California Senators To Introduce Supplement To SB 206 In Advance Of NCAA’s January Name, Image, and Likeness Vote

Tuesday, December 8, 2020

California State Senators Nancy Skinner and Steven Bradford, the initial drafters of the historic California state legislation which granted student-athletes the legal right to seek remuneration for their name, image and likeness rights, plan to introduce new state legislation to bolster Senate Bill 206 (SB206).

Although the specific language of the new bill has yet to be introduced, Senator Skinner announced
that the language in the new co-sponsored bill will be aimed at ensuring full protection for college athletes’ rights. It would also move up the effective implementation date of SB 206 to no later than January 1, 2022 or to an earlier date, which would coincide with the effective date of any NCAA NIL rule changes.

As a result, if the NCAA’s anticipated effective date for implementation of NIL rules remains August 1, 2021 following their anticipated January 2021 vote, the California law would also become effective on August 1, 2021.

SB 206 won unanimous bipartisan approval in the California legislature (112-0). It made California the first state to legislate the right of college student-athletes to earn compensation from their name, image, and likeness (NIL) when Senator Gavin Newsom signed the bill into law in September 2019. The law authorizes student-athletes to earn income from endorsement and sponsorship deals and further authorizes college athletes to operate a business or take jobs as a coach or instructor.

Of equal importance, the law also specifically prohibits California public postsecondary educational institutions, athletic associations, conferences, or any other organization with authority over intercollegiate athletics from affecting a student athlete’s scholarship or athletic eligibility to participate in college sports for earning compensation in connection with the use of the student athlete’s name, image, or likeness.

Commenting on her new proposed legislation, Senator Skinner stated,

“It’s good that the NCAA has followed California’s lead, but their proposed rules changes come up short. The NCAA doesn’t appear willing to give student athletes the autonomy and full range of benefits that California law does. This new bill will ensure that California athletes are not unfairly and unnecessarily restricted.”

The bill’s co-sponsor Senator Bradford commented on the new bill as well, “preventing students from seeking compensation for their likeness while you profit off it yourself is akin to institutionalized slavery.”

While the NCAA has offered drastic changes with regard to student-athlete NIL rights, the current proposal does not provide the same extensive rights to student-athletes as the California law. Specifically, the NCAA’s current proposal provides schools individual discretion to prevent athletes from entering into endorsement agreements that are deemed to conflict with existing school sponsorship arrangements. While the California law does contain certain limitations, it does not empower each school to enact broad based rules automatically preventing student-athletes from entering into potentially conflicting agreements with school sponsorship deals.

In summary, the new legislation is expected to add several key elements to California’s existing law, including:

- the move of California’s effective date for NIL rights;
- the addition of the right to earn compensation from what is known as “athletic reputation,” which ensures that a student athlete could identify the name of their
college or university in endorsements and advertisements received; and,

- the addition of specific protections should the NCAA challenge SB 206 in court or if a California school denies college athletes their rights.

The new bill is also expected to include safeguards to ensure that college athletes are not denied the same basic rights afforded to all other college students, except when it comes to recruitment. This proposed change would also conflict with current NCAA bylaws and anticipated NCAA NIL rules.

Senator Skinner further commented, “The struggle for equality and fairness for student athletes has been underway for decades. California can be proud that SB 206 was the legal kickstart to that movement, prompting states across the country to finally say, ‘no,’ to the exploitation of college athletes,”

    Senator Skinner concluded, “This new bill will ensure that California’s achievement is fully protected.”

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