight and operation of programming for student-athletes and life skills professionals at NCAA member institutions.<sup>48</sup>

The NAIA provides a student athlete development program through the Student-Athlete Wellness Center. The NAIA's program promotes developing a healthy mental approach to the experience as a student-athlete, creating a healthy, balanced lifestyle to engage in a high level of competition, and character and leadership development.<sup>49</sup> The NAIA program does not specifically require training in financial literacy.

### **Licensing of Athlete Agents**

The licensing and regulation of athlete agents in Florida is administered by the Department of Business and Professional Regulation (DBPR). An athlete agent is a person who:<sup>50</sup>

- Recruits or solicits a student athlete to enter into an agent contract,<sup>51</sup> directly or indirectly;
- Procures, offers, promises, or attempts to obtain employment or promotional fees or benefits for a student athlete with a professional sports team or as a professional athlete, for any type of financial gain; or
- Markets or attempts to market the student athlete's athletic ability or athletic reputation with any promoter.

In order to be licensed as an athlete agent, an applicant must be at least 18 years of age, be of good moral character, and submit a completed the application form with fingerprints for a

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<sup>44</sup> 110 Ill. Comp. Stat. 190/35.

<sup>45</sup> Miss. Code. s. 37-97-109.

<sup>46</sup> National Collegiate Athletic Association, *2022-2023 Division I Manual* (Aug. 1, 2022), available at <https://web3.ncaa.org/lstdbi/reports/getReport/90008>, at Bylaw 16.3.1.2.

<sup>47</sup> National Association of Academic & Student-Athlete Development Professionals, *N4A 2022 SADV Task Force White Paper Outline*, at page 5 (2022), available at [https://s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/nacda.com/documents/2022/6/14/N4A\\_2022\\_SADV\\_White\\_Paper.pdf](https://s3.us-east-2.amazonaws.com/sidearm.nextgen.sites/nacda.com/documents/2022/6/14/N4A_2022_SADV_White_Paper.pdf).

<sup>48</sup> National Collegiate Athletic Association, *Life Skills*, <https://www.ncaa.org/sports/2014/10/20/life-skills.aspx> (last visited Feb. 2, 2023).

<sup>49</sup> National Association of Intercollegiate Athletics, *Student-Athlete Wellness Center*, <https://www.naia.org/student-athlete-wellness-center/index> (last visited Jan. 31, 2023).

<sup>50</sup> Section 468.452(2), F.S.

<sup>51</sup> An agent contract is the contract or agreement in which a student athlete authorizes an athlete agent to represent the student in the marketing of the student's athletic ability or athletic reputation. Section 468.452(1), F.S.

background check.<sup>52</sup> In the 2020-2021 fiscal year, there were 438 licensed athlete agents in Florida.<sup>53</sup>

An unlicensed person is generally prohibited from acting as an athlete agent.<sup>54</sup> However, an unlicensed individual may act as an athlete agent if:<sup>55</sup>

- A student athlete or person acting on the student athlete's behalf initiates communication with the individual; and
- The individual submits an application for licensure within seven days after an initial act as an athlete agent.

Contrary to any athletic association rules or policies, an athlete agent may represent an intercollegiate athlete in securing compensation for the use of her or his NIL.<sup>56</sup> However, a person must be licensed as an athlete agent to represent an intercollegiate athlete for purposes of contracts regarding the use of her or his NIL.<sup>57</sup>

### III. Effect of Proposed Changes:

HB 7-B amends s. 1006.74, F.S., relating to intercollegiate athlete compensation and rights. The bill retains the Legislative finding that intercollegiate athletes must be able to profit from the commercial use of their name, image, and likeness (NIL), and be protected from unauthorized use of and commercial exploitation of his or her NIL. However, the bill removes:

- Requirements regarding compensation that intercollegiate athletes may earn from the use of their NIL and restrictions on institutional involvement in NIL activities.
- Requirements and prohibitions for postsecondary educational institutions whose intercollegiate athletes seek to earn compensation or to have professional representation.
- Restrictions relating to contracts for the use of an intercollegiate athlete's NIL.

The bill retains, with some modifications, the requirement for an institution to conduct five-hour financial literacy and life skills workshops with specified topics. The bill:

- Requires the institution to conduct at least two workshops, but specifies the workshops must be conducted prior to an athlete's graduation, and does not specify a workshop in the athlete's first and third academic years.
- Adds entrepreneurship as a workshop topic.
- Specifies that the workshops may not be identical, and the second must include more rigorous instruction. The workshops may not be conducted in the same semester.

The bill protects postsecondary institutions and their staff from liability related to loss of an athlete's ability to NIL compensation due to routine decisions taken in the course of intercollegiate athletics.

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<sup>52</sup> Fla. Admin Code R. 61-24.004.

<sup>53</sup> Florida Department of Business and Professional Regulation, *Fiscal Year 2020-2021 Annual Report* (2021), page 20, available at [http://www.myfloridalicense.com/DBPR/os/documents/divisionannualreport\\_FY2021.pdf](http://www.myfloridalicense.com/DBPR/os/documents/divisionannualreport_FY2021.pdf).

<sup>54</sup> Section 468.4561, F.S.

<sup>55</sup> Section 468.453(3), F.S.

<sup>56</sup> Section 468.453(9), F.S.

<sup>57</sup> Section 468.453(8), F.S.



Regarding athlete agents, the bill modifies s. 468.453, F.S., to remove the provision relating to an athlete agent representing an intercollegiate athlete for NIL purposes, which is unnecessary because of a similar authorization under NCAA Interim Rules. However, the bill maintains the requirement that an athlete agent be licensed for the purposes of contracts that allow an intercollegiate athlete to profit from the commercial use of her or his NIL, and be protected from unauthorized appropriation and commercial exploitation of her or his right to publicity, including her or his NIL.

Removing Florida's law addressing compensation for the use of an athlete's NIL would authorize a student to engage in NIL activities, subject to institution rules and policies, without impact on NCAA eligibility bylaws. However, other NCAA rules including prohibitions on pay-for-play and improper recruiting inducements would remain in effect.

The bill is effective upon becoming a law.

#### **IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

#### **V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends sections 468.453 and 1006.74 of the Florida Statutes.

**IX. Additional Information:**

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.