

First Regular Session
Seventy-third General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 21-0129.02 Jane Ritter x4342

SENATE BILL 21-116

SENATE SPONSORSHIP

Danielson,

HOUSE SPONSORSHIP

Benavidez and McLachlan,

Senate Committees

Education

House Committees

A BILL FOR AN ACT
101 **CONCERNING THE PROHIBITION OF AMERICAN INDIAN MASCOTS IN**
102 **COLORADO.**

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>.)

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.

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

22 (c) "PUBLIC SCHOOL" MEANS:

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

26 (II) AN INSTITUTE CHARTER SCHOOL THAT SERVES ANY OF GRADES
27 KINDERGARTEN THROUGH TWELVE.

1 (2) (a) EXCEPT AS PROVIDED FOR IN SUBSECTION (2)(b) OF THIS
2 SECTION, ON OR AFTER JUNE 1, 2022, A PUBLIC SCHOOL IN THE STATE IS
3 PROHIBITED FROM USING AN AMERICAN INDIAN MASCOT. ANY PUBLIC
4 SCHOOL THAT IS USING SUCH AN AMERICAN INDIAN MASCOT AS OF
5 OCTOBER 1, 2021, SHALL IMMEDIATELY CEASE USE OF SUCH AMERICAN
6 INDIAN MASCOT.

7 (b) THE PROHIBITION SET FORTH IN SUBSECTION (2)(a) OF THIS
8 SECTION DOES NOT APPLY TO:

9 (I) ANY AGREEMENT THAT EXISTS PRIOR TO JUNE 30, 2021,
10 BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC SCHOOL.
11 A PUBLIC SCHOOL THAT IS A PARTY TO SUCH AN AGREEMENT IS HELD TO
12 A HIGH STANDARD AND EXPECTED TO HONOR THE AGREEMENT. THE
13 FEDERALLY RECOGNIZED INDIAN TRIBE HAS THE RIGHT AND ABILITY TO
14 REVOKE ANY SUCH AGREEMENT AT ANY TIME AT ITS DISCRETION.

15 (II) ANY PUBLIC SCHOOL THAT IS OPERATED BY A FEDERALLY
16 RECOGNIZED INDIAN TRIBE OR WITH THE APPROVAL OF A FEDERALLY
17 RECOGNIZED INDIAN TRIBE AND EXISTING WITHIN THE BOUNDARIES OF
18 SUCH TRIBE'S RESERVATION.

19 (III) (A) THE ABILITY OF ANY FEDERALLY RECOGNIZED INDIAN
20 TRIBE TO CREATE AND MAINTAIN A RELATIONSHIP OR AGREEMENT WITH A
21 PUBLIC SCHOOL THAT FOSTERS GOODWILL, EMPHASIZES EDUCATION AND
22 SUPPORTS A CURRICULUM THAT TEACHES AMERICAN INDIAN HISTORY,
23 AND ENCOURAGES A POSITIVE CULTURAL EXCHANGE. SUCH
24 RELATIONSHIPS AND AGREEMENTS MAY INCLUDE IMPORTANT HISTORICAL
25 FIGURES, NAMES, IMAGERY, TRIBAL NAMES, AND MORE.

26 (B) ANY SUCH AGREEMENT ENTERED INTO BETWEEN A PUBLIC
27 SCHOOL AND A FEDERALLY RECOGNIZED INDIAN TRIBE AFTER JUNE 30,

1 2021, MUST BE MADE IN CONSULTATION WITH THE FEDERALLY
2 RECOGNIZED INDIAN TRIBE AND ONLY IF SUCH TRIBE WISHES TO ENTER
3 INTO THE AGREEMENT. THE AGREEMENT MAY ALLOW THE PUBLIC SCHOOL
4 TO USE AN AMERICAN INDIAN MASCOT, BUT ONLY IF THE AMERICAN
5 INDIAN MASCOT IS SPECIFICALLY NAMED AFTER THE FEDERALLY
6 RECOGNIZED INDIAN TRIBE THAT IS A PARTY TO THE AGREEMENT. IN ANY
7 SUCH AGREEMENT, THE TRIBAL NAME USED IS SELECTED AT THE
8 DISCRETION OF THE FEDERALLY RECOGNIZED INDIAN TRIBE THAT IS A
9 PARTY TO THE AGREEMENT. ANY FEDERALLY RECOGNIZED INDIAN TRIBE
10 THAT HAS ENTERED INTO SUCH AN AGREEMENT HAS THE RIGHT AND
11 ABILITY TO REVOKE ANY SUCH AGREEMENT AT ANY TIME AT ITS
12 DISCRETION.

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

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

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

1 **23-1-137. Prohibition on use of American Indian mascots -**

2 **exemptions - definitions.** (1) AS USED IN THIS SECTION, UNLESS THE
3 CONTEXT OTHERWISE REQUIRES:

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

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

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

18 (b) THE PROHIBITION SET FORTH IN SUBSECTION (2)(a) OF THIS
19 SECTION DOES NOT APPLY TO:

20 (I) ANY AGREEMENT THAT EXISTS PRIOR TO JUNE 30, 2021,
21 BETWEEN A FEDERALLY RECOGNIZED INDIAN TRIBE AND A PUBLIC
22 INSTITUTION OF HIGHER EDUCATION. A PUBLIC INSTITUTION OF HIGHER
23 EDUCATION THAT IS A PARTY TO SUCH AN AGREEMENT IS HELD TO A HIGH
24 STANDARD AND EXPECTED TO HONOR THE AGREEMENT. THE FEDERALLY
25 RECOGNIZED INDIAN TRIBE HAS THE RIGHT AND ABILITY TO REVOKE ANY
26 SUCH AGREEMENT AT ANY TIME AT ITS DISCRETION.

27 (II) ANY PUBLIC INSTITUTION OF HIGHER EDUCATION THAT IS

1 OPERATED BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR WITH THE
2 APPROVAL OF A FEDERALLY RECOGNIZED INDIAN TRIBE AND EXISTING
3 WITHIN THE BOUNDARIES OF SUCH TRIBE'S RESERVATION.

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

10 **SECTION 4. Act subject to petition - effective date.** This act
11 takes effect at 12:01 a.m. on the day following the expiration of the
12 ninety-day period after final adjournment of the general assembly; except
13 that, if a referendum petition is filed pursuant to section 1 (3) of article V
14 of the state constitution against this act or an item, section, or part of this
15 act within such period, then the act, item, section, or part will not take
16 effect unless approved by the people at the general election to be held in
17 November 2022 and, in such case, will take effect on the date of the
18 official declaration of the vote thereon by the governor.