

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

REREVISED

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 21-0129.02 Jane Ritter x4342

SENATE BILL 21-116

SENATE SPONSORSHIP

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Senate Committees

Education

House Committees

Education

HOUSE
3rd Reading Unamended
June 3, 2021

101

CONCERNING THE PROHIBITION OF AMERICAN INDIAN MASCOTS IN

102

COLORADO.

HOUSE
Amended 2nd Reading
June 2, 2021

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

SENATE
3rd Reading Unamended
April 23, 2021

The bill prohibits the use of American Indian mascots (mascots) by public schools, including charter and institute charter schools, and public institutions of higher education (school) as of June 1, 2022. The bill imposes a fine of \$25,000 per month for each month that a school continues to use a mascot after such date, payable to the state education fund.

SENATE
Amended 2nd Reading
April 22, 2021

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
*Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1. Legislative declaration.** (1) The general assembly
3 finds and declares that:

4 (a) The presence and use of derogatory American Indian mascots
5 across Colorado creates an unsafe learning environment for American
6 Indian students by having serious negative impacts on those students'
7 mental health and by promoting bullying of American Indian students;

8 (b) American Indian mascots teach non-American Indian children
9 inaccurate information about American Indian culture and teach them that
10 it is acceptable to participate in culturally abusive and prejudicial
11 behaviors;

12 (c) In the early twentieth century, American Indian boarding
13 schools across Colorado forced American Indian children to relinquish
14 their tribal identities and give up inherited customs so that they would
15 better assimilate into the majority white culture;

16 (d) Young American Indian children were coerced into leaving
17 their families, giving up their culture and language, and changing their
18 appearances to pass for a white person. At the same time, non-American
19 Indian students in many communities in Colorado were dressing up in
20 war bonnets at pep rallies that they called "pow-wows".

21 (e) In 1925, the same year that La Veta high school became the
22 "R*dsk*ns", a Loveland yearbook stated that the school decided to adopt
23 the "Indian" moniker to depict "bravery, loyalty, patriotism, and dauntless
24 pride". Several years later, Cheyenne Mountain high school would also
25 claim that its "Indian" mascot's purpose was to "preserve the legacy of the

1 Cheyenne and Ute tribes, which were fading in the area".

2 (f) Despite continued claims that such mascots honored American
3 Indian peoples, the majority of such mascots in Colorado regularly
4 employed racist stereotypes, from Eaton high school's large-nosed
5 caricatures to Lamar high school's "Chief Ugh-Lee" mascot;

6 (g) By the time of the civil rights movement in the 1960s, the first
7 wave of American Indian activists began calling for an end to American
8 Indian mascots. By the end of the 1990s, only three Colorado schools had
9 listened. Although organizations like the National Commission on Civil
10 Rights, the NAACP, the National Congress of American Indians, and the
11 American Psychological Association published statements condemning
12 American Indian mascots, few Colorado schools would take heed, even
13 into the early 2000s.

14 (h) In 2015, Colorado Governor John Hickenlooper signed an
15 executive order to establish the commission to study American Indian
16 representations in public schools;

17 (i) The commission, comprised of American Indian leaders from
18 across the state, visited the Colorado schools that wanted to be a part of
19 this conversation. There were only four: Strasburg, Loveland, Eaton, and
20 Lamar. After visiting each of these communities, the commission's
21 recommendation was to completely eliminate American Indian imagery
22 and nomenclature in schools in Colorado.

23 (j) Since that time, a few Colorado schools have voluntarily
24 abandoned their American Indian mascots, but change, for the most part,
25 has not come easily; and

26 (k) Currently, public sentiment is moving in favor of abandoning
27 these discriminatory mascots. Many national athletic teams have

1 abandoned them, and similar changes are happening at the college level
2 and on down to the local level. In 2019, Maine successfully paved the
3 way with legislation for an American Indian mascot ban at the state level.

4 (2) Therefore, the general assembly declares that passing
5 legislation to retire all American Indian mascots in the state will provide
6 another step toward justice and healing to the descendants of the
7 survivors of the Sand Creek Massacre, most notably the Cheyenne and
8 Arapaho tribes, as well as other American Indians in Colorado who have
9 been harmed or offended by these discriminatory mascots.

10 **SECTION 2.** In Colorado Revised Statutes, **add 22-1-131** as
11 follows:

12 **22-1-131. Prohibition on use of American Indian mascots –**
13 **exemptions - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
14 CONTEXT OTHERWISE REQUIRES:

15 (a) "AMERICAN INDIAN MASCOT" MEANS A NAME, SYMBOL, OR
16 IMAGE THAT DEPICTS OR REFERS TO AN AMERICAN INDIAN TRIBE,
17 INDIVIDUAL, CUSTOM, OR TRADITION THAT IS USED AS A MASCOT,
18 NICKNAME, LOGO, LETTERHEAD, OR TEAM NAME FOR THE SCHOOL.

19 (b) "COMMISSION" MEANS THE COLORADO COMMISSION OF INDIAN
20 AFFAIRS, ESTABLISHED PURSUANT TO SECTION 24-44-102.

21 (c) "INSTITUTE CHARTER SCHOOL" MEANS A CHARTER SCHOOL
22 AUTHORIZED BY THE STATE CHARTER SCHOOL INSTITUTE PURSUANT TO
23 PART 5 OF ARTICLE 30.5 OF THIS TITLE 22.

24 (d) "PUBLIC SCHOOL" MEANS:

25 (I) AN ELEMENTARY, MIDDLE, JUNIOR HIGH, HIGH SCHOOL, OR
26 DISTRICT CHARTER SCHOOL OF A SCHOOL DISTRICT THAT SERVES ANY OF
27 GRADES KINDERGARTEN THROUGH TWELVE; AND

1 (II) ANY PUBLIC SCHOOL THAT IS OPERATED BY A FEDERALLY
2 RECOGNIZED INDIAN TRIBE OR WITH THE APPROVAL OF A FEDERALLY
3 RECOGNIZED INDIAN TRIBE AND EXISTING WITHIN THE BOUNDARIES OF
4 SUCH TRIBE'S RESERVATION.

5 (III) (A) THE ABILITY OF ANY FEDERALLY RECOGNIZED INDIAN
6 TRIBE TO CREATE AND MAINTAIN A RELATIONSHIP OR AGREEMENT WITH A
7 PUBLIC SCHOOL THAT FOSTERS GOODWILL, EMPHASIZES EDUCATION AND
8 SUPPORTS A CURRICULUM THAT TEACHES AMERICAN INDIAN HISTORY,
9 AND ENCOURAGES A POSITIVE CULTURAL EXCHANGE. SUCH
10 RELATIONSHIPS AND AGREEMENTS MAY INCLUDE IMPORTANT HISTORICAL
11 FIGURES, NAMES, IMAGERY, TRIBAL NAMES, AND MORE.

12 (B) ANY SUCH AGREEMENT ENTERED INTO PURSUANT TO THIS
13 SECTION BETWEEN A PUBLIC SCHOOL AND A FEDERALLY RECOGNIZED
14 INDIAN TRIBE MAY ALLOW ANY AMERICAN INDIAN MASCOT THAT IS
15 CULTURALLY AFFILIATED WITH THAT FEDERALLY RECOGNIZED INDIAN
16 TRIBE AS DETERMINED AT THE DISCRETION OF THE TRIBE'S GOVERNING
17 BODY. IF AN AGREEMENT ENTERED INTO PURSUANT TO THIS SUBSECTION
18 (2)(b)(III) BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A
19 PUBLIC SCHOOL IS TERMINATED BY EITHER PARTY, THE PUBLIC SCHOOL
20 HAS ONE YEAR FROM THE DATE OF TERMINATION TO DISCONTINUE ITS USE
21 OF ITS AMERICAN INDIAN MASCOT BEFORE THE PENALTIES SET FORTH IN
22 SUBSECTION (3) OF THIS SECTION APPLY.

23 (C) FOR THE PURPOSES OF THIS SECTION, A "FEDERALLY
24 RECOGNIZED INDIAN TRIBE" IS ONE OF THE FORTY-EIGHT CONTEMPORARY
25 TRIBES WITH TIES TO COLORADO, DEVELOPED BY HISTORY COLORADO IN
26 PARTNERSHIP WITH THE COLORADO COMMISSION OF INDIAN AFFAIRS. THIS
27 LIST MAY CHANGE OVER TIME BUT IS THE OFFICIAL LIST TO BE USED FOR

1 THE PURPOSES OF THIS SECTION.

2 (3) FOR EACH MONTH DURING WHICH A PUBLIC SCHOOL USES AN
3 AMERICAN INDIAN MASCOT AFTER JUNE 1, 2022, THE SCHOOL DISTRICT OF
4 THE PUBLIC SCHOOL, OR IN THE CASE OF AN INSTITUTE CHARTER SCHOOL,
5 THE STATE CHARTER SCHOOL INSTITUTE, SHALL PAY A FINE OF
6 TWENTY-FIVE THOUSAND DOLLARS TO THE STATE TREASURER, WHO SHALL
7 CREDIT THE MONEY RECEIVED TO THE STATE EDUCATION FUND CREATED
8 IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

9 (4) (a) NO LATER THAN 30 DAYS AFTER THE EFFECTIVE DATE OF
10 THIS SECTION, THE COMMISSION SHALL IDENTIFY EACH PUBLIC SCHOOL IN
11 THE STATE THAT IS USING AN AMERICAN INDIAN MASCOT AND THAT DOES
12 NOT MEET THE CRITERIA FOR AN EXEMPTION AS OUTLINED IN SUBSECTION
13 (2)(b) OF THIS SECTION. THE COMMISSION SHALL POST SUCH INFORMATION
14 ON ITS WEBSITE.

15 (b) IN ADDITION TO POSTING ON ITS WEBSITE THE INFORMATION
16 CONCERNING PUBLIC SCHOOLS THAT ARE USING AN AMERICAN INDIAN
17 MASCOT, THE COMMISSION, IN COORDINATION WITH THE DEPARTMENT OF
18 EDUCATION, SHALL NOTIFY THE SCHOOL DISTRICT OF A PUBLIC SCHOOL
19 IDENTIFIED BY THE COMMISSION PURSUANT TO SUBSECTION (4)(a) OF THIS
20 SECTION OF THE REQUIREMENTS RELATED TO THE USE OF AMERICAN
21 INDIAN MASCOTS, AS SET FORTH IN SUBSECTION (2) OF THIS SECTION, AS
22 WELL AS THE PENALTY FOR CONTINUED USED OF SUCH MASCOTS AS
23 OUTLINED IN SUBSECTION (3) OF THIS SECTION. THE COMMISSION, IN
24 COORDINATION WITH THE DEPARTMENT OF EDUCATION, SHALL ALSO
25 PROVIDE THE SAME NOTIFICATION TO THE CHARTER SCHOOL INSTITUTE IF
26 ANY INSTITUTE SCHOOLS ARE IDENTIFIED PURSUANT TO SUBSECTION (4)(a)
27 OF THIS SECTION.

1 (c) WHEN A PUBLIC SCHOOL IDENTIFIED PURSUANT TO SUBSECTION
2 (4)(a) OF THIS SECTION DISCONTINUES ITS USE OF ITS AMERICAN INDIAN
3 MASCOT PRIOR TO JUNE 1, 2022, THE PUBLIC SCHOOL SHALL NOTIFY ITS
4 SCHOOL DISTRICT, OR, IN THE CASE OF AN INSTITUTE CHARTER SCHOOL, ITS
5 AUTHORIZER, THE COMMISSION, AND THE DEPARTMENT OF EDUCATION OF
6 SUCH DISCONTINUATION.

7 (5) A PUBLIC SCHOOL THAT IS IDENTIFIED TO BE IN VIOLATION OF
8 SUBSECTION (2) OF THIS SECTION FOR USING AN AMERICAN INDIAN
9 MASCOT MAY APPLY TO THE DEPARTMENT OF EDUCATION FOR A GRANT
10 THROUGH THE "BUILDING EXCELLENT SCHOOLS TODAY ACT", ARTICLE
11 43.7 OF TITLE 22, TO ACCOMPLISH ANY STRUCTURAL CHANGES THAT
12 MIGHT BE NECESSARY TO COME INTO COMPLIANCE WITH THIS SECTION.
13 THE TIME REQUIRED FOR MAKING AN APPLICATION OR FOR THE AWARDING
14 OF SUCH GRANT DOES NOT IMPACT THE TIME REQUIREMENT SET FORTH IN
15 SUBSECTION (2)(a) OF THIS SECTION.

27 (c.3) PROJECTS THAT ASSIST PUBLIC SCHOOLS TO REPLACE

1 PROHIBITED AMERICAN INDIAN MASCOTS AS REQUIRED BY SECTION
2 22-1-131 (2).

3 **SECTION 4.** In Colorado Revised Statutes, **add** 23-1-137 as
4 follows:

5 **23-1-137. Prohibition on use of American Indian mascots -**
6 **exemptions - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (a) "AMERICAN INDIAN MASCOT" MEANS A NAME, SYMBOL, OR
9 IMAGE THAT DEPICTS OR REFERS TO AN AMERICAN INDIAN TRIBE,
10 INDIVIDUAL, CUSTOM, OR TRADITION THAT IS USED AS A MASCOT,
11 NICKNAME, LOGO, LETTERHEAD, OR TEAM NAME FOR THE SCHOOL.

12 (b) "PUBLIC INSTITUTION OF HIGHER EDUCATION" MEANS A PUBLIC
13 COLLEGE, UNIVERSITY, COMMUNITY COLLEGE, AREA VOCATIONAL SCHOOL,
14 EDUCATIONAL CENTER, OR JUNIOR COLLEGE THAT IS SUPPORTED IN WHOLE
15 OR IN PART BY GENERAL FUND MONEY.

16 **(2) (a) EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(b) OF THIS**
17 **SECTION, ON OR AFTER JUNE 1, 2022, A PUBLIC INSTITUTION OF HIGHER**
18 **EDUCATION IN THE STATE IS PROHIBITED FROM USING AN AMERICAN**
19 **INDIAN MASCOT. ANY PUBLIC INSTITUTION OF HIGHER EDUCATION THAT**
20 **IS USING SUCH AN AMERICAN INDIAN MASCOT AS OF JUNE 1, 2022, MUST**
21 **IMMEDIATELY CEASE USE OF SUCH AMERICAN INDIAN MASCOT.**

22 **(b) THE PROHIBITION SET FORTH IN SUBSECTION (2)(a) OF THIS**
23 **SECTION DOES NOT APPLY TO:**

24 **(I) ANY AGREEMENT THAT EXISTS PRIOR TO JUNE 30, 2021,**
25 **BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC**
26 **INSTITUTION OF HIGHER EDUCATION. A PUBLIC INSTITUTION OF HIGHER**
27 **EDUCATION THAT IS A PARTY TO SUCH AN AGREEMENT IS HELD TO A HIGH**

1 STANDARD AND EXPECTED TO HONOR THE AGREEMENT. THE FEDERALLY
2 RECOGNIZED INDIAN TRIBE HAS THE RIGHT AND ABILITY TO REVOKE ANY
3 SUCH AGREEMENT AT ANY TIME AT ITS DISCRETION.

4 (II) ANY PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS
5 OPERATED BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR WITH THE
6 APPROVAL OF A FEDERALLY RECOGNIZED INDIAN TRIBE AND EXISTING
7 WITHIN THE BOUNDARIES OF SUCH TRIBE'S RESERVATION.

8 (3) FOR EACH MONTH DURING WHICH A PUBLIC INSTITUTION OF
9 HIGHER EDUCATION USES AN AMERICAN INDIAN MASCOT AFTER JUNE 1,
10 2022, THE PUBLIC INSTITUTION OF HIGHER EDUCATION SHALL PAY A FINE
11 OF TWENTY-FIVE THOUSAND DOLLARS TO THE STATE TREASURER, WHO
12 SHALL CREDIT THE MONEY RECEIVED TO THE STATE EDUCATION FUND
13 CREATED IN SECTION 17 (4) OF ARTICLE IX OF THE STATE CONSTITUTION.

14 **SECTION 5. Safety clause.** The general assembly hereby finds,
15 determines, and declares that this act is necessary for the immediate
16 preservation of the public peace, health, or safety.