

A-Engrossed
Senate Bill 1501

Ordered by the Senate February 12
Including Senate Amendments dated February 12

Sponsored by Senators COURTNEY, FAGAN; Senators HASS, KNOPP, RILEY, ROBLAN (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

Permits students participating in intercollegiate sports to earn compensation for [*certain services*] **coaching** and for **use of** name, image or likeness and to retain professional representation or athlete agent. **Prohibits student from entering contract for use of name, image or likeness that conflicts with team rules or contract between post-secondary institution of education and third party, except that team rules and contract between post-secondary institution of education and third party may not prevent student from earning compensation for use of name, image or likeness when not engaged in official team activities.**

Takes effect January 1, 2023.

A BILL FOR AN ACT

1
2 Relating to student athletes; creating new provisions; amending ORS 702.005 and 702.047; and pre-
3 scribing an effective date.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) As used in this section:**

6 (a) **"Post-secondary institution of education" does not include a community college.**

7 (b)(A) **"Student's rights" means the rights of a student enrolled in a post-secondary in-**
8 **stitution of education to earn compensation for coaching at rates commensurate with the**
9 **market rate in the locale where the coaching is performed, to earn compensation for use of**
10 **the student's name, image or likeness and to contract with and retain professional repre-**
11 **sentation or an athlete agent.**

12 (B) **"Student's rights" does not include a right to receive compensation from a post-**
13 **secondary institution of education.**

14 (2) **Except as provided in this section, a post-secondary institution of education, athletic**
15 **association, conference or organization with authority over intercollegiate sports may not:**

16 (a) **Prohibit, prevent or restrict a student athlete from exercising the student's rights.**

17 (b) **Penalize or retaliate against a student athlete for exercising the student's rights.**

18 (c) **Prohibit a student athlete from participating in an intercollegiate sport for exercising**
19 **the student's rights.**

20 (d) **Impose an eligibility requirement on a scholarship or grant that requires a student**
21 **athlete to refrain from exercising the student's rights.**

22 (3)(a) **A student athlete may not enter into a contract that provides compensation to the**
23 **student athlete for use of the student athlete's name, image or likeness if terms of the**
24 **contract conflict with the student athlete's team rules or with terms of a contract entered**
25 **into between the student athlete's post-secondary institution of education and a third party,**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted.
New sections are in **boldfaced** type.

1 **except neither the team rules nor a contract entered into between the post-secondary insti-**
2 **tution of education and a third party may prevent a student athlete from earning compen-**
3 **sation for use of the student athlete's name, image or likeness when not engaged in official**
4 **team activities.**

5 **(b) A student athlete who enters into a contract that provides compensation to the stu-**
6 **dent athlete for use of the student athlete's name, image or likeness shall disclose the con-**
7 **tract to an official of the post-secondary institution of education designated by the**
8 **institution if the student athlete is a team member or, if the student athlete is not a team**
9 **member, at the time the student athlete seeks to become a team member.**

10 **(c) If the post-secondary institution of education asserts that the terms of the contract**
11 **conflict with the team rules or with terms of a contract entered into between the student**
12 **athlete's post-secondary institution of education and a third party, the institution shall dis-**
13 **close the specific rules or terms asserted to be in conflict to the student athlete or to the**
14 **student athlete's professional representative or athlete agent if the student athlete is re-**
15 **presented.**

16 **(4) A post-secondary institution of education, athletic association, conference or organ-**
17 **ization with authority over intercollegiate sports may not provide to a prospective or current**
18 **student athlete compensation for use of the student athlete's name, image or likeness.**

19 **(5) Nothing in this section prohibits a post-secondary institution of education from es-**
20 **tablishing or enforcing a conduct code that is applicable to all students enrolled at the in-**
21 **stitution.**

22 **SECTION 2.** ORS 702.005 is amended to read:

23 702.005. As used in ORS 702.005 to 702.065, 702.991 and 702.994 **and section 1 of this 2020**
24 **Act:**

25 (1) "Agency contract" means an agreement in which a student athlete authorizes a person to
26 negotiate or solicit on behalf of the student athlete a professional sports services contract or an
27 endorsement contract.

28 (2)(a) "Athlete agent" means an individual who:

29 (A) Directly or indirectly recruits or solicits a student athlete to enter into an agency contract;
30 or

31 (B) For compensation, procures employment or offers, promises, attempts or negotiates to obtain
32 employment for a student athlete as a professional athlete or member of a professional sports team
33 or organization;

34 (C) For compensation or in anticipation of compensation related to a student athlete's partic-
35 ipation in athletics:

36 (i) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits
37 or career management decisions; or

38 (ii) Manages the business affairs of the athlete by providing assistance with bills, payments,
39 contracts or taxes;

40 (D) In anticipation of representing a student athlete for a purpose related to the athlete's par-
41 ticipation in athletics:

42 (i) Gives consideration to the athlete or another person;

43 (ii) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits
44 or career management decisions; or

45 (iii) Manages the business affairs of the athlete by providing assistance with bills, payments,

1 contracts or taxes; or

2 (E) Is a licensed, registered or certified professional and offers or provides services to a student
3 athlete customarily provided by members of the profession and the individual:

4 (i) Also recruits or solicits the athlete to enter into an agency contract;

5 (ii) Also, for compensation, procures employment or offers, promises, attempts or negotiates to
6 obtain employment for the athlete as a professional athlete or member of a professional sports team
7 or organization; or

8 (iii) Receives consideration for providing the services calculated using a different method than
9 for an individual who is not a student athlete.

10 (b) "Athlete agent" does not include an individual who:

11 (A) Acts solely on behalf of a professional sports team or organization;

12 (B) Is employed by, and acts solely on behalf of, a publicly traded corporation engaged in con-
13 sumer brand marketing and seeking to negotiate an endorsement contract;

14 (C) Serves a student athlete in an advisory capacity on a matter related to finances, business
15 pursuits or career management decisions and the individual is an employee of an educational insti-
16 tution acting exclusively as an employee of the institution for the benefit of the institution; or

17 (D) Is a licensed, registered or certified professional and offers or provides services to a student
18 athlete customarily provided by members of the profession.

19 (3) "Athletic director" means:

20 (a) An individual responsible for administering the overall athletic program of an educational
21 institution or, if an educational institution has separately administered athletic programs for male
22 students and female students, the athletic program for males or the athletic program for females,
23 as appropriate;

24 (b) If the educational institution is a public or private elementary school or secondary school
25 and the educational institution does not have a person responsible for administering the overall
26 athletic program:

27 (A) The principal of the educational institution; or

28 (B) If the educational institution does not have a principal, the person designated by the gov-
29 erning body of the school district, education service district or charter school to manage the edu-
30 cational institution; or

31 (c) If the educational institution is a technical or vocational school, community college or uni-
32 versity and the educational institution does not have a person responsible for administering the
33 overall athletic program:

34 (A) The president of the educational institution; or

35 (B) If the educational institution does not have a president, the person designated by the gov-
36 erning body of the educational institution to manage the educational institution.

37 (4) "Contact" means a communication, direct or indirect, between an athlete agent and a student
38 athlete, to recruit or solicit the student athlete to enter into an agency contract.

39 (5) "Educational institution" means a public or private elementary school, secondary school,
40 technical or vocational school, community college, university or other educational institution.

41 (6) "Endorsement contract" means an agreement under which a student athlete is employed or
42 receives consideration to use on behalf of the other party any value that the student athlete may
43 have because of publicity, reputation, following or fame obtained because of athletic ability or per-
44 formance.

45 (7) "Enrolled" means registered for courses and attending athletic practice or class.

1 (8) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility re-
2 quirements for participation by a student athlete are established by a national association that
3 promotes or regulates collegiate athletics.

4 (9) "Interscholastic sport" means a sport played between educational institutions that are not
5 community colleges, colleges or universities.

6 (10) "Licensed, registered or certified professional" means an individual who is licensed, regis-
7 tered or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate
8 broker or sales agent, tax consultant or accountant or a member of a profession, other than that
9 of athlete agent, who is licensed, registered or certified by the state or a nationally recognized or-
10 ganization that licenses, registers or certifies members of the profession on the basis of experience,
11 education or testing.

12 (11) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited
13 liability company, association, business or nonprofit entity, joint venture, public body, as defined in
14 ORS 174.109, or any other legal or commercial entity.

15 (12) "Professional sports services contract" means an agreement under which an individual is
16 employed, or agrees to render services, as a player on a professional sports team, with a professional
17 sports organization or as a professional athlete.

18 (13) "Record" means information that is inscribed on a tangible medium or that is stored in an
19 electronic or other medium and is retrievable in perceivable form.

20 (14)(a) "Recruit or solicit" means attempt to influence the choice of an athlete agent by a stu-
21 dent athlete or, if the athlete is a minor, a parent or guardian of the athlete.

22 (b) "Recruit or solicit" does not include giving advice on the selection of a particular athlete
23 agent in a family, coaching or social situation unless the individual giving the advice does so be-
24 cause of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the
25 agent.

26 (15) "Registration" means registration as an athlete agent pursuant to ORS 702.005 to 702.065,
27 702.991 and 702.994.

28 (16) "Sign" means, with present intent to authenticate or adopt a record:

29 (a) To execute or adopt a tangible symbol; or

30 (b) To attach to or logically associate with the record an electronic symbol, sound or process.

31 (17) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
32 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
33 United States.

34 (18) "Student athlete" means an individual who is eligible to attend an educational institution
35 who engages in, is eligible to engage in or may be eligible in the future to engage in any inter-
36 scholastic sport or intercollegiate sport. If an individual is permanently ineligible to participate in
37 a particular interscholastic sport or intercollegiate sport, the individual is not a student athlete for
38 purposes of that sport.

39 **SECTION 3.** ORS 702.047 is amended to read:

40 702.047. (1) A written agency contract must be in a record, signed or otherwise authenticated
41 by the parties.

42 (2) A written agency contract must state or contain:

43 (a) The amount and method of calculating the consideration to be paid by the student athlete
44 for services to be provided by the athlete agent under the contract and any other consideration the
45 athlete agent has received or will receive from any other source for entering into the contract or

1 for providing the services;

2 (b) The name of any person not listed in the application for registration or renewal of registra-
3 tion who will be compensated because the student athlete or, if the athlete is a minor, the parent
4 or guardian of the athlete signed the written agency contract;

5 (c) A description of any expenses that the student athlete agrees to reimburse;

6 (d) A description of the services to be provided to the student athlete;

7 (e) The duration of the contract;

8 (f) The date of execution; and

9 (g) A statement that the athlete agent is registered as an athlete agent in this state and a list
10 of any other states in which the agent is registered as an athlete agent.

11 (3) **Except where section 1 of this 2020 Act applies**, a written agency contract must contain,
12 in close proximity to the signature of the student athlete or, if the athlete is a minor, the signature
13 of the parent or guardian of the athlete, a conspicuous notice in boldfaced type in capital letters
14 stating:

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17 **WARNING TO THE STUDENT ATHLETE:**

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19 **IF YOU OR YOUR PARENT OR GUARDIAN SIGNS THIS CONTRACT:**

20 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT ATHLETE IN**
21 **YOUR SPORT.**

22 (2) **IF YOU HAVE AN ATHLETIC DIRECTOR, BOTH YOU AND YOUR ATHLETE AGENT**
23 **MUST NOTIFY YOUR ATHLETIC DIRECTOR WITHIN 72 HOURS AFTER ENTERING INTO**
24 **THIS CONTRACT, OR BEFORE YOU PARTICIPATE IN ANY INTERSCHOLASTIC OR**
25 **INTERCOLLEGIATE SPORTS EVENT, WHICHEVER OCCURS FIRST, THAT YOU HAVE EN-**
26 **TERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION**
27 **OF THE ATHLETE AGENT.**

28 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCEL-**
29 **LATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

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32 (4) **A written agency contract that does not conform to this section is voidable by the student**
33 **athlete or, if the athlete is a minor, the parent or guardian of the athlete. If the contract is voided,**
34 **any consideration received from the athlete agent under the contract to induce entering into the**
35 **contract is not required to be returned.**

36 (5) **The athlete agent shall give a record of the written agency contract to the student athlete**
37 **or, if the athlete is a minor, to the parent or guardian of the athlete at the time of execution.**

38 (6) **Except where section 1 of this 2020 Act applies**, an agency contract must be accompanied
39 by a separate record signed by the student athlete or, if the athlete is a minor, the parent or
40 guardian of the athlete acknowledging that signing the contract may result in the loss of the
41 athlete's eligibility to participate in the athlete's sport.

42 (7) **At the time an agency contract is executed, the athlete agent shall give the student athlete**
43 **or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the contract**
44 **and the separate acknowledgement as required by subsection (6) of this section.**

45 (8) **If a student athlete is a minor, an agency contract must be signed by the parent or guardian**

1 of the athlete and the notice required by subsection [(b)] (3) of this section must be revised ac-
2 cordingly.

3 **SECTION 4. This 2020 Act applies to contracts entered into or renewed on or after the**
4 **effective date of this 2020 Act.**

5 **SECTION 5. This 2020 Act takes effect on January 1, 2023.**

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