

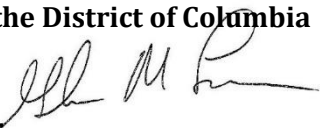
Government of the District of Columbia
Office of the Chief Financial Officer



Glen Lee
Chief Financial Officer

MEMORANDUM

TO: The Honorable Phil Mendelson
Chairman, Council of the District of Columbia

FROM: Glen Lee
Chief Financial Officer 

DATE: November 1, 2022

SUBJECT: Fiscal Impact Statement – Omnibus Uniform Athlete Agent and College Athlete Name, Image, or Likeness Amendment Act of 2022

REFERENCE: Bill 24-455, Committee Print as provided to the Office of Revenue Analysis on October 31, 2022

Conclusion

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill.

Background

The bill approves two model laws governing student athlete interactions with athlete agents and a college athlete's ability to earn compensation for their name, image, or likeness (NIL). The first title of the bill updates the Uniform Athlete Agents Act of 2002.¹ The second title is a newly developed uniform law establishing parameters for NIL activities. Both titles provide the Mayor with the authority to issue rules to further regulate these activities.

TITLE I – ATHLETE AGENTS

The bill clarifies the definition of an athlete agent (agent) to include individuals compensated for procuring or working to procure professional sports employment opportunities for student athletes²

¹ Effective April 13, 2002 (D.C. Law 14-107; D.C. Official Code § 47-2887.01 et seq.).

² Student athlete includes any individual who is eligible to attend an elementary school, secondary school, technical or vocational school, community college, college, or university and is eligible to participate in interscholastic or intercollegiate sports.

(athlete); compensated for advising or managing athletes' finances, business pursuits, or career management; or providing advice, financial support, or other consideration without compensation.

The bill updates the information a prospective agent must submit to the Mayor when they register with the District, clarifies the reciprocity process for agents registered in another state, and ensures the Mayor cooperates and shares information with other jurisdictions and national agent organizations. The bill authorizes the Mayor to impose limitations on an agent's registration as an alternative to a suspension, revocation, or denial of renewal for conduct the Mayor would deem grounds for denying an initial registration.

The bill amends the form of the contract between an athlete and an agent. An agent must include a statement that the agent is registered in the District and a list of other states. The agent must also ensure that the parent or guardian of a minor athlete is properly notified of disclosures, is able to void a non-conforming contract, and is delivered an executed copy of the contract. The athlete and their parent or guardian must receive and sign a separate acknowledgement regarding the athlete's eligibility to play in the athlete's sport upon contract execution.

The bill expands the notification requirements for an athlete or agent to an educational institution. The agent must now notify the athletic director if the athlete enrolled in an educational institution subsequent to entering into the contract, if the agent has a prior relationship with the athlete related to soliciting a contract, or prior to the agent attempting to contact an athlete.³ The bill requires the agent to notify the educational institution within 10 days if the athlete initiates the communication.

The bill amends prohibited athlete agent activities to allow providing a student athlete something of value that may impact the student athlete's eligibility if the athlete agent notifies the athletic director within 72 hours or the student athlete or their parent or guardian acknowledge in a record that receiving something of value may impact the student athlete's eligibility. The bill also prohibits any individual, on behalf or at the encouragement of an athlete agent, from performing a restricted act enumerated in the current law or the bill's amendments.

The bill eliminates a civil right of action that an educational institution can take against a student athlete. The bill establishes that a student athlete or an educational institution can bring a civil action against an athlete's agent if either party suffers financial damage or is suspended or disqualified from a sports event by a national federation or association.

TITLE II – STUDENT ATHLETE NAME, IMAGE, LIKENESS

On July 1, 2021, the National Collegiate Athletic Association (NCAA) lifted its ban on college athletes receiving compensation for their NIL. NIL opportunities include compensation for signatures, appearances, or jersey sales. The NCAA has rules around NIL, but the Uniform Law Commission put forward a model law for states to use to govern NIL contracts and stakeholders. The bill implements the model legislation for the District with some additional provisions.

The bill prohibits a public or private higher education institution (institution), conference, or athletic association from preventing or restricting a college athlete from engaging with an NIL agent, entering an NIL contract, participating in NIL activities, and receiving NIL compensation and prohibits an athletic association from restricting a college athlete's participation in sports because of any of these

³ Currently, an athlete has 72 hours to notify their athletic director once they have entered into a contract.

activities. The bill establishes what activities NIL compensation cannot be tied to and sets parameters on the interactions between NIL activities and institution, conference, or athletic association property and activities. The bill requires an institution to educate a college athlete on NIL permissibility, including through formal programming, and assist in the evaluation of an NIL agent or third party.⁴ The bill further restricts a college athlete's NIL opportunities by prohibiting compensation derived from illegal activities or breaking institution rules and prohibiting endorsements or promotions related to alcohol, tobacco, controlled substances, steroids, gambling, firearms, or adult entertainment.

The bill requires a college athlete to provide an individual designated by the institution with a copy of their NIL agreement, or if one does not exist, the amount of compensation, when the NIL compensation exceeds certain thresholds. The college athlete, third-party, and any NIL agent must each be party to the agreement.

The bill requires an NIL agent to register as an athlete agent to facilitate NIL opportunities in the District. The bill establishes what activities are prohibited by a third party. The bill allows a college athlete or institution to bring a civil action against a third party or NIL agent.

Financial Plan Impact

Funds are sufficient in the fiscal year 2023 through fiscal year 2026 budget and financial plan to implement the bill.

The Department of Licensing and Consumer Protection (DLCP) implements the existing athlete agent registration process and can absorb the bill's registration updates in Title I within the agency's existing budgeted resources. There is currently only one active athlete agent licensee in the District.

The bill also requires an NIL agent to register as an athlete agent through the existing athlete agent registration process. DLCP can absorb any costs associated with additional registrations related to NIL activities within the agency's existing budget.

⁴ An NIL third party is a person who offers, solicits, or enters into an NIL agreement or provides NIL compensation.