

1 AN ACT relating to intercollegiate athletics.

2 WHEREAS, in 2019 the highest paid National Collegiate Athletic Association, or  
3 NCAA, football coach had a base salary of \$9,315,000 and the highest paid basketball  
4 coach had a base salary of \$7,950,000, and neither amount includes possible bonuses,  
5 sponsorships, and incentives they may have received, and these base salaries do not  
6 include compensation from the \$1.24 billion in sponsorship spending received by college  
7 athletic departments in the 2017-18 season, with no athlete being paid for the use of his or  
8 her name, image, or likeness; and

9 WHEREAS, many athletes who play college sports face generational poverty which  
10 can be improved or eliminated through college athletics, as can be attested to by  
11 University of Kentucky Men's Basketball Coach John Calipari, who has said "when a kid  
12 has had generational poverty and I can play a part in changing that for the rest of their  
13 lives, it makes me happy"; and

14 WHEREAS, when asked, many college athletes respond that they play sports in  
15 hopes of taking care of their families; and

16 WHEREAS, in 2010 the National Basketball Association and the National  
17 Basketball Players Association set requirements for players to be at least one year  
18 removed from their high school graduation and at least 19 years of age, and thus began  
19 the "One-and-Done" era of college basketball; and

20 WHEREAS, since 2010 almost a quarter of all "One-and-Done" players have come  
21 from the University of Kentucky, giving the issue a large impact in the Commonwealth;  
22 and

23 WHEREAS, the University of Louisville Men's Basketball Coach Chris Mack  
24 believes that players should be able to make money from their name and image and  
25 likeness, saying "I am on the side that thinks student athletes should be able to capitalize  
26 on their name and image and likeness"; and

27 WHEREAS, Coach Calipari believes players should be able to make money from

1 their likeness, saying "I think the players, if they're selling your shirt with your name on  
2 the back, you should get some of that money. If your signature, if people want your  
3 autograph, it's your autograph. It ain't my autograph! It isn't the University of Kentucky's  
4 autograph. It's yours. If you can sell that, sell it";

5 NOW, THEREFORE,

6 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

7 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO  
8 READ AS FOLLOWS:

9 (1) For the purposes of this section, "postsecondary educational institution" means a  
10 public or private college or university and the college's and university's affiliated  
11 corporation or other entity designated for the management of intercollegiate  
12 athletics.

13 (2) (a) A postsecondary educational institution shall not uphold any rule,  
14 requirement, standard, or other limitation that prohibits a student athlete of  
15 that institution who participates in intercollegiate athletics from earning  
16 compensation as a result of the use of the student's name, image, or  
17 likeness. Earning compensation from the use of the student's name, image,  
18 or likeness shall not affect the student's scholarship eligibility.

19 (b) An athletic association, conference, or other group or organization with  
20 authority over intercollegiate athletics, including but not limited to the  
21 National Collegiate Athletic Association, shall not:

22 1. Prevent a student athlete of a postsecondary educational institution  
23 from participating in intercollegiate athletics, or enforce any other  
24 penalty against the student, as a result of earning compensation as a  
25 result of the use of the student's name, image, or likeness; or

26 2. Prevent a postsecondary educational institution from participating in  
27 intercollegiate athletics, or enforce any other penalty against the

1 institution, as a result of the institution's student athlete receiving  
2 compensation for the use of the student's name, image, or likeness.

3 (3) (a) A postsecondary educational institution, athletic association, conference, or  
4 other group or organization with authority over intercollegiate athletics  
5 shall not provide a prospective student athlete with compensation in relation  
6 to the athlete's name, image, or likeness. Notwithstanding subsection (2) of  
7 this section, an athletic association, conference, or other group or  
8 organization with authority over intercollegiate athletics, including but not  
9 limited to the National Collegiate Athletic Association, may enforce a  
10 penalty if a postsecondary educational institution provides a prospective  
11 student athlete with compensation in relation to the athlete's name, image,  
12 or likeness.

13 (b) By agreeing to participate in intercollegiate athletics at a postsecondary  
14 educational institution, a student athlete shall be deemed to allow the  
15 postsecondary educational institution the use of the student athlete's name,  
16 image, and likeness for the duration of that student athlete's participation  
17 in intercollegiate athletics at that postsecondary educational institution.

18 (4) (a) A postsecondary educational institution, athletic association, conference, or  
19 other group or organization with authority over intercollegiate athletics  
20 shall not prevent a Kentucky student who participates in intercollegiate  
21 athletics from obtaining professional representation in relation to contracts  
22 or legal matters, including but not limited to representation provided by  
23 athlete agents or legal representation provided by attorneys.

24 (b) Professional representation obtained by student athletes shall be from  
25 persons licensed by the state. Professional representation provided by  
26 athlete agents shall be by persons licensed pursuant to the Revised Uniform  
27 Athlete Agents Act, KRS 164.6901 to 164.6935. Legal representation of

1                   student athletes shall be by attorneys licensed in Kentucky.

2                   (c) Athlete agents providing professional representation to student athletes  
3                   shall comply with the federal Sports Agent Responsibility and Trust Act, or  
4                   its successors, in their relationships with student athletes.

5                   (5) A scholarship from the postsecondary educational institution in which a student  
6                   athlete is enrolled is not compensation for the purposes of this section and an  
7                   institution's scholarship shall not be revoked to penalize a student athlete for  
8                   earning compensation or obtaining representation under this section.

9                   (6) A team contract of a postsecondary educational institution entered into, modified,  
10                  or renewed after the effective date of this Act shall not prevent a student athlete  
11                  from using of the student's name, image, or likeness to earn compensation when  
12                  the athlete is not engaged in official team activities.

13                  (7) Any person who prevails against any postsecondary educational institution,  
14                  athletic association, conference, or other group or organization with authority  
15                  over intercollegiate athletics in any action in the courts regarding a violation of  
16                  this section may, upon a finding that the penalty was willfully imposed in  
17                  violation of this section, be awarded costs, including reasonable attorney's fees,  
18                  incurred in connection with the legal action. If the person prevails in part, the  
19                  court may in its discretion award costs or an appropriate portion thereof. In  
20                  addition, it shall be within the discretion of the court to award the person an  
21                  amount not to exceed twenty-five dollars (\$25) for each day the penalty was  
22                  imposed. Attorney's fees, costs, and awards under this subsection shall be paid by  
23                  the institution or organization that the court determines is responsible for the  
24                  violation.

25                  ➔Section 2. Section 1 of this Act may be cited as the Pay to Portray Act.

26                  ➔Section 3. This Act shall take effect July 1, 2023.