

Texas SAFE Act Fosters NIL

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The Texas Legislature convenes January 12, 2021, for 140 days of regular session. [House Bill 920](#), pre-filed by Representatives Matt Krause and Drew Darby, if enacted into law, takes effect January 1, 2023.

This bill will allow college student-athletes to receive compensation for Name, Image and Likeness (NIL) activities and to obtain professional representation (including an athlete agent or attorney). This marks the formal entry by the State of Texas into the ongoing national discussions around NIL income.

The United States Congress and 37 other states are examining NIL rights. In addition, the Uniform Law Commission, the Knight Commission and others are likewise involved. The NCAA Division I, Division II and Division III may act further later this month.

Anticipating effective dates of other state legislation (Florida law takes effect July 1, 2021) several private companies providing NIL services have already entered this space.

Although subject to change during legislative process, HB 920 prohibits institutions from limiting student-athletes:

1. Earning compensation for NIL activities (when not engaged in official team activities)
2. Obtaining professional representation (including an athlete agent or attorney)

The student-athlete must disclose all contracts, and the agent must hold a certificate of registration under existing Chapter 2051, Texas Occupation Code.

Athletic departments' staffing and budgets will be impacted in several ways:

1. Setting policies and procedures for management
2. Receiving student-athletes disclosure of contracts (disclosure is mandated by the bill)
3. Maintaining, reviewing and managing the interplay between student-athlete contracts and other contracts
4. Identifying possible problems arising from contracts
5. Managing and resolving conflicts between contracts
6. Being alert to other problems arising from NIL activities

The bill also applies to athletic associations, conferences and the NCAA.

At present, there are no monetary penalties, other sanctions or regulations contained in the draft.

Winstead will monitor developments in this bill, as well as other trends in this rapidly evolving NIL issue.

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