



SENATE BILL 574: Authorize NIL Agency Contracts.

2023-2024 General Assembly

Committee:	Senate Rules and Operations of the Senate	Date:	April 26, 2023
Introduced by:	Sens. Galey, Craven, Jarvis	Prepared by:	Robert Ryan*
Analysis of:	Second Edition		Staff Attorney

OVERVIEW: *SB 574 would make the following changes:*

- *Allow student athletes to enter into contracts with agents for representation related to negotiating contracts for the use of the athlete's name, image, and likeness.*
- *Create a public records exception for student-athlete name, image, and likeness contracts possessed by public institutions of higher education for the purpose of reviewing compliance with laws or policies.*

PART I. AUTHORIZATION FOR NAME, IMAGE, AND LIKENESS (NIL) AGENCY CONTRACTS

CURRENT LAW: The activities of athlete agents who represent student-athletes in negotiating professional sports services contracts or endorsement contracts are regulated by the Secretary of State under the Uniform Athlete Agents Act (UAAA), Article 9 of Chapter 78C of the General Statutes. Endorsement contracts are agreements where a student-athlete receives consideration for use of any value the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

The UAAA requires athlete agents to register with the Secretary of State and meet certain requirements. The UAAA prohibits, with some exceptions, an individual from acting as an athlete agent without registration. It also requires agreements between the athlete agent and student-athlete, called agency contracts, to be in writing and include certain terms of the contract. These terms include a warning to the student-athlete that signing the contract will cause the student to lose eligibility in the sport, that the contract must be reported to the student's athletic director, and that the student has the option to cancel the contract within 14 days. The athlete agent is required to report the agency contract to the athletic director.

Prior to July 1, 2021, the National Collegiate Athletic Association, under Article 12 of the NCAA Bylaws, required student-athletes to remain amateurs to participate in intercollegiate competitions. Included in the requirements for amateur status were prohibitions on agreeing to be represented by an agent for the purpose of marketing athletics ability or reputation in that sport, or receiving compensation based on the publicity, reputation, fame, or personal following obtained because of athletics ability.

Effective July 1, 2021, the NCAA adopted an interim name, image, and likeness (NIL) policy that allows student-athletes to engage in activities that involve the use of an individual's name, image and likeness for commercial or promotional purposes without impacting the student's amateur status. Students are also authorized to use professional service providers, including agents, for this purpose.

BILL ANALYSIS:

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SB 574 would modify the UAAA to allow student-athletes to use registered agents for the purpose of representation in name, image and likeness contracts (NIL contracts).

NIL contracts would be defined as contracts between the student-athlete and another entity where the student-athlete receives consideration in exchange for use of the student-athlete's name, image, or likeness. A student-athlete would be authorized to enter into a contract, called an NIL agency contract, with a registered athlete agent to negotiate the NIL contracts. Those contracts would contain a warning to student -athletes to consult with the institution of higher education to ensure that students would not lose eligibility if the contract conflicted with State law or the institution's policies. The NIL agency contract could be cancelled by the student within 14 days.

These contracts would be distinguished from professional-sports-services-agency-contacts, where an athlete entering into an agreement to negotiate a professional sports contracts would lead to the loss of amateur status.

SB 574 would also prohibit athlete agents employed or contracting with an educational institution currently or within the prior two years from entering into NIL agency contracts with student-athletes enrolled in that educational institution, and would void any NIL agency contract made with a student-athlete who enrolled in that educational institution.

This section would become effective when it becomes law and apply to NIL agency contracts entered on or after that date.

PART II: PUBLIC RECORDS EXEMPTION FOR CERTAIN NAME, IMAGE, AND LIKENESS CONTRACTS

CURRENT LAW: Chapter 132 of the General Statutes requires, with some exceptions, that records held by the State and local governments are public and that copies must be provided to individuals upon request. Exceptions are provided for confidential information, including records that may contain certain information about individuals.

BILL ANALYSIS: SB 574 would create a new public records exception for constituent institutions of The University of North Carolina and community colleges (institutions of higher education) that would exempt any records related to a student-athlete's NIL contract with a third party that was possessed by the institution of higher education for the purpose of review for compliance with law and policy.

This section would become effective when it became law, and would apply retroactively to all student NIL contract records possessed by an institution of higher education.

EFFECTIVE DATE: Except as otherwise provided, SB 574 would become effective when it became law.

**Kara McCraw, staff attorney with the Legislative Analysis Division, substantially contributed to this summary.*