

HOUSE BILL 533

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0lr0618
CF 0lr1135

By: **Delegates Lierman, Anderton, Barron, Cardin, Crosby, Hornberger, J. Lewis,
Love, Mosby, Rosenberg, Shetty, and Smith**

Introduced and read first time: January 27, 2020

Assigned to: Appropriations

A BILL ENTITLED

1 AN ACT concerning

2 **Higher Education – Council on the Fair Treatment of Student Athletes**
3 **(Jordan McNair Safe and Fair Play Act)**

4 FOR the purpose of establishing the Council on the Fair Treatment of Student Athletes;
5 providing for the composition, chair, terms, and staffing of the Council; requiring the
6 Council to study and make recommendations regarding certain matters; authorizing
7 the Council to receive and investigate certain complaints and information; requiring
8 the Council to serve in an advisory capacity to the Chancellor and the Board of
9 Regents of the University System of Maryland and the Board of Regents of Morgan
10 State University; requiring the Council to report its findings and recommendations
11 to both Boards of Regents on or before a certain date each year; prohibiting a public
12 institution of higher education from taking certain actions related to student
13 athletes; prohibiting certain groups or organizations with authority over
14 intercollegiate athletics from preventing a certain student athlete from participating
15 in intercollegiate athletics under certain circumstances; prohibiting a public
16 institution of higher education and certain groups or organizations with authority
17 over intercollegiate athletics from providing compensation to a student athlete under
18 certain circumstances or preventing a student athlete from obtaining professional
19 representation; requiring professional representation obtained for student athletes
20 to be licensed under certain provisions of State law; requiring certain agents who
21 represent student athletes to comply with certain provisions of federal law while
22 representing student athletes; prohibiting a team contract at a public institution of
23 higher education from preventing a student athlete from taking certain actions;
24 prohibiting a student athlete from entering into certain contracts; requiring a certain
25 student athlete to disclose certain information to a public institution of higher
26 education; requiring a certain public institution of higher education to disclose
27 certain information to certain student athletes or certain legal representation;
28 requiring the first meeting of the Council to be held on or before a certain date;
29 requiring the initial members of the Council to be appointed before the first meeting
30 of the Council; defining certain terms; providing for a delayed effective date for

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



certain provisions of this Act; and generally relating to student athletes at public institutions of higher education.

BY repealing and reenacting, without amendments,
Article – Education
Section 12–101(b)(1) and (2) and 14–101(c)
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY repealing and reenacting, with amendments,
Article – Education
Section 12–201 and 14–102
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

BY adding to
Article – Education
Section 15–126 and 15–127
Annotated Code of Maryland
(2018 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Education

12–101.

(b) (1) In this title the following words have the meanings indicated.

(2) “Board” or “Board of Regents” means the Board of Regents of the University System of Maryland.

12–201.

(a) (1) The Board shall establish:

(i) A Council of University System Presidents;

(ii) A Council of University System Faculty;

(iii) A Council of University System Staff; and

(iv) A University System Student Council.

(2) These councils shall serve in an advisory capacity to the Chancellor and may, from time to time, make reports and recommendations to the Board.

(3) THE COUNCIL ON THE FAIR TREATMENT OF STUDENT ATHLETES ESTABLISHED UNDER § 15-126 OF THIS ARTICLE SHALL ALSO SERVE IN AN ADVISORY CAPACITY TO THE CHANCELLOR AND MAY, FROM TIME TO TIME, MAKE REPORTS AND RECOMMENDATIONS TO THE BOARD.

(b) The Board may appoint committees to advise it in exercising its authority.
14-101.

(c) (1) In this subtitle the following words have the meanings indicated.

(2) "Board of Regents" means the Board of Regents of Morgan State University.

(3) "University" means Morgan State University.

14-102.

(a) The government of the University is vested in the Board of Regents.

(b) The Board of Regents consists of 15 members appointed by the Governor with the advice and consent of the Senate.

(c) (1) One member of the Board of Regents shall be a student in good academic standing at the University who:

(i) Is at least 18 years old; and

(ii) Has the qualifications required to be student body president.

(2) The student member serves for a term of 1 year and until a successor is appointed and qualifies.

(3) The student may be a resident of a state other than Maryland, but the residency status of the student may not be considered in determining the number of resident or nonresident regents as provided for in subsection (d)(2) of this section.

(d) (1) (i) Except for the student member, each member serves for a term of 5 years and until a successor is appointed and qualifies. The terms are staggered as required by the terms of the members serving on December 31, 2012.

(ii) 1. Except as provided in subsubparagraph 2 of this subparagraph, a member may not serve more than two consecutive terms of 5 years.

2. A member whose term is scheduled to expire on June 30, 2019, may serve up to three consecutive terms of 5 years.

(2) Except for the student member, no more than three members of the Board of Regents who are not alumni of Morgan State University may be residents of other states.

(3) A member appointed to fill a vacancy in an unexpired term serves only for the remainder of that term and until a successor is appointed and qualifies.

(e) Each member of the Board of Regents:

(1) Serves without compensation; and

(2) Is entitled to reimbursement for expenses in accordance with the Standard State Travel Regulations.

(F) THE COUNCIL ON THE FAIR TREATMENT OF STUDENT ATHLETES ESTABLISHED UNDER § 15-126 OF THIS ARTICLE SHALL ALSO SERVE IN AN ADVISORY CAPACITY TO THE BOARD OF REGENTS AND MAY, FROM TIME TO TIME, MAKE REPORTS AND RECOMMENDATIONS TO THE BOARD OF REGENTS.

15-126.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) "COUNCIL" MEANS THE COUNCIL ON THE FAIR TREATMENT OF STUDENT ATHLETES.

(3) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS:

(I) THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY SYSTEM OF MARYLAND; AND

(II) MORGAN STATE UNIVERSITY.

(4) "STUDENT ATHLETE" MEANS A STUDENT WHO PARTICIPATES IN AN INTERCOLLEGIATE ATHLETIC PROGRAM AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(B) THERE IS A COUNCIL ON THE FAIR TREATMENT OF STUDENT ATHLETES.

(C) THE COUNCIL CONSISTS OF THE FOLLOWING MEMBERS:

(1) ONE MEMBER OF THE SENATE OF MARYLAND, APPOINTED BY THE

1 **PRESIDENT OF THE SENATE;**

2 **(2) ONE MEMBER OF THE HOUSE OF DELEGATES, APPOINTED BY THE**
3 **SPEAKER OF THE HOUSE; AND**

4 **(3) THE FOLLOWING MEMBERS, APPOINTED JOINTLY BY THE**
5 **PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE:**

6 **(I) ONE STUDENT BODY PRESIDENT OF A PUBLIC INSTITUTION**
7 **OF HIGHER EDUCATION;**

8 **(II) ONE LAW PROFESSOR SPECIALIZING IN SPORTS LAW AT A**
9 **LAW SCHOOL IN THE STATE;**

10 **(III) ONE BOARD–CERTIFIED SPORTS MEDICINE SPECIALIST OR**
11 **ATHLETIC TRAINER AFFILIATED WITH ONE OF THE STATE’S ACADEMIC MEDICAL**
12 **CENTERS;**

13 **(IV) ONE FORMER MALE STUDENT ATHLETE WHO COMPETED**
14 **FOR THE UNIVERSITY OF MARYLAND, COLLEGE PARK CAMPUS AND GRADUATED**
15 **FROM THE UNIVERSITY OF MARYLAND, COLLEGE PARK CAMPUS NOT EARLIER**
16 **THAN 2014;**

17 **(V) ONE FORMER FEMALE STUDENT ATHLETE WHO COMPETED**
18 **FOR THE UNIVERSITY OF MARYLAND, COLLEGE PARK CAMPUS AND GRADUATED**
19 **FROM THE UNIVERSITY OF MARYLAND, COLLEGE PARK CAMPUS NOT EARLIER**
20 **THAN 2014;**

21 **(VI) TWO FORMER ATHLETES WHO COMPETED IN**
22 **INTERCOLLEGIATE ATHLETICS AT A PUBLIC INSTITUTION OF HIGHER EDUCATION**
23 **NOT INCLUDING THE UNIVERSITY OF MARYLAND, COLLEGE PARK CAMPUS;**

24 **(VII) ONE PARENT OF A FORMER STUDENT ATHLETE WHO**
25 **COMPETED IN INTERCOLLEGIATE ATHLETICS AT A PUBLIC INSTITUTION OF HIGHER**
26 **EDUCATION;**

27 **(VIII) ONE FACILITY ATHLETIC ADMINISTRATOR OR ASSISTANT**
28 **ATHLETIC DIRECTOR FROM A PUBLIC INSTITUTION OF HIGHER EDUCATION;**

29 **(IX) ONE BOARD–CERTIFIED PSYCHOLOGIST OR LICENSED**
30 **SOCIAL WORKER WHO SPECIALIZES IN WORKING WITH ADOLESCENTS, YOUNG**
31 **ADULTS, OR COLLEGE STUDENTS; AND**

(X) ONE ATHLETIC DEPARTMENT REPRESENTATIVE FROM A PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS A HISTORICALLY BLACK COLLEGE OR UNIVERSITY.

(D) THE MEMBERS OF THE COUNCIL SHALL DESIGNATE A CHAIR OF THE COUNCIL.

(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, THE TERM OF A MEMBER OF THE COUNCIL IS 4 YEARS.

(2) THE TERM OF A MEMBER WHO IS THE STUDENT BODY PRESIDENT OF A PUBLIC INSTITUTION OF HIGHER EDUCATION IS 2 YEARS.

(3) AT THE END OF A TERM, A MEMBER CONTINUES TO SERVE UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(4) A MEMBER WHO IS APPOINTED AFTER A TERM HAS BEGUN SERVES ONLY FOR THE REST OF THE TERM AND UNTIL A SUCCESSOR IS APPOINTED AND QUALIFIES.

(F) THE UNIVERSITY SYSTEM OF MARYLAND SHALL PROVIDE STAFF TO THE COUNCIL.

(G) (1) THE COUNCIL SHALL REVIEW, AS NEEDED, AND MAKE RECOMMENDATIONS ON ISSUES RELATED TO STUDENT ATHLETES, INCLUDING:

(I) THE IMPLEMENTATION OF ANY NAME, IMAGE, AND LIKENESS POLICY CHANGES BY PUBLIC INSTITUTIONS OF HIGHER EDUCATION;

(II) THE IMPLEMENTATION OF ANY CHANGES IN THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION RULES AND THE EFFECT ON STUDENT ATHLETES, INCLUDING:

1. WHETHER ANY RULES WOULD LIMIT A STUDENT ATHLETE'S ABILITY TO TRANSFER AND PARTICIPATE IN INTERCOLLEGIATE ATHLETICS AT ANOTHER INSTITUTION OF HIGHER EDUCATION; AND

2. ANY RULES THAT LIMIT A STUDENT ATHLETE'S ABILITY TO ENGAGE IN WORK WHILE ATTENDING THE PUBLIC INSTITUTION OF HIGHER EDUCATION;

(III) ISSUES RELATED TO HEALTH INSURANCE, HEALTH CARE, AND SPORTS MEDICINE CARE FOR STUDENT ATHLETES, INCLUDING:

1 1. AVAILABLE RESOURCES ON THE PREVENTION OF
2 SPORTS-RELATED INJURIES;

3 2. AVAILABLE RESOURCES FOR STUDENT ATHLETES
4 WHO SUFFER A SPORTS- OR NONSPORTS-RELATED INJURY WHILE ATTENDING A
5 PUBLIC INSTITUTION OF HIGHER EDUCATION; AND

6 3. AVAILABLE RESOURCES FOR FORMER STUDENT
7 ATHLETES WHO NEED:

8 A. LONG-TERM CARE FOR ANY LIFE-IMPACTING
9 PHYSICAL INJURIES SUSTAINED WHILE ATTENDING A PUBLIC INSTITUTION OF
10 HIGHER EDUCATION; AND

11 B. MENTAL HEALTH CARE;

12 (IV) ANY RETURN-TO-PLAY PROTOCOLS AT PUBLIC
13 INSTITUTIONS OF HIGHER EDUCATION;

14 (V) ANY PROTOCOLS AND PROCEDURES FOR PROTECTION OF
15 STUDENT ATHLETES FROM ABUSE, INCLUDING SEXUAL ABUSE BY ANYONE AT THE
16 PUBLIC INSTITUTION OF HIGHER EDUCATION OR ANY INDIVIDUAL ASSOCIATED
17 WITH THE PUBLIC INSTITUTION OF HIGHER EDUCATION;

18 (VI) ISSUES RELATED TO EDUCATIONAL OPPORTUNITIES FOR
19 STUDENT ATHLETES, INCLUDING:

20 1. THE ACADEMIC CULTURE AND ACADEMIC INTEGRITY
21 OF EACH PUBLIC INSTITUTION OF HIGHER EDUCATION'S ATHLETIC DEPARTMENT,
22 INCLUDING SPECIFIC STUDENT ATHLETE CAREER DEVELOPMENT OPPORTUNITIES;

23 2. WHETHER STUDENT ATHLETES ARE PROHIBITED
24 FROM CHOOSING ANY DESIRED MAJOR OR CLASS BECAUSE OF THEIR ROLE AS A
25 STUDENT ATHLETE;

26 3. WHETHER STUDENT ATHLETES ARE PROHIBITED
27 FROM PARTICIPATING IN ANY EXTRACURRICULAR ACTIVITIES AT A PUBLIC
28 INSTITUTION, INCLUDING INTERNSHIP AND STUDY ABROAD OPPORTUNITIES,
29 BECAUSE OF THEIR ROLE AS STUDENT ATHLETES; AND

30 4. WHETHER STUDENT ATHLETES HAVE ADEQUATE
31 TIME TO DEVOTE TO EDUCATIONAL RESPONSIBILITIES;

(VII) FINANCIAL OBLIGATIONS OF PUBLIC INSTITUTIONS OF HIGHER EDUCATION TO ASSIST STUDENT ATHLETES IN COMPLETING THEIR DEGREE REQUIREMENTS AFTER THE STUDENT ATHLETE'S ATHLETIC ELIGIBILITY OR ATHLETIC SCHOLARSHIP HAS EXPIRED;

(VIII) ISSUES RELATED TO STUDENT ATHLETE FINANCIAL AID AND SCHOLARSHIPS;

(IX) ISSUES RELATED TO GENDER EQUITY AMONG STUDENT ATHLETES;

(X) THE STUDENT ATHLETE DISCIPLINARY PROCESS AT EACH PUBLIC INSTITUTION OF HIGHER EDUCATION, INCLUDING:

1. WHETHER EACH STUDENT ATHLETE HAS A RIGHT TO A FAIR AND IMPARTIAL HEARING FOR AN ALLEGED ELIGIBILITY RULES VIOLATION FOR THE SCHOOL, CONFERENCE, OR NATIONAL COLLEGIATE ATHLETIC ASSOCIATION; AND

2. WHETHER A STUDENT ATHLETE HAS THE RIGHT TO BE REPRESENTED BY AN ATTORNEY, AN ADVOCATE, OR A FINANCIAL ADVISOR AND WHETHER THE REPRESENTATION WOULD CAUSE A STUDENT ATHLETE TO LOSE ELIGIBILITY; AND

(XI) A PUBLIC INSTITUTION OF HIGHER EDUCATION'S ABILITY TO PROVIDE STUDENT ATHLETES WITH A MEANINGFUL CHANNEL TO VOICE CONCERNS OVER THEIR TREATMENT BY ATHLETIC DEPARTMENT PERSONNEL WITHOUT THE FEAR OF RETRIBUTION.

(2) IN MAKING RECOMMENDATIONS UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE COUNCIL SHALL CONSIDER ANY RELEVANT POLICIES AND PRACTICES RELATED TO STUDENT ATHLETES AT ANY OTHER INSTITUTION OF HIGHER EDUCATION IN THE STATE OR THE COUNTRY.

(3) THE COUNCIL MAY RECEIVE AND INVESTIGATE COMPLAINTS AND INFORMATION CONCERNING THE PROVISIONS LISTED IN PARAGRAPH (1) OF THIS SUBSECTION.

(H) ON OR BEFORE JUNE 1, 2021, AND EACH JUNE 1 THEREAFTER, THE COUNCIL SHALL REPORT TO THE BOARD OF REGENTS OF THE UNIVERSITY SYSTEM OF MARYLAND AND THE BOARD OF REGENTS OF MORGAN STATE UNIVERSITY.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Education

15–127.

(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) “PUBLIC INSTITUTION OF HIGHER EDUCATION” MEANS:

(I) THE CONSTITUENT INSTITUTIONS OF THE UNIVERSITY SYSTEM OF MARYLAND; AND

(II) MORGAN STATE UNIVERSITY.

(3) “STUDENT ATHLETE” MEANS A STUDENT WHO PARTICIPATES IN AN INTERCOLLEGIATE ATHLETIC PROGRAM AT A PUBLIC INSTITUTION OF HIGHER EDUCATION.

(B) (1) A PUBLIC INSTITUTION OF HIGHER EDUCATION MAY NOT:

(I) UPHOLD ANY RULE, REQUIREMENT, STANDARD, OR OTHER LIMITATION THAT PREVENTS A STUDENT ATHLETE FROM EARNING COMPENSATION FROM THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS; OR

(II) REDUCE, RESCIND, OR OTHERWISE AFFECT A STUDENT ATHLETE’S SCHOLARSHIP BECAUSE THE STUDENT ATHLETE EARNS COMPENSATION FROM THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS.

(2) AN ATHLETIC ASSOCIATION, A CONFERENCE, OR ANY OTHER GROUP OR ORGANIZATION WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETICS, INCLUDING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, MAY NOT PREVENT A STUDENT ATHLETE FROM EARNING COMPENSATION AS A RESULT OF THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS.

(3) AN ATHLETIC ASSOCIATION, A CONFERENCE, OR ANY OTHER GROUP OR ORGANIZATION WITH AUTHORITY OVER INTERCOLLEGIATE ATHLETICS, INCLUDING THE NATIONAL COLLEGIATE ATHLETIC ASSOCIATION, MAY NOT PREVENT A PUBLIC INSTITUTION OF HIGHER EDUCATION FROM PARTICIPATING IN INTERCOLLEGIATE ATHLETICS AS A RESULT OF THE COMPENSATION OF A STUDENT ATHLETE FOR THE USE OF THE STUDENT ATHLETE’S NAME, IMAGE, OR LIKENESS.

1 (C) A PUBLIC INSTITUTION OF HIGHER EDUCATION, AN ATHLETIC
2 ASSOCIATION, A CONFERENCE, OR ANY OTHER GROUP OR ORGANIZATION WITH
3 AUTHORITY OVER INTERCOLLEGIATE ATHLETICS MAY NOT:

4 (1) PROVIDE A PROSPECTIVE STUDENT ATHLETE WITH
5 COMPENSATION IN RELATION TO THE STUDENT ATHLETE'S NAME, IMAGE, OR
6 LIKENESS; OR

7 (2) PREVENT A STUDENT ATHLETE FROM OBTAINING PROFESSIONAL
8 REPRESENTATION IN RELATION TO CONTRACTS OR LEGAL MATTERS, INCLUDING
9 REPRESENTATION PROVIDED BY ATHLETE AGENTS OR LEGAL REPRESENTATION
10 PROVIDED BY ATTORNEYS.

11 (D) (1) PROFESSIONAL REPRESENTATION OBTAINED BY A STUDENT
12 ATHLETE SHALL BE FROM AN INDIVIDUAL LICENSED BY THE STATE UNDER:

13 (I) TITLE 4, SUBTITLE 4 OF THE BUSINESS REGULATION
14 ARTICLE; OR

15 (II) TITLE 10 OF THE BUSINESS OCCUPATIONS AND
16 PROFESSIONS ARTICLE.

17 (2) AN AGENT WHO REPRESENTS STUDENT ATHLETES SHALL COMPLY
18 WITH THE FEDERAL SPORTS AGENT RESPONSIBILITY AND TRUST ACT,
19 ESTABLISHED IN CHAPTER 104 OF TITLE 15 OF THE UNITED STATES CODE, WHILE
20 REPRESENTING THE STUDENT ATHLETES.

21 (E) A TEAM CONTRACT OF AN ATHLETIC PROGRAM OF A PUBLIC
22 INSTITUTION OF HIGHER EDUCATION MAY NOT PREVENT A STUDENT ATHLETE FROM
23 USING THE STUDENT ATHLETE'S NAME, IMAGE, OR LIKENESS FOR A COMMERCIAL
24 PURPOSE WHEN THE STUDENT ATHLETE IS NOT ENGAGED IN OFFICIAL TEAM
25 ACTIVITIES.

26 (F) (1) A STUDENT ATHLETE MAY NOT ENTER INTO A CONTRACT
27 PROVIDING COMPENSATION TO THE STUDENT ATHLETE FOR USE OF THE STUDENT
28 ATHLETE'S NAME, IMAGE, OR LIKENESS IF A PROVISION OF THE CONTRACT IS IN
29 CONFLICT WITH A PROVISION OF THE STUDENT ATHLETE'S TEAM CONTRACT.

30 (2) A STUDENT ATHLETE WHO ENTERS INTO A CONTRACT PROVIDING
31 COMPENSATION TO THE STUDENT ATHLETE FOR USE OF THE STUDENT ATHLETE'S
32 NAME, IMAGE, OR LIKENESS SHALL DISCLOSE THE CONTRACT TO AN OFFICIAL OF
33 THE PUBLIC INSTITUTION OF HIGHER EDUCATION, DESIGNATED BY THE PUBLIC
34 INSTITUTION OF HIGHER EDUCATION.

1 **(3) A PUBLIC INSTITUTION OF HIGHER EDUCATION ASSERTING A**
2 **CONFLICT DESCRIBED IN PARAGRAPH (1) OF THIS SUBSECTION SHALL DISCLOSE TO**
3 **THE STUDENT ATHLETE OR THE STUDENT ATHLETE’S LEGAL REPRESENTATION THE**
4 **RELEVANT CONTRACTUAL PROVISIONS THAT ARE IN CONFLICT.**

5 SECTION 3. AND BE IT FURTHER ENACTED, That:

6 (a) The Council on the Fair Treatment of Student Athletes established under §
7 15–126 of the Education Article in Section 1 of this Act shall have its first meeting on or
8 before November 1, 2020.

9 (b) The initial members of the Council on the Fair Treatment of Student Athletes
10 shall be appointed before the first meeting of the Council.

11 SECTION 4. AND BE IT FURTHER ENACTED, That Section 2 of this Act shall take
12 effect July 1, 2022.

13 SECTION 5. AND BE IT FURTHER ENACTED, That, except as provided in Section
14 4 of this Act, this Act shall take effect July 1, 2020.