

Jo Saint-George, Esq.
“The Healthy Lawyer”
Jo@HealthyLawyer.org

HB 533/ SB 518
Higher Education – Council on the Fair Treatment of Student Athletes
(Jordan McNair Safe and Fair Play Act)
Appropriation Committee Hearing February 18, 2020 – 1PM
FAVORABLE

Chair, Vice Chair and the entire Appropriations Committee. Thank you for the opportunity to come before you in support of HB 533 Jordan McNair Safe and Fair Play Act. As a former basketball player and college sweetheart of the late Hank Gathers who on March 4, 1990 died a tragic death before millions of viewers who were watching the West Coast Conference final games, it grieves me that 30 years after Hanks death we are still grappling over an whether an athlete has the right to work and earn an income from his or her own likeness or image. Many of you would recall Hanks awesome performance as a Loyola Marymount University athlete who led the LMU “run and gun system” of high scoring wherein Hank held the NCAA’s record until 2016 for most points scored and rebounds in one year. On this March 4, 2020 we will celebrate 30 years since Hanks tragic death, which still bring great sorrow to my heart.

However, I want to point out, in reference to my support of HB533 that here where two factors that were alleged to have caused Hanks death, which were brought in depositions during the lengthy litigation of his mother’s wrongful death lawsuit against the school. First, was the fact that the teams cardiologist, not an independent cardiologist, told Hank two days before his fatal collapse and heart failure that he could postpone the required heart tests until after the tournament was over, while at the same time Hanks heart medication was being reduced. The second and most saddening cause for his premature death was the lack of a defibrillator in the gym at the time of collapse on the court. While defib machines are commonplace medical equipment everywhere now, that was not the case back in 1990 and it took Hanks death for such a “common” standard as maintaining a defib machine was recognized.

It should not take the loss of any more lives of athletes before something is done to better protect them and their families from such sports related injuries and deaths. HB 533 is the first step is granting better protections of college athletes when it comes to addressing their health care needs both physical and mental. At the end of the day, there must be a truly independent commission established who will be tasked with knowing best practices for athlete health care while also providing a safe place where all athletes can disclose whether they are being abused by coaches or staff and more. We are thirty years from the loss of Hank yet, in June 2018 we suffered another loss of a college athlete Jordan McNair and since 2000 30 more college athletes have died from sports related injuries, many of which did not have to occur if their was better oversight over the health of our college athletes. We must pass HB-533!

Second, HB-533 is needed because college athletes should not be excluded from the right to earn income off their name, image, or likeness. All college students - except student athletes - are free to use their talent or skills to earn a living while in school, from computer science to art students to engineering majors. If Mark Zuckerberg was able to invent Facebook while in college, why shouldn't a college athlete have the right to also invent a business, when the odds of that athlete going to the pros is slim. While coaches and athletic administrators earn millions in salary and are among the highest paid state employees, athletes are denied the right to earn any outside income related to their sport. This unnecessary and anti-competitive restriction exacerbates athletes' financial challenges and is particularly unfair to most male athletes and nearly all female athletes who lack professional sports opportunities and are therefore prohibited from earning an income during their prime athletic years.

The current NCAA outside employment and use of one personal image prohibitions are arbitrary, capricious, illogical, and are akin to modern slavery, because those who do not pay the price for the generation of wealth keep those who do pay a huge price from receiving any wealth. The ability of athletes to earn income from third parties for the use of their name, image, and likeness is particularly important because of the known health risks and long-term effects of college sports participation, which no other student on a scholarship must endure. College athletes often suffer serious injuries while engaged in NCAA-related activities and need outside income for the following reasons:

- About 67% of college athletes suffer a major college sports injury and 50% suffer chronic injuries.
- An NCAA survey discovered that 50% of athletic trainers admit to knowingly returning players with concussions to the same game.
- Even with a full athletic scholarship, over 80% of college athletes are living below the federal poverty line.

Finally, I would like to add that the current prohibitions de-value the humanity of athletes and contributes to the prevailing stereotypes of the "dumb jock". Why? Because it strips each athlete of their God given ability to be an inventor, creator or a worker which in a capitalist society, value is defined by one's ability to generate revenue.

When many college athletes come from low-income households, and many are the first in their families to go to college, their God given identity beyond being an athlete should not be stripped of them. Especially when 56% of men's basketball players, 47% of women's basketball players, and 48% of football players are African-American, and at the same time 70% of Maryland's prison population is African-American, the subliminal message being conveyed through the existing prohibitions and the glamorization of sports in general is that African-American people do not have value unless they can be the best college athlete and make millions for a school rather than make money for themselves. Consequently, when

an African-American child, especially young men, does not make it into college sports, many lose their way, and many end up in the prison system. Or, if they make it to college sports, they put themselves at risk of harm or even death continuing to play their sport for fear of losing the opportunity to earn income. The ability to earn a living is a God given right and should not be controlled by the imperialistic dictates of an insulated organization that has built its college sports wealth as an institution on the exploitation of youth. This practice must end so that all athletes can have their full identify restored and their value as human being raised to the highest income earning potential each athlete has within them.

Finally, because I believe the right to work and control one's image and likeness should be unfettered or controlled by any third-party, I would like to make two friendly amendments to HB-533 which are as follows:

1. Section 15-126 (G)1(l) should be amended to include the following in red:

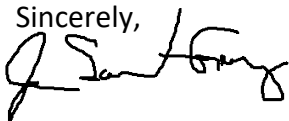
(G) (1) THE COUNCIL SHALL REVIEW, AS NEEDED, AND MAKE RECOMMENDATIONS ON ISSUES RELATED TO STUDENT ATHLETES, **SO LONG AS EACH STUDENT ATHLETE IS PROVIDED WRITTEN NOTICE OF THE RECOMMENDATIONS AND THE RIGHT TO PROVIDE WRITTEN RESPONSE WITHIN THIRTY-FIVE (35) DAYS FROM THE DATE OF THE NOTICE, INCLUDING:**

2. Section 15-172 (B)1 should be amended to include the following in red:

(B) (1) **SO LONG AS A PUBLIC INSTITUTION'S NAME, LOGO, OR MASCOT IS NOT USED, ACCEPT ON A RESUME, A PUBLIC INSTITUTION SHALL NOT:**

In conclusion, I hereby request a favorable report on HB-533 with the above friendly amendments.

Sincerely,



Jo Saint-George, Esq.

"The Healthy Lawyer"

www.HealthyLawyer.org