

## Right of Publicity/NIL Legislation in the 117<sup>th</sup> Congress

The right of publicity, namely the right to one's own name, image, and likeness (NIL), is a growing issue for advertisers and marketers. The National Collegiate Athletic Association (NCAA) has long prohibited student athletes from profiting off of their NIL rights through licensing and marketing agreements. Starting in 2019, several states, including California, Florida, and Michigan passed legislation allowing them to do so, often citing the millions of dollars the NCAA and its member schools make from the labors of unpaid student athletes. While the NCAA considers changes to its policy in light of these state efforts, bills have been introduced in Congress to create a federal standard governing student athletes' NIL rights.

### Senate

<i>Bill Number</i>	<i>Bill Title</i>
<a href="#">S. 238</a>	College Athlete Economic Freedom Act
<i>Sponsor</i>	<i>Description</i>
<b>Murphy (D-CT)</b>	This bill would prohibit colleges or athletic associations from enacting or enforcing any rule, requirement, standard, or other limitation that prevents college athletes or prospective college athletes, individually or as a group, from marketing the use of their names, images, likenesses, and athletic reputations. It also prohibits schools from using an athlete's compensation against them in granting aid. Enforcement is given to the FTC and athletes are given a private right of action. Finally, it preempts state law in this area.
<i>Cosponsors</i>	<i>History</i>
<b>None</b>	2.4.2021: Introduced in Senate 2.4.2021: Referred to the Senate Committee on Commerce, Science, and Transportation Identical Bill: H.R. 850 (Rep. Trahan)

<i>Bill Number</i>	<i>Bill Title</i>
<a href="#">S. 414</a>	Amateur Athletes Protection and Compensation Act of 2021
<i>Sponsor</i>	<i>Description</i>
<b>Moran (R-KS)</b>	This bill prohibits national amateur athletic associations or institutions of higher learning from punishing or prohibiting the participation of amateur intercollegiate athletes in events or competitions if they have entered into a contract with a certified athlete representative or into endorsement contacts with third parties. Athletes are required to disclose any endorsement deals within seven days. It also protects any grants-in-aid of amateur athletes and requires universities to pay any out-of-pocket medical expenses while participating in intercollegiate athletics.
<i>Cosponsors</i>	<i>History</i>
<b>None</b>	2.24.2021: Introduced in Senate 2.24.2021: Referred to the Committee on Commerce, Science, and Transportation

**House of Representatives**

<b>Bill Number</b>	<b>Bill Title</b>
<a href="#"><u>H.R. 850</u></a>	College Athlete Economic Freedom Act
<b>Sponsor</b>	<b>Description</b>
<b>Trahan (D-MA/3)</b>	This bill would prohibit colleges or athletic associations from enacting or enforcing any rule, requirement, standard, or other limitation that prevents college athletes or prospective college athletes, individually or as a group, from marketing the use of their names, images, likenesses, and athletic reputations. It also prohibits schools from using an athlete's compensation against them in granting aid. Enforcement is given to the FTC and athletes are given a private right of action. Finally, it preempts state law in this area.
<b>Cosponsors</b>	<b>History</b>
<b>None</b>	2.4.2021: Introduced in House 2.4.2021: Referred to the Committee on Energy and Commerce, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned. Identical Bill: S. 238 (Sen. Murphy)