



Winter 12-21-2023

Protecting America's Favorite Pastime: An Analysis of Match-Fixing Laws in States with Legal Sports Gambling

Alyssa Telles Wyatt

Follow this and additional works at: <https://digitalcommons.lmu.edu/llr>

Recommended Citation

Alyssa Telles Wyatt, *Protecting America's Favorite Pastime: An Analysis of Match-Fixing Laws in States with Legal Sports Gambling*, 56 Loy. L.A. L. Rev. 1431 (2023).

Available at: <https://digitalcommons.lmu.edu/llr/vol56/iss4/9>

This Notes is brought to you for free and open access by the Law Reviews at Digital Commons @ Loyola Marymount University and Loyola Law School. It has been accepted for inclusion in Loyola of Los Angeles Law Review by an authorized administrator of Digital Commons@Loyola Marymount University and Loyola Law School. For more information, please contact digitalcommons@lmu.edu.

PROTECTING AMERICA’S FAVORITE PASTIME: AN ANALYSIS OF MATCH-FIXING LAWS IN STATES WITH LEGAL SPORTS GAMBLING

*Alyssa Telles Wyatt**

In 2018, the Supreme Court overturned the longstanding prohibition against sports betting in Murphy v. NAACP. States rushed to capitalize on the new industry, with twenty-eight states currently regulating sports betting. These new laws primarily focus on licensure requirements and generally fail to protect sports’ integrity through match-fixing prohibitions. While a few federal laws regulate sports gambling, only one specifically addresses match-fixing. Against this background, this Note analyzes and compares states’ sports gambling laws against their match-fixing laws, and it proposes new legislation aimed at protecting the integrity of sports games.

* J.D. Candidate, 2023, LMU Loyola Law School. Special thanks to Professor Laurie Levenson for her invaluable insight and suggestions. Thank you to my parents Daniel and Theresa, my brother Alexander, my husband Andrew, and his family for their unwavering love and support.

INTRODUCTION

In *Murphy v. National Collegiate Athletic Association*,¹ the Supreme Court overturned the Professional and Amateur Sports Protection Act (PASPA), allowing states to freely regulate sports gambling.² In the following months, the nation debated whether federal or state regulation would better fill the gap. Ultimately, several states moved to legalize sports betting, and Congress did not pass any new legislation in this area.

Fears about preserving sports games' integrity underlie nearly all conversations about legal sports betting. Numerous scandals pre-dating PASPA show federal law does not effectively prosecute match-fixing—the intentional manipulation of an aspect of a sports game for the manipulators' financial gain.³ Congress enacted a handful of sports gambling laws in the mid-1960s to address its and the states' growing concerns with organized crime.⁴ As such, these laws regulate sports gambling—not match-fixing—across state lines, and they only apply when gamblers move between states that prohibit sports gambling.⁵ All states, even those that do not plan to legalize sports gambling, must recognize federal law's weak protections for the integrity of the game and reexamine their match-fixing laws accordingly.

As of this Note's drafting, twenty-eight states have passed laws regulating sports gambling.⁶ Many state legislatures hastily passed such laws in 2018, and their bills are almost all dominated by procedures creating new regulatory agencies, defining the scope of such agencies' duties, and establishing licensing rules.⁷ The laws generally

1. 138 S. Ct. 1461 (2018).

2. *Id.* at 1484–85.

3. See discussion *infra* Part I.

4. See discussion *infra* Section II.A.

5. See discussion *infra* Section II.A.

6. See Dan Preciado, *States Where Sports Betting Is Legal*, FORBES (Feb. 28, 2023, 12:00 PM), <https://www.forbes.com/betting/sports-betting/legal-states/> [https://perma.cc/4PKH-D2VH]. This number includes North Carolina and Washington, the legislatures of which voted to limit sports gambling to tribal casinos only. Act of July 26, 2019, ch. 163, 2019 N.C. Sess. Laws; Sports Wagering Act, ch. 127, 2020 Wash. Sess. Laws. This number does not include New Mexico, North Dakota, and Washington, where the legislatures have not legalized sports gambling, but tribal casinos accept sports bets. Dave Bonderoff, *New Mexico Sports Betting—Where You Can Bet, Current Laws, and Online Prospects 2023*, SPORTS HANDLE (Dec. 19, 2022), [https://perma.cc/UW97-5972](https://sportshandle.com/new-mexico/); CBS Sports Staff, *U.S. Sports Betting: Here's Where All 50 States Stand on Legalizing Sports Gambling, Best Site Mobile Bets*, CBS SPORTS (Feb. 22, 2023, 11:40 AM), <https://www.cbssports.com/general/news/u-s-sports-betting-heres-where-all-50-states-stand-on-legalizing-sports-gambling-strong-mobile-bets/> [https://perma.cc/9JL8-8ZEM].

7. See Act of Oct. 30, 2017, No. 42, 2017 Pa. Laws (Pennsylvania's sports gambling legislation, which conditioned its effectuation on the overturn of PASPA). West Virginia also passed its

lack any new protections for preserving the integrity of the game against match-fixing.⁸ It is critical that states address match-fixing in their sports gambling legislation and subsequent legislation. Many existing state laws are insufficient to prosecute match-fixing—they are generally under-inclusive in the types of match-fixing they criminalize, and their language differs greatly even when states criminalize the same types of crimes.⁹ These issues with state match-fixing laws are particularly concerning considering the increasing inability to prosecute interstate match-fixing schemes under federal law.

This Note argues that weak federal law and inconsistent state legislation fail to adequately protect the integrity of sports games as the public has an increasing incentive to manipulate the game for its financial gain. It focuses on four types of match-fixing: bribery, extortion, tampering, and disclosing or using nonpublic sports information to place a bet.¹⁰ It accepts the current framework in which states regulate their own gambling markets, with federal law supplementing for crimes occurring across state lines. Part I provides a background for the material covered in this Note, including a short history of sports gambling in the United States, the stakeholders' interests in protecting the integrity of the game, and a brief overview of match-fixing and gambling terminology. Part II examines existing law and private regulation and their shortcomings in light of previous match-fixing scandals. Part III discusses Congress's proposed replacement for the Professional and Amateur Sports Protection Act. Although the law never passed, it provides insight for states that wish to pass legislation addressing match-fixing. Part IV analyzes new state legislation legalizing sports gambling, and it assesses the ability to prosecute common match-fixing schemes like bribery, extortion, tampering, and the improper use of nonpublic information under that legislation. Lastly, Part V proposes a model match-fixing law to protect the public, players, and leagues from the fallout of a compromised sports competition.

sports gambling law in March 2018 with the same condition. Act of Mar. 3, 2018, ch. 101, 2018 W. Va. Acts. The Supreme Court decided *Murphy* in May 2018. *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461 (2018).

8. *E.g.*, ARIZ. REV. STAT. ANN. § 5-1315 (2021); MD. CODE ANN., STATE GOV'T § 9-1E-11(A) (West 2021); OR. REV. STAT. ANN. §§ 165.085, 165.090 (West 2022); 18 PA. CONS. STAT. § 4109 (2023).

9. *See* discussion *infra* Section II.B.

10. This Note focuses on these specific types of match-fixing as they arose in different scandals. *See* discussion *infra* Section I.A.

I. A HISTORY OF MATCH-FIXING'S ENTANGLEMENT WITH SPORTS GAMBLING

This part discusses the background against which America enacted its first match-fixing laws, the differences in the concerns around match-fixing then as opposed to now, and the match-fixing and gambling terminology used throughout this Note. Many of America's current match-fixing laws arose in response to match-fixing scandals orchestrated by organized crime, and, consequently, many of these laws do not address current match-fixing concerns. Beginning in the 1900s, America saw a series of match-fixing scandals that arose from illegal sports gambling, which detrimentally associated match-fixing, sports gambling, and organized crime in the American consciousness.¹¹ This association prompted the creation of numerous federal and state laws that primarily targeted organized crime.¹² Many still exist today and were left untouched by the new state gambling laws.¹³ As such, they do not address many of the concerns around modern match-fixing.

A. Match-Fixing in the 1900s and PASPA as the Ultimate Response

America's acceptance of sports gambling is relatively new. PASPA's passage in 1992 represented the culmination of years of moral policing and overwhelming backlash from several match-fixing scandals throughout the 1900s.¹⁴ At the nation's inception, the most prevalent forms of gambling were horse racing and state lotteries.¹⁵ By 1900, most states banned gambling in their constitutions.¹⁶ The 1919 World Series scandal, where the Chicago White Sox purposefully lost to the Cincinnati Reds, was the first event that caused Americans to connect match-fixing with organized crime.¹⁷ After eight

11. See John T. Holden & Marc Edelman, *A Short Treatise on Sports Gambling and the Law: How America Regulates Its Most Lucrative Vice*, 2020 WIS. L. REV. 907, 912, 916–17 (2020).

12. See *id.* at 916–17; *e.g.*, 18 U.S.C. § 224 (enacted in 1964); 18 U.S.C. § 1084 (enacted in 1961 and last amended in 1994); 18 U.S.C. § 1952 (enacted in 1961 and last amended in 2014); 18 U.S.C. § 1953 (enacted in 1961 and last amended in 2014); ARK. CODE ANN. § 5-66-114 (2023); CONN. GEN. STAT. §§ 53a-162, 53a-164 (West 1969); MISS. CODE ANN. § 97-29-17 (1954).

13. *E.g.*, ARK. CODE ANN. § 5-66-114 (2023); CONN. GEN. STAT. §§ 53a-162, 53a-164 (1969); MISS. CODE ANN. § 97-29-17 (1954).

14. Tyler Campman, Comment, *Addressing Match Fixing and Corruption in Collegiate Athletics in Light of NCAA v. Murphy*, 36 ARIZ. J. INT'L & COMPAR. L. 477, 481–82 (2019).

15. Holden & Edelman, *supra* note 11, at 907, 911–12; Keith C. Miller, *State Lotteries and Their Customers*, 9 UNLV GAMING L.J. 177, 177–78 (2019).

16. Holden & Edelman, *supra* note 11, at 912.

17. *Id.* at 912–13; Michael W. Klein, *Rose Is in Red, Black Sox Are Blue: A Comparison of Rose v. Giamatti and the 1921 Black Sox Trial*, 13 HASTINGS COMM'N & ENT. L.J. 551, 568–69 (1991).

White Sox players faced state criminal charges for “conspiracy to defraud individuals and institutions,” America pieced together the scandal—New York crime boss Arnold Rothstein approached members of the White Sox and offered them money to intentionally lose the World Series.¹⁸ The state needed to prove, in part, that the players fraudulently or maliciously intended to injure another person, but the prosecution’s primary pieces of evidence were the players’ acceptance of the bribe and their confessions stating they merely wanted money.¹⁹ All eight players involved were acquitted.²⁰

The next few decades saw American politics consumed with fighting organized crime’s corrupting influence.²¹ Stories such as Jack Molinas’s proved organized crime was the root of the problem. Molinas emerged as a breakout basketball star while playing in his high school league in the late 1940s.²² He enrolled at Columbia University, where he was a starting player for three years on the university’s varsity team, and by his graduation, Molinas broke the university’s major basketball records.²³ In his first year in the NBA, he was the Fort Wayne Pistons’ first draft pick, and Molinas was later selected to play in the 1954 Western Conference All-Star game.²⁴

Despite his career’s upward trajectory, Molinas never played in the All-Star game because of an accusation stemming from an earlier Pistons game against the Boston Celtics.²⁵ Despite his unrivaled talent, Molinas conspired to fix games, a practice that ultimately ended his career.²⁶ Teammates alleged the Pistons had an eleven-point lead going into halftime, but during the break, a stranger attempted to enter the Pistons’ locker room, and when blocked, he left a note for Molinas stating, “Joe sent me.”²⁷ The Pistons lost that game, and bookmakers subsequently stopped taking bets on Pistons games—a move suggesting Pistons games were “fixed.”²⁸ State authorities later connected

18. Klein, *supra* note 17, at 568, 573–74.

19. *Id.* at 579. The prosecution’s difficulty with proving its case stemmed from the inherent difficulty in proving that a player has deliberately refrained from using his or her “best efforts,” such as by giving a “weak hit” or “easy pitch.” *See id.*

20. *Id.* at 580.

21. Holden & Edelman, *supra* note 11, at 914–21.

22. Kendall Howell, *You Can Bet on It: The Legal Evolution of Sports Betting*, 11 HARV. J. SPORTS & ENT. L. 73, 89 (2020).

23. *Id.*

24. *Id.*

25. *Id.*

26. *Id.* at 88–92.

27. *Id.* at 89–90.

28. *Id.* at 90.

Molinas to a New York organized crime ring.²⁹ While in custody, Molinas admitted to betting on and “fixing” his own games to win money.³⁰ While he was not criminally charged in connection with this game, the NBA suspended him indefinitely.³¹ Molinas’s connection to professional match-fixers continued after his dismissal from the NBA, and he eventually spent five years in federal prison for manipulating college basketball games between 1957–61.³² Following his release, Molinas moved to Los Angeles and was killed by a gunshot wound to the head.³³ While the police never solved his murder, the police suspected it was linked to organized crime.³⁴

A few years later in the early- to mid-1960s, Congress passed several laws to help the federal government prosecute organized crime’s match-fixers.³⁵ These laws included the Sports Bribery Act,³⁶ the Travel Act,³⁷ the Interstate Wire Act,³⁸ and the Wagering Paraphernalia Act.³⁹ In 1992, Congress passed PASPA.⁴⁰ The law forbade the states from operating, sponsoring, or supporting any sports gambling scheme.⁴¹ It explicitly excluded its application to states that already regulated sports gambling, like Nevada.⁴² In 2018, the Supreme Court overturned PASPA, allowing the states to regulate sports gambling.⁴³

29. *Id.*

30. *Id.* Molinas was also implicated in gambling scandals while a student at Columbia. *Id.* at 89.

31. *Id.* at 90.

32. Joe Goldstein, *Explosion II: The Molinas Period*, ESPN (Nov. 19, 2003), https://www.espn.com/classic/s/basketball_scandals_molinas.html [<https://perma.cc/D7JL-HLV6>].

33. *Id.*

34. *Id.*

35. Holden & Edelman, *supra* note 11, at 916–17.

36. 18 U.S.C. § 224.

37. 18 U.S.C. § 1952.

38. 18 U.S.C. § 1084.

39. 18 U.S.C. § 1953.

40. Matthew J. Mitten, *How Is the Integrity of Sport Protected in the United States?*, 19 TEX. REV. ENT. & SPORTS L. 89, 98 (2019).

41. *Murphy v. Nat’l Collegiate Athletic Ass’n*, 138 S. Ct. 1461, 1470 (2018).

42. *Id.* at 1471. PASPA allowed states with pre-existing sports gambling regulations to continue operations. The law focused primarily on preventing other states from capturing the sports gambling market. *See id.*; Mitten, *supra* note 40, at 98–99.

43. *See Murphy*, 138 S. Ct. at 1485. *Murphy* solely dealt with sports gambling. At issue in *Murphy* was New Jersey’s attempt to legalize sports gambling ten years after Congress enacted PASPA. *Id.* at 1470–71. PASPA prohibited the states from authorizing, operating, licensing, or promoting sports gambling. *Id.* at 1470. In 2011, New Jersey amended its constitution to allow its legislature to regulate sports gambling. *Id.* at 1471. The state then repealed its prohibition against sports gambling except for collegiate sports events occurring in New Jersey and involving a New Jersey collegiate team. *Id.* at 1472. Sport leagues and the National Collegiate Athletics Association sued New Jersey for violating PASPA. *Id.* at 1471. New Jersey argued PASPA violated the anti-commandeering principle—a constitutional doctrine that prohibits the federal government from

B. Post-Murphy Concerns About Match-Fixing

Whereas the nation's historical match-fixing concerns focused on organized crime,⁴⁴ the biggest current concern is the increased opportunity for bad actors to artificially increase their profit from sports gambling by manipulating a game.⁴⁵ Unlike with gambling—which is usually considered a victimless crime, if even considered one at all—match-fixing involves culpability and deceit. It necessarily requires others to lose for the match-fixer to gain.⁴⁶ Also, as the scandals mentioned above show, match-fixing will occur regardless of whether states legalize sports gambling.⁴⁷ States must establish clear, updated, and enforceable match-fixing laws before a new match-fixing scandal arises.

Additionally, sports occupy a unique place in American life. Sports integrity advocates also focus on protecting sports' unpredictability.⁴⁸ Fans' fascination with sports stems from the unscripted use of each player's best efforts to obtain a win for their team and the virtual uncertainty about how each second of the game will unfold.⁴⁹ Each game's outcome is undetermined, no matter how many "good"

affecting or infringing on the states' legislative power. *Id.* New Jersey argued PASPA improperly regulated the states' exercise of their lawmaking power by prohibiting the states from revising or repealing their sports gambling laws. *Id.* The Supreme Court agreed, finding PASPA violated the anti-commandeering principle by "unequivocally dictat[ing] what a state legislature may and may not do." *Id.* at 1478.

44. See Campman, *supra* note 14, at 481–82.

45. Jodi S. Balsam, *Criminalizing Match-Fixing as America Legalizes Sports Gambling*, 31 MARQ. SPORTS L. REV. 1, 3–5 (2020).

46. In this way, concerns about match-fixing echo concerns about insider trading. See generally Grant Ellfeldt, *Be Honest with Me: How Federal Regulation of Sports Gambling Must Protect the Integrity of the Game*, 40 LOY. L.A. ENT. L. REV. 89, 104 (2019) (highlighting the similarities between investment contracts or securities and sports wagers). Insider trading prohibitions ensure corporate insiders entrusted with sensitive information, who owe fiduciary duties of trust and confidence to the corporation's shareholders, do not use that information for their own personal gain. See *United States v. O'Hagan*, 521 U.S. 642, 643 (1997). The Supreme Court described the basis for this sort of insider trading liability: "A fiduciary who pretends loyalty to the principal while secretly converting the principal's information for personal gain dupes or defrauds the principal. A company's confidential information qualifies as property to which the company has a right of exclusive use; the undisclosed misappropriation of such information constitutes fraud akin to embezzlement." *Id.* Similarly, sports gambling creates the potential for sport league insiders to benefit by using or divulging confidential information for personal gain.

47. Balsam, *supra* note 45, at 5.

48. Marc Edelman, *Regulating Sports Gambling in the Aftermath of Murphy v. National Collegiate Athletic Association*, 26 GEO. MASON L. REV. 313, 316, 336–37 (2018); Balsam, *supra* note 45, at 3; Steve Keating, *Match-Fixing Not Doping Poses Greatest Risk to Sport*, REUTERS (Apr. 25, 2019), <https://www.reuters.com/article/us-sport-matchfixing/match-fixing-not-doping-poses-great-risk-to-sport-idUSKCN1S12UR> [<https://perma.cc/MXR6-9MER>].

49. Balsam, *supra* note 45, at 3.

players a team drafts or how well fans know the players. Thus, the entire sports industry is built around fan expectation and engagement—broadcasts, tickets, fan experiences, and merchandise are all geared toward heightening fans' experiences and making them feel "closer" to their team.

Match-fixing ultimately undermines sports' outcome uncertainty, on which the entire sports industry is built. Its prevalence would undermine the public's confidence in sports. As a result, sports viewership and betting would likely sharply decrease. Leagues would lose ticket and merchandise revenue, and players' contract value would decrease.

C. *Gambling and Match-Fixing Terminology*

Before discussing the substance of federal and state match-fixing laws, it is important to know match-fixing and sports gambling terminology. This section seeks to clarify the terms frequently used throughout this Note.

A "straight bet" is a wager on a sports competition's outcome.⁵⁰ A bettor may place a straight bet on either the "money line" or "point spread."⁵¹ The money line refers to whether one sports team will win over the other.⁵² Point spread refers to the number of points by which a team will win over the other.⁵³ For example, a bettor may place a straight bet on the money line that the Rams will beat the Jaguars. Alternatively, a sports book may present a point spread of twelve points in the NBA game between the Los Angeles Clippers and Los Angeles Lakers, favoring the Lakers. A bettor only wins the bet if the Lakers beat the Clippers by at least thirteen points. Another common wager is referred to as "over/under" bets, in which a bettor wagers whether the combined total of both teams' points will total over or under a number specified by the sports book.⁵⁴

Straight bets are susceptible to a form of match-fixing called "point-shaving."⁵⁵ A player engaged in point-shaving intentionally

50. *Id.* at 6.

51. *Id.*

52. *Id.*

53. *Id.* at 7.

54. *Id.*

55. *See id.* at 8.

manipulates the point spread, most commonly by depressing the number of points his or her team scores.⁵⁶

Since point-shaving targets point spread, its effects do not affect the sports match's outcome,⁵⁷ rendering it difficult to detect and consequently difficult to prosecute.⁵⁸ Referees may also engage in point-shaving in sports where their decisions may directly produce scoring opportunities.⁵⁹

"Proposition bets," commonly called "prop bets," are wagers placed on any game-related event other than the outcome.⁶⁰ These bets can range from which team will score first to the color Gatorade the players will throw on their coach.⁶¹ The NFL popularized prop betting in Super Bowl XX, and prop betting grew exponentially during the COVID-19 pandemic.⁶² Prop betting's popularity and growth presents a unique area for corruption.⁶³ While there is little evidence suggesting prop bets present any significant risk of generating fraudulent conduct, there are concerns that players may "spot fix" and artificially manipulate an event at issue in a prop bet.⁶⁴ This kind of manipulation is difficult to detect because the occurrences at issue in prop bets may seem random, coincidental, or insignificant.⁶⁵ Ultimately, states have the authority to allow or prohibit certain types of wagers.⁶⁶

States enacting sports betting legislation, and even those that are not, should consider reexamining their match-fixing laws to ensure they reflect current concerns about match-fixing. As discussed above, match-fixing laws were originally enacted in response to a wave of match-fixing scandals by organized crime. In comparison, current concerns focus on protecting the sports industry and preventing

56. See Balsam, *supra* note 45, at 8 (asserting point-shaving is one of the most prevalent match-fixing schemes in the United States).

57. Jason Goldstein, *Take the Money Line: PASPA, Bureaucratic Politics, and the Integrity of the Game*, 11 VA. SPORTS & ENT. L.J. 362, 371 (2012).

58. Balsam, *supra* note 45, at 8.

59. *Id.* at 8–9.

60. See Roy Larking, *Gambling 101: What Is Proposition Betting?*, SPORTS ILLUSTRATED (June 17, 2020), <https://www.si.com/betting/2020/06/17/gambling-101-proposition-betting> [<https://perma.cc/MC32-8UCJ>].

61. *Id.*

62. *Id.*

63. Balsam, *supra* note 45, at 9.

64. *Id.*

65. *Id.*

66. For example, Arizona prohibits bettors from placing a prop bet on whether a player will suffer an injury or incur a penalty. ARIZ. REV. STAT. ANN. § 5-1315(A)–(B) (2021).

match-fixers from obtaining a potential windfall, in part because many states retain their out-of-date match-fixing statutes.

II. STATEMENT OF EXISTING LAW AND REGULATION

This section explores the legal rules and policy surrounding the sports gambling industry post-*Murphy*. Both federal and state law contain protections for the integrity of sports, but they are narrowed in scope by legislative intent. Beginning in the 1960s, the nation began passing federal and state laws seeking to rein in corruption in the sports industry.⁶⁷ On the federal side, Congress's laws primarily sought to cripple organized crime.⁶⁸ Despite its commendable intent, Congress weakened its own laws in several ways. Of the four laws still in effect, Congress expressly conditioned the application of three on whether the states at issue legalized sports gambling.⁶⁹ This exception, combined with the interpretation of the courts, has largely made these laws ineffective and niche. And while the Sports Bribery Act does not include this exception, it does not categorize acts like tampering or extortion as federal crimes.⁷⁰

In comparison, nearly every state has a sports bribery statute in effect, but only about one-third criminalize tampering with a sports match.⁷¹ Without recourse to criminal statutes, states must bring tampering cases in reliance on bribery statutes or the shaky federal framework, which may not apply if the states at issue legalized sports gambling. This suggests members of the public who tamper with or rig a sports contest are left to guess under what theory of law they will be prosecuted, if at all.

Each sports league regulates players' conduct through collective bargaining agreements that are modified and renewed periodically.

67. See 18 U.S.C. § 224 (enacted 1964) (amended 1994) (the "Sports Bribery Act"); 18 U.S.C. § 1952 (enacted 1961) (amended 2014) (the "Travel Act"); 18 U.S.C. § 1084 (enacted 1961) (amended 1994) (the "Wire Act"); 18 U.S.C. § 1953 (enacted 1961) (amended 2014) (the "Wagering Paraphernalia Act"); see also *Rewis v. United States*, 401 U.S. 808, 811 (1971) ("Legislative history of the Act is limited, but does reveal that § 1952 was aimed primarily at organized crime and, more specifically, at persons who reside in one State while operating or managing illegal activities located in another."); *Erlenbaugh v. United States*, 409 U.S. 239, 245 (1972) ("True, § 1952 and § 1953 were both parts of a comprehensive federal legislative effort to assist local authorities in dealing with organized criminal activity which, in many instances, had assumed interstate proportions and which in all cases was materially assisted in its operations by the availability of facilities of interstate commerce.").

68. See discussion *supra* Section I.A.

69. See 18 U.S.C. §§ 1084(b), 1952(b), 1953(b).

70. 18 U.S.C. § 224.

71. See discussion *infra* Part IV.

Some leagues also have collective bargaining agreements with their referees. While these agreements often contain provisions protecting the integrity of the game, they only apply to the players or referees—not the public.

A. *Federal Law*

Federal law suffers from severe gaps in sports betting legislation that increase the difficulty of prosecution. Despite having four statutes available, federal officials usually prosecute match-fixing under two statutes: (1) illegal sports bribery under 18 U.S.C. § 224; or (2) violation of the Interstate Wire Act of 1961, 18 U.S.C. § 1084.⁷² Enacted around the time states prohibited sports gambling, federal law acted as a gap-filler for crimes that reached across state lines.⁷³ Notably, three of the four applicable federal statutes condition criminality on whether the states at issue have legalized sports gambling.⁷⁴ Only one statute, the Sports Bribery Act, grants the federal government the authority to prosecute crimes related to sports gambling regardless of the state law.⁷⁵

1. “Unconditional” Criminalization of Sports Bribery Under § 224

Congress enacted the Sports Bribery Act, 18 U.S.C. § 224, in 1964 to combat the increasing number of match-fixing scandals.⁷⁶ Section 224 criminalizes “[w]hoever carries into effect, attempts to carry into effect, or conspires with any other person to carry into effect any scheme in commerce to influence, in any way, by bribery any sporting contest, with knowledge that the purpose of such scheme is to influence by bribery that contest.”⁷⁷ This broad language reflects the drafters’ intent to encompass as many sports participants as possible.⁷⁸ The statute applies to all people, regardless of their status as a player in the sports match.⁷⁹ Additionally, the statute’s attendant

72. Mitten, *supra* note 42, at 95–98.

73. *See generally* Holden & Edelman, *supra* note 11, at 916–19 (discussing how states codified gambling prohibitions in their constitutions). It is important to note that federal law, in this context, is typically implicated when an individual or entity crosses state lines.

74. *Infra* Section II.A.2.

75. *See* Balsam, *supra* note 45, at 10–12.

76. Holden & Edelman, *supra* note 11, at 917.

77. 18 U.S.C. § 224(a).

78. *See* H.R. REP. No. 88-1053, at 2250 (1963).

79. *United States v. Walsh*, 544 F.2d 156, 159 (4th Cir. 1976); *see also* H.R. REP. No. 88-1053, at 2251 (1963) (documenting the drafters’ intent to cover all people, regardless of their player or non-player status).

circumstance “to influence, in any way, by bribery” captures all ploys to influence a sports match even if the bribe does not change the game’s outcome.⁸⁰ As mentioned previously, the Sports Bribery Act is the only federal law that protects the integrity of the game without explicitly conditioning its application on whether the states have legalized sports gambling.⁸¹ But its application is limited by its federal status—it only applies to crimes that occur across state lines.

2. Statutes Conditional on States’ Legalization of Sports Gambling

Unlike its regulation of sports bribery, Congress enacted a number of statutes that criminalized gambling-related conduct *only if* the states between which the person moved prohibit sports gambling.⁸² With an increasing number of states legalizing sports gambling, the following three statutes will have diminishing application.

a. *Wire transmission of wagers under § 1084*

Federal prosecutors rely on the Interstate Wire Act (“Wire Act”), 18 U.S.C. § 1084, in situations where a tampering activity does not amount to bribery.⁸³ The Wire Act criminalizes disseminating information by wire communication, such as by telephone, to assist in sports gambling. It prohibits the following:

[A person] . . . engaged in the business of betting or wagering knowingly us[ing] a wire communication facility for the transmission in interstate or foreign commerce of bets or wagers or information assisting in the placing of bets or wagers on any sporting event or contest, or for the transmission of a wire communication which entitles the recipient to receive money or credit as a result of bets or wagers, or for information assisting in the placing of bets or wagers.⁸⁴

80. H.R. REP. No. 88-1053, at 2251 (1963).

81. See Balsam, *supra* note 45, at 11–12.

82. See 18 U.S.C. § 1084 (“Nothing in this section shall be construed to prevent the transmission in interstate or foreign commerce of information . . . from a State . . . where betting on that sporting event is legal into a state . . . in which such betting is legal.”); 18 U.S.C. § 1952 (“As used in this section (i) “unlawful activity” means (1) any business enterprise involving gambling . . . in violation of the laws of the State in which they are committed.”); 18 U.S.C. § 1953 (“This section shall not apply to . . . the transportation of betting materials to be used in the placing of bets or wagers on a sporting event into a State in which such betting is legal under the statutes of that State . . .”).

83. See John T. Holden, *Regulating Sports Wagering*, 105 IOWA L. REV. 575, 581–82 (2020).

84. 18 U.S.C. § 1084(a).

The Wire Act contains a few notable flaws. The Act explicitly limits its application to the transmission of information between states that criminalize sports gambling.⁸⁵ This means it will have decreasing applicability as states continue to legalize sports gambling. Also, the Act narrowly applies to individuals or entities “engaged in the business of betting or wagering.”⁸⁶ This language suggests congressional intent to target organized crime operations, and courts have interpreted this language narrowly.⁸⁷ For example, in *United States v. Anderson*,⁸⁸ the Seventh Circuit found a person who had connections to bookmakers⁸⁹ and casually placed bets was not “engaged in the business of betting or wagering.”⁹⁰ Defendant Stanley Anderson called a friend in Illinois seeking someone to help him bet on sports.⁹¹ Once Anderson found a bookie, he placed bets for himself and another friend, Defendant Randy Crews.⁹² Anderson, the bookie, and Crews were all later charged and convicted with gambling-related offenses, including violations of the Travel Act and the Wire Act.⁹³ The Seventh Circuit found the Wire Act targets bookmakers and similar black market gamblers who hold themselves out as capable of placing illegal wagers over the interstate telephone wire network.⁹⁴ As such, Crews was not “engaged in the business of betting or wagering,” despite agreeing to and placing several bets through Anderson, and he was acquitted of all charges.⁹⁵

85. 18 U.S.C. § 1084(b). The Wire Act reads:

Nothing in this section shall be construed to prevent . . . the transmission of information assisting in the placing of bets or wagers on a sporting event or contest from a State . . . where betting on that sporting event or contest is legal into a State or foreign country in which such betting is legal.

Id.

86. 18 U.S.C. § 1084(a).

87. *See* *United States v. Anderson*, 542 F.2d 428, 436 (7th Cir. 1976); *United States v. Baborian*, 528 F. Supp. 324, 331 (D.R.I. 1981), *rev'd sub nom.* *United States v. Southard*, 700 F.2d 1 (1st Cir. 1983).

88. 542 F.2d 428 (7th Cir. 1976)

89. The colloquial term for bookmaker is “bookie.” *Bookie*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/bookie> [<https://perma.cc/3LTE-Z6LB>].

90. *Anderson*, 542 F.2d at 436.

91. *Id.* at 430.

92. *Id.*

93. *Id.* at 435.

94. *Id.* at 436.

95. *See id.* at 435–36.

Similarly, in *United States v. Baborian*,⁹⁶ a Rhode Island district court found an individual who illegally gambles multiple times per week is not “engaged in the business of betting or wagering” as defined in the Wire Act.⁹⁷ Defendant Baborian was charged with violating the Wire Act by placing numerous calls to his bookmaker in Rhode Island from New York.⁹⁸ Federal prosecutors estimated Baborian bet on basketball, football, and baseball at least three times each week, and he spent at least \$800 in wagers each time.⁹⁹ After examining the Wire Act’s legislative history, the court concluded Congress did not intend for the statute to provide a basis under which the federal government could prosecute social bettors, regardless of the frequency or amount spent.¹⁰⁰ The court also focused on the word “business,” concluding the statute requires the hallmarks of a traditional business, like selling products or services to a third-party, and Baborian’s lone-wolf betting did not satisfy this requirement.¹⁰¹ Baborian was acquitted.¹⁰²

*b. Traveling across state lines to gamble
or mailing information interstate for gambling purposes*

The Travel Act, 18 U.S.C. § 1952, prohibits people from traveling across state lines or using a channel of interstate commerce with the intent to “distribute the proceeds of any unlawful activity; or commit any crime of violence to further any unlawful activity; or otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity.”¹⁰³ The statute includes “any business enterprise involving gambling” in its definition of “unlawful activity.”¹⁰⁴ Similar to the Wire Act, the Travel Act excepts those who travel between states that have legalized sports gambling.¹⁰⁵

96. *United States v. Baborian*, 528 F. Supp. 324 (D.R.I. 1981), *rev’d sub nom. United States v. Southard*, 700 F.2d 1 (1st Cir. 1983).

97. *Id.* at 328.

98. *Id.* at 326–27.

99. *Id.* at 326.

100. *Id.* at 329–30.

101. *Id.* at 329.

102. *Id.* at 331.

103. 18 U.S.C. § 1952(a).

104. *Id.* § 1952(b).

105. *Id.*

c. Transporting wagering paraphernalia

The Wagering Paraphernalia Act, 18 U.S.C. § 1953, prohibits a person from knowingly sending or carrying “any record, paraphernalia, ticket, certificate, bills, slip, token, paper, writing, or other device used, or to be used, or adapted, devised, or designed for use in (a) bookmaking; or (b) wagering pools with respect to a sporting event; or (c) in a numbers, policy, bolita, or similar game” in interstate or foreign commerce.¹⁰⁶ Again, the Wagering Paraphernalia Act excepts those who send or carry wagering paraphernalia between states that have legalized sports betting.¹⁰⁷

Looking at all four federal statutes, three do not apply when the criminalized action occurs between states that have legalized sports gambling. These same three statutes do not criminalize actions now associated with match-fixing, likely because they were enacted to fight organized crime. Other than the sports bribery law, none of them involve any deceitful act. As such, states now legalizing sports gambling must realize that the majority of federal sports gambling law is poorly positioned to prosecute match-fixing.

For example, notorious former NBA referee Tim Donaghy placed bets through friends on games he officiated, and he was later approached by professional gamblers who proposed that Donaghy provide them with nonpublic information for a portion of their profit.¹⁰⁸ Federal prosecutors charged Donaghy with violating the Wire Act and wire fraud.¹⁰⁹ Despite speculation that Donaghy manipulated the games on which he bet and in which he officiated, neither the prosecutor nor the NBA could find evidence to support a bribery claim.¹¹⁰ And ultimately, although he admitted to betting on games he officiated, neither the charges nor the restitution order accuse Donaghy of

106. *Id.* § 1953(a).

107. *Id.* § 1953(b)(2).

108. Howell, *supra* note 22, at 93–94. It is unclear whether Donaghy manipulated the games on which he bet. Scott Eden, *From the Archives: How Former Ref Tim Donaghy Conspired to Fix NBA Games*, ESPN (July 9, 2020), https://www.espn.com/nba/story/_/id/25980368/how-former-ref-tim-donaghy-conspired-fix-nba-games [<https://perma.cc/CX7P-EF5C>]. Although an official NBA investigation did not find any evidence Donaghy “fixed” games, multiple co-conspirators have claimed he did. *See id.*

109. Howard Beck & Michael S. Schmidt, *N.B.A. Referee Pleads Guilty to Gambling Charges*, N.Y. TIMES (Aug. 16, 2007), <https://www.nytimes.com/2007/08/16/sports/basketball/16nba.html> [<https://perma.cc/S4BL-3R69>].

110. Eden, *supra* note 108; *NBA Response to ESPN's Tim Donaghy Story*, NBA OFF. (Feb. 22, 2019), <https://official.nba.com/nba-response-espn-tim-donaghy-story/> [<https://perma.cc/Y75Y-8HL8>].

having “influenced” any game as defined in the Sports Bribery Act.¹¹¹ The NBA has since reiterated it did not find any evidence Donaghy “fixed” a game in which he officiated.¹¹² Donaghy’s case illustrates the difficulty in prosecuting match-fixing schemes under federal law.

B. State Regulation

Match-fixing law varies greatly from state to state, in terms of both the type of match-fixing criminalized and the language used to describe the criminal act. Similar to prosecutions under federal law, prosecutions under state match-fixing laws are rare.¹¹³ In 2020, forty-six states had sports bribery statutes, with ten of those states narrowly defining bribery as applying to players only.¹¹⁴ Three of the four states without a sports bribery law had a general commercial bribery law, under which these states would presumably seek to prosecute sports bribery.¹¹⁵ In comparison, only fifteen states criminalized tampering with a sports competition in any way.¹¹⁶ This means states, like the federal government, generally lack a comprehensive framework for punishing match-fixing.

For example, Colorado makes it a civil infraction to prevent a publicly exhibited contest from proceeding in accordance with its rules, if the person intended to do so and his or her conduct satisfies one of the following:

- (a) Confers or offers or agrees to confer any benefit upon, or threatens any detriment to a participant, official, or other person associated with the contest or exhibition; or
- (b) Tampers with any person, animal, or thing; or
- (c) Knowingly solicits, accepts, or agrees to accept any benefit the conferring of which is prohibited by paragraph (a)¹¹⁷

111. See *United States v. Donaghy*, 570 F. Supp. 2d 411 (E.D.N.Y. 2008), *aff’d sub nom.* *United States v. Battista*, 575 F.3d 226 (2d Cir. 2009); Balsam, *supra* note 45, at 13–14; see also H.R. REP. NO. 88-1053, at 2250–51 (1963) (reflecting the drafters’ intent for courts to interpret 18 U.S.C. § 224’s “influence” requirement broadly). The NBA has since reiterated its position there was no evidence Donaghy manipulated the games which he officiated.

112. Eden, *supra* note 108; *NBA Response to ESPN’s Tim Donaghy Story*, *supra* note 110.

113. Balsam, *supra* note 45, at 21.

114. *Id.* at 18–19.

115. *Id.* at 19.

116. *Id.* at 20.

117. COLO. REV. STAT. ANN. § 18-5-402 (2023).

Colorado's statute seems comprehensive, as it covers several common match-fixing concerns like criminal extortion, tampering, and bribery. However, it does not solve the Tim Donaghy problem—specifically, the court did not find that Donaghy tampered with any games, so even assuming Donaghy was prosecuted in Colorado, the state could not prosecute Donaghy under its tampering statute.

For those state match-fixing laws in effect, their language often varies drastically. While state laws addressing bribery are relatively the same in defining the core criminal act, they differ in the ways they describe the intent attendant circumstance. For example, Colorado's bribery statute criminalizes bribery with the "intent to influence [a player] to not give his best efforts" or "with intent to influence [a sports official] to perform his duties improperly."¹¹⁸ In comparison, Louisiana's bribery statute criminalizes bribery "with the intent to influence [a sports participant] to lose or cause to be lost, or corruptly to affect or influence the result thereof, or to limit [the participant's] or his teams or his mount or beast's margin of victory."¹¹⁹ Pennsylvania prevents bribing with the intent to prevent the competition from occurring according to its rules.¹²⁰ Colorado's "best efforts" language is not the same as Pennsylvania's "rules of the game" language—a sport's rulebook may not explicitly require the players to use their best efforts. Ultimately, state match-fixing laws fail in two key ways—they are under-inclusive in the types of match-fixing they criminalize, and their language varies greatly, making prosecution for the same crime nonuniform across the country.

C. Private Regulation: Collective Bargaining Agreements

Each sports league has its own rules governing players, employees, and officials' conduct. Unlike federal and state law, these rules do not govern the public's conduct—they only apply to those within each league. These rules are not only promulgated as office rules, but for players and referees, these rules are codified in two contracts known as the collective bargaining agreement (CBA) and the standard player's contracts. The CBA typically includes terms and conditions of employment common to all players in the league, regardless of their team. Each league has a players' union, such as the NFL Players

118. *Id.* § 18-5-403(a)–(b).

119. LA. STAT. ANN. § 14:118.1 (2014).

120. 18 PA. CONS. STAT. § 4109 (2023).

Association, that represents all players in CBA negotiations. Each league's CBA or player contract contains a section prohibiting players from wagering anything on a game in the league.¹²¹ Many leagues also include a "best efforts" provision in their CBA contractually requiring players to use their best efforts to win.¹²² This best-efforts clause prevents, in part, players from point-shaving. While league CBAs comprehensively address player match-fixing and gambling, the current federal and statutory framework is spotty, and new legislation is needed because allowing the public to manipulate sports games undermines the entire industry.

The leagues may impose similar rules on referees.¹²³ For example, the NBA Constitution prohibits "persons other than players," such as "officers, managers, coaches, and . . . all Referees," from directly or indirectly betting anything of value on any NBA game's outcome, disclosing confidential or private information to someone who intends to use the information for a wager, influencing or attempting to influence an individual to bet on any NBA game's outcome, and engaging in conduct related to betting on the outcome of any NBA game.¹²⁴

Punishment for breach of the rules can vary greatly. For instance, the NBA Constitution gives complete discretion to the Commissioner to determine the penalty after notice to the accused and a hearing.¹²⁵ On the other hand, the MLB provides a sliding scale of punishment—the Major League Rules empower the Commissioner to hand down

121. *E.g.*, 2017 NBA-NBPA COLLECTIVE BARGAINING AGREEMENT Exhibit A (Jan. 19, 2017), <https://cosmic-s3.imgix.net/3c7a0a50-8e11-11e9-875d-3d44e94ae33f-2017-NBA-NBPA-Collective-Bargaining-Agreement.pdf> [<https://perma.cc/U8MP-JWH2>] (incorporating the NBA Constitution's anti-gambling provision into the CBA); NFLPA, COLLECTIVE BARGAINING AGREEMENT app. A, at ¶ 15 (Mar. 15, 2020), <https://nflpaweb.blob.core.windows.net/website/PDFs/CBA/March-15-2020-NFL-NFLPA-Collective-Bargaining-Agreement-Final-Executed-Copy.pdf> [<https://perma.cc/8YKZ-R7CJ>] (providing the anti-gambling provision in the player's contract); MLB PLAYERS ASS'N, 2017-2021 BASIC AGREEMENT 337 (2016), https://www.mlbplayers.com/_files/ugd/b0a4c2_95883690627349e0a5203f61b93715b5.pdf [<https://perma.cc/Z6QX-79L2>] (incorporating the Major League Rules into the standard player's contract); NATIONAL HOCKEY LEAGUE, COLLECTIVE BARGAINING AGREEMENT BETWEEN NATIONAL HOCKEY LEAGUE AND NATIONAL HOCKEY LEAGUE PLAYERS' ASSOCIATION Exhibit 14 (Sept. 15, 2012) (renewed July 10, 2020), <https://www.nhlpa.com/the-pa/cba> [<https://perma.cc/ZV5R-XK8U>] (codifying the NHL's anti-gambling stance in proposed Club rules).

122. *E.g.*, NFLPA, *supra* note 121, at app. A (requiring under "Employment and Services" that the player agree to give his best efforts and loyalty to his team).

123. Referee associations tend not to publish their CBAs.

124. NBA, NATIONAL BASKETBALL ASSOCIATION CONSTITUTION AND BY-LAWS, art. 35A(g) (2018), <https://ak-static.cms.nba.com/wp-content/uploads/sites/4/2018/10/NBA-Constitution-By-Laws-October-2018.pdf> [<https://perma.cc/Y8Y9-GJBD>].

125. *Id.* art. 35A(e)–(g).

sentences ranging from one year to permanent ineligibility.¹²⁶ Naturally, these consequences only apply to players and league officials. Ultimately, CBAs create a system of intra-league regulation that seeks to protect the integrity of the game by punishing players and referees for sports gambling. But CBAs' contractual nature means they do not apply to the public.

In terms of applicability to the public, match-fixers are subject to criminal liability under state law, unless the match-fixing scheme crosses state lines. As discussed above, state match-fixing laws vary across states both in the acts criminalized and the language used to describe those acts. Additionally, if the match-fixing scheme implicates multiple states, federal law's applicability depends both on whether the states allow sports gambling, and whether the criminal act falls into one of the federal statutes. As previously discussed, only the Sports Bribery Act criminalizes typical match-fixing behavior, and the other three sports gambling statutes criminalize gambling-related behavior. States enacting sports gambling legislation must recognize the gaps in their match-fixing laws and in federal law to adequately protect the integrity of the game.

III. THE SPORTS WAGERING MARKET INTEGRITY ACT OF 2018: PASPA'S PROPOSED REPLACEMENT

After the Supreme Court invalidated PASPA in 2018, Congress and the states began working on filling its place. Within the year, seven states legalized sports gambling.¹²⁷ Almost as quickly as states began passing legislation, Senators Hatch and Schumer introduced the Sports Wagering Market Integrity Act of 2018 (SWMIA).¹²⁸ SWMIA contributed to the debate about whether the federal government or states should regulate sports gambling. While the bill did not become law, it provides insight into the legal deficiencies in match-fixing law and their proposed solution.

126. MAJOR LEAGUE BASEBALL, MAJOR LEAGUE RULES r. 21(d) (2021), <https://registration.mlbpa.org/pdf/majorleaguerules.pdf> [<https://perma.cc/3DSC-HAZC>].

127. Ryan Rodenberg, *United States of Sports Betting: An Updated Map of Where Every State Stands*, ESPN (Apr. 7, 2021), https://www.espn.com/chalk/story/_id/19740480/the-united-states-sports-betting-where-all-50-states-stand-legalization [<https://perma.cc/YT5Z-HPQR>] (identifying the states that legalized sports betting after the invalidation of PASPA as Delaware, New Jersey, Mississippi, West Virginia, New Mexico, Pennsylvania, and Rhode Island). Many of the states passed bills in 2017 that would go into effect contingent upon the Supreme Court's ruling. *Id.*

128. S. 3793, 115th Cong. (2018).

SWMIA sought to reinstate federal control over the sports gambling market.¹²⁹ In his statement introducing the bill, Senator Hatch reminded Congress of his role in drafting PASPA and the drafters' general fear that state-regulated gambling would threaten sports' integrity.¹³⁰ He urged the Senate to carefully consider the federal government's interest in preserving sports' integrity and the "appropriate level" of control leagues should have in managing wagering.¹³¹ His comments reveal a continued worry over the integrity of sports.

SWMIA purported to create a blanket prohibition on sports gambling, but it allowed states to submit an application to operate "sports wagering programs."¹³² Under this scheme, SWMIA transformed sports wagering into a tort punishable by a civil penalty of the lesser of either three times the wager amount, or \$10,000.¹³³ Additionally, SWMIA allowed the federal government to bring concurrent criminal charges, such as for violating the Wire Act or for running an illegal gambling business.¹³⁴

SWMIA also sought to close the federal loopholes in current legislation by revising the Sports Bribery Act and Wire Act.¹³⁵ SWMIA suggested revising the Sports Bribery Act to explicitly prohibit other types of corruption, such as extortion and blackmail, and it proposed adding a section criminalizing the use of nonpublic information to place wagers.¹³⁶ The new section prohibited the following:

It shall be unlawful for any person, directly or indirectly, to place or accept, attempt to place or accept, or conspire with any other person to place or accept through any scheme in commerce a sports wager if the person—

(A) is in possession of material nonpublic information relating to the sports wager or the market for the sports wager; and

(B) knows, or recklessly disregards, that—

(i) the material nonpublic information has been obtained wrongly; or

129. See 164 CONG. REC. S7930 (daily ed. Dec. 19, 2018) (statement of Sen. Orrin Hatch).

130. *Id.*

131. *Id.*

132. S. 3793, 115th Cong. §§ 101–02 (2018).

133. *Id.* § 101(d)(1).

134. *Id.* § 101(e).

135. *Id.* §§ 301–02.

136. *Id.* § 302(a).

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1451

(ii) the placement or acceptance would constitute a wrongful use of the material nonpublic information.¹³⁷

The proposed statute defined “wrongly” or “wrongful use” in part as “a breach of any fiduciary duty or any personal or other relationship of trust and confidence.”¹³⁸ The proposed statute subjected offenders to a fine or a maximum of five years’ imprisonment, or both.¹³⁹

The proposed revisions to the Sports Bribery Act almost completely deal with the previously identified weaknesses in the current federal framework.¹⁴⁰ The addition of a section criminalizing the use of nonpublic information seems to target single-actor, Donaghy-style corruption. However, the proposed addition again only criminalizes this action if effectuated within a “scheme in commerce” or across state lines.¹⁴¹ This severely limits the revised statute’s application, since it would not reach the use of nonpublic information transmitted within state lines.

SWMIA also sought to revise the Wire Act. Unlike the Sports Bribery Act revisions, SWMIA’s proposed edits to the Wire Act mostly serve to harmonize it with the proposed federal regulation.¹⁴² However, SWMIA proposed adding a section to the Wire Act authorizing a civil cause of action for the states “[i]n any case in which a [s]tate has reason to believe that an interest of the residents of the [s]tate has been or is being threatened or adversely affected by the conduct of a person that violates this section.”¹⁴³ This provision is broad—it merely requires a state resident’s interest to be threatened. Similar to its proposed revisions to the Sports Bribery Act, SWMIA seems to arise from a recognition that current federal law contains loopholes in which match-fixing may escape meaningful prosecution.

IV. ANALYSIS OF NEW STATE LAWS

This part identifies the states that recently passed sports gambling legislation and examines their match-fixing laws in the following categories: (1) bribery, (2) extortion, (3) tampering, and (4) disclosing or

137. *Id.* § 302(b)(1).

138. *Id.* § 302(b)(3)(D).

139. *Id.* § 302(b)(2).

140. *See supra* Section I.A.

141. *See* S. 3793, 115th Cong. § 302(b)(1) (2018).

142. *See id.* § 301.

143. *Id.*

using nonpublic sports information to place a bet. As discussed above, states' match-fixing laws vary greatly, and many use different language to describe the same act, leading to inconsistent results. The following analysis indicates whether each state's sports gambling bill enacted additional match-fixing laws and whether the state had any existing match-fixing laws predating the sports gambling legislation. Overall, the states' legislation overwhelmingly focuses on gambling licensing and generally fails to adequately protect against match-fixing.

Arizona

Arizona legalized sports betting in 2021 when its governor signed H.B. 2772 into law.¹⁴⁴ The only potential protection for the integrity of the game prohibits bettors from placing prop bets on categories not specifically allowed by the state's gambling department.¹⁴⁵ Interestingly, the state explicitly prohibits wagering on injuries, penalties, individual actions, and other undetermined events that are not the ultimate outcome or awards of a sports match or season.¹⁴⁶ Aside from these categories, Arizona reserves to its Department of Gaming the right to enumerate the types of prop bets that a sportsbook or casino may offer.¹⁴⁷

Arizona only had one match-fixing law prior to H.B. 2772. Arizona makes it a felony for anyone to knowingly give, promise, or offer "any benefit" to "any player . . . or any manager, coach or trainer of any team . . . or participant or prospective participant" in any professional or amateur game "with intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory or defeat."¹⁴⁸ It also makes it a felony to knowingly give, promise, or offer "any benefit" to "a referee or other official" while intending to "affect his decisions or the performance of his duties in any way."¹⁴⁹

144. Office of Governor Doug Ducey, *Governor Ducey Kicks Off Sports Betting in Arizona*, PRESCOTT ENEWS (Sept. 9, 2021, 9:05 PM), <https://prescottnews.com/index.php/2021/09/09/governor-ducey-kicks-off-sports-betting-in-arizona/> [<https://perma.cc/8HYC-FMSK>]. Arizona refers to sports gambling as "event wagering." ARIZ. REV. STAT. ANN. § 5-1301(4) (2021).

145. ARIZ. REV. STAT. ANN. § 5-1315 (2021).

146. *Id.* § 5-1315(A)(1), (2).

147. *Id.* § 5-1315(B).

148. ARIZ. REV. STAT. ANN. § 13-2309 (2023). Interestingly, this section is under Arizona's "Organized Crime, Fraud, and Terrorism" section of its criminal code, and was originally enacted in 1964—during the period when Congress and the states were targeting match-fixing and organized crime. *Id.*; see *supra* Section I.A.

149. ARIZ. REV. STAT. ANN. § 13-2309 (2023).

Arkansas

Arkansas authorized sports betting in 2018 when it voted to amend its state constitution.¹⁵⁰ The amendment authorized the state to issue sports gambling licenses to four casinos, and it allowed the public to bet on sports games at those casinos.¹⁵¹ Arkansas has two statutes addressing match-fixing that predate the amendment. One criminalizes receiving or transmitting “for the purpose of gaming” any information “relating to football, baseball, basketball, hockey, polo, tennis, horse racing, boxing, or any other sport or game.”¹⁵² With no cases interpreting this 1953 law, it is unclear how broad the statute’s effect is. It is impossible to imagine placing a wager on sports without receiving and transmitting sports gambling information. It is also unclear how—or whether—Arkansas will enforce this old law, as neither the 2018 amendment nor any proposed legislation has sought to repeal it.¹⁵³

Arkansas also has a sports bribery law. The state makes it a felony for any person to offer, promise, or give—or a sporting participant to solicit or offer—anything of value “with the purpose to influence the participant to lose or try to lose or cause to be lost or to limit the participant’s or the participant’s team’s margin of victory in a sport in which the participant is taking part or expects to take part or has any duty or connection.”¹⁵⁴

Colorado

In 2019, Colorado passed its Legalize Sports Betting with Tax Revenue for Water Projects Measure, which legalized sports betting without adding any criminal penalties to the state’s existing match-fixing prohibitions.¹⁵⁵ Prior to its legalization efforts, Colorado effectively criminalized sports bribery, extortion, and tampering.¹⁵⁶ The

150. *Arkansas Issue 4, Casinos Authorized in Crittenden, Garland, Pope, and Jefferson Counties Initiative*, BALLOTPEdia, [https://ballotpedia.org/Arkansas_Issue_4,_Casinos_Authorized_in_Crittenden,_Garland,_Pope,_and_Jefferson_Counties_Initiative_\(2018\)](https://ballotpedia.org/Arkansas_Issue_4,_Casinos_Authorized_in_Crittenden,_Garland,_Pope,_and_Jefferson_Counties_Initiative_(2018)) [https://perma.cc/DF4D-P23J]; see ARK. CONST. amend. C, §§ 1, 3.

151. ARK. CONST. amend. C, § 3.

152. ARK. CODE ANN. § 5-66-114 (2023).

153. See generally Notice of Public Hearing for December 30, 2021 for Publication of Casino Gaming Rules, 2021 Ark. Reg. Text. 606083 (Nov. 24, 2021).

154. ARK. CODE ANN. § 5-66-115 (2022).

155. Act of May 29, 2019, ch. 347, 2019 Colo. Sess. Laws.

156. COLO. REV. STAT. § 18-5-403 (2023). Strangely, this law is filed under the heading, “Bribery in sports,” and it defines “bribery in sports” as acts traditionally associated not only with bribery, but also with extortion and tampering. *Id.* § 18-5-403(b), (e).

preexisting scheme prohibits any person from giving, offering, or promising to offer “any benefit upon or threaten[] any detriment to a sports participant with intent to influence [a player] to not give his best efforts . . . or . . . a sports official with intent to influence him to perform his duties improperly.”¹⁵⁷ Likewise, it prohibits any sports participant or official from accepting any benefit “from another person upon an understanding that he will thereby be influenced not to give his best efforts . . . or . . . will perform his duties improperly.”¹⁵⁸ This language criminalizes bribery and extortion. Additionally, the law criminalizes tampering “with any sports participant, sports official, or any animal or equipment or other thing involved in the conduct or operation of a sports contest in a manner contrary to the rules and usages purporting to govern such a contest” while intending to influence a sport match’s outcome.¹⁵⁹ The narrow intent—to influence a game’s outcome—would not apply to tampering with the purpose to win a prop bet, nor would it apply to players point-shaving if it merely affects the margin of victory or defeat. Lastly, while Colorado law provides many more protections than other states, it does not prohibit the use of nonpublic sports information to place a bet.

Connecticut

Connecticut legalized sports gambling in 2021.¹⁶⁰ The new legislation included several restrictions on who could place sports wagers. For example, the law prohibits individuals from placing bets on another’s behalf.¹⁶¹ It also prohibits athletes, coaches, referees, and e-sport players from wagering on any event in which the person participates.¹⁶² It more broadly prevents athletes, coaches, referees, employees with authority or influence in a sports league, and personnel from any bargaining unit of a sports league from placing wagers on any event governed or overseen by the league.¹⁶³

157. *Id.* § 18-5-403(2)(a)–(b).

158. *Id.* § 18-5-403(c)–(d).

159. *Id.* § 18-5-403(2)(e).

160. Press Release, Off. of Governor Ned Lamont, Governor Lamont Signs Legislation Legalizing Online Gaming and Sports Wagering in Connecticut (May 27, 2021), <https://portal.ct.gov/Office-of-the-Governor/News/Press-Releases/2021/05-2021/Governor-Lamont-Signs-Legislation-Legalizing-Online-Gaming-and-Sports-Wagering-in-Connecticut> [https://perma.cc/W7LH-DS78]. The bill number is H.B. 6451, 2021 Leg., Reg. Sess. (Conn. 2021).

161. CONN. GEN. STAT. § 12-864(c) (2021).

162. *Id.* § 12-864(a)(1).

163. *Id.* § 12-864(a)(2).

Connecticut also has a law predating its sports gambling legalization law that makes “rigging” a sports game a felony.¹⁶⁴ Although common usage suggests “rigging” refers to conduct similar to “tampering,” Connecticut’s anti-rigging law also includes conduct typical to criminal bribery, blackmail, and extortion.¹⁶⁵ Similarly, it criminalizes as a misdemeanor knowingly participating in a rigged sports contest as a participant, sponsor, producer, or judge.¹⁶⁶

Delaware

Delaware was one of the few states that allowed legal sports gambling prior to *Murphy*.¹⁶⁷ As such, it did not enact any new laws, opting instead to train lottery and casino staff to offer sports betting.¹⁶⁸

Illinois

Illinois legalized sports gambling in 2019.¹⁶⁹ In so doing, the Illinois legislature sought to prioritize public safety for the “leagues, teams, players, and fans.”¹⁷⁰ Despite this express purpose, the new law does not add additional penalties for match-fixing, and it does not disturb the state’s preexisting sports bribery law. Illinois makes it a felony to offer, promise, or give any participant or official in a sporting event—or to accept as a participant or official—anything of value

164. CONN. GEN. STAT. § 53a-162 (1969) (“A person is guilty of rigging if, with intent to prevent a publicly exhibited sporting or other contest from being conducted in accordance with the rules and usages purporting to govern it, he: (1) Confers or offers or agrees to confer any benefit upon, or threatens any injury to, a participant, official or other person associated with the contest or exhibition; or (2) tampers with any person, animal or thing.”).

165. *Id.*

166. *Id.* § 53a-164.

167. See Rick Maese, *Delaware Is the First New State to Bet on Sports Gambling, But It Might Not Pay Off*, WASH. POST (June 5, 2018, 4:21 PM), <https://www.washingtonpost.com/news/sports/wp/2018/06/05/delaware-first-to-bet-on-sports-gambling-but-it-might-not-pay-off/> [https://perma.cc/Z8JL-FNGS].

168. *Delaware Moving Forward to Implement Full-Scale Sports Gaming*, DELAWARE.GOV (May 17, 2018), <https://news.delaware.gov/2018/05/17/delaware-moving-forward-implement-full-scale-sports-gaming/> [https://perma.cc/2UYQ-VH8B]; see also DEL. CODE ANN. tit. 29 § 4825 (2012) (authorizing the Director of the State Lottery Office to create a sports lottery); DEL. CODE ANN. tit. 29 § 4803(x) (2019) (defining “sports lottery” as a “lottery” where a professional or out-of-state collegiate sporting event’s outcome determines the winners).

169. See 35 ILL. COMP. STAT. 185 (2019). The bill number is S.B. 690. *Id.*

170. *Id.* at § 25-5; 230 ILL. COMP. STAT. ANN. 45 § 25-5 (West 2019). Interestingly, the legislature seeks to “forbid all persons associated with the sporting contests from engaging in violent behavior.” *Id.* This intent seems specific, but it is unclear to what the legislature refers.

while intending to influence the person not to use their best efforts.¹⁷¹ Illinois makes it a misdemeanor to fail to report such a bribe.¹⁷²

Indiana

Indiana authorized sports betting in 2019.¹⁷³ Further, the state prohibits certificate holders from accepting bets from any of the following: (1) partnerships, corporations, associations, or other non-human entities; (2) a licensed sports wagering service operator, or any of their directors, officers, employees, or relatives living in the same household; (3) an employee of the sports league whose event is occurring, including game officials, coaches, managers, athletes employed by or under contract with the sports league, and their relatives; (4) employees of the union representing the athletes or game officials and their relatives; and (5) any person convicted of a crime relating to sports betting.¹⁷⁴ In so doing, the state places the responsibility on certificate holders to regulate bettors.

Indiana's 2019 law did not revise or add to any of the state's preexisting match-fixing laws.¹⁷⁵ The state already had a bribery law criminalizing offering, giving, or agreeing to give property to a participant or officiant related to an athletic contest or sporting event—or receiving such property as a participant or officiant—with the intent the participant or officiant would “fail to use the person's best efforts.”¹⁷⁶ While Indiana's 2019 law added a section requiring sports gambling operators to maintain sports leagues' confidential information, the state did not enact a parallel law criminalizing the dissemination of confidential information.¹⁷⁷

Iowa

Iowa approved sports gambling in 2019.¹⁷⁸ The new law makes it a felony for a person to “cheat[] at a gambling game, including . . . cheat[ing] at sports wagering.”¹⁷⁹ Existing Iowa law criminalized

171. 720 ILL. COMP. STAT. 5 § 29-1 to -2 (2012).

172. 720 ILL. COMP. STAT. 5 § 29-3 (2012).

173. See Act of May 14, 2019, No. 293, 2019 Ind. Acts 4168.

174. IND. CODE § 4-38-9-3 (2019).

175. See Act of May 14, 2019, No. 293, 2019 Ind. Acts 4168.

176. IND. CODE § 35-44.1-1-2(a)(5) (2020).

177. See IND. CODE § 4-38-9-2 (2019).

178. Act of May 13, 2019, ch. 132, 2019 Iowa Acts.

179. *Id.*

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1457

instructing another person to cheat in violation of the section.¹⁸⁰ Iowa law defines “cheat” as “alter[ing] the selection of criteria which determine the result of a gambling game or the amount or frequency of payment in a gambling game.”¹⁸¹ Interestingly, the law excludes sports wagering from its definition of “gambling game,” effectively rendering “cheat” statutorily undefined in this context and up to the interpretation of the courts.¹⁸²

Louisiana

Louisiana passed its sports gambling bill in 2021.¹⁸³ Louisiana restricts gambling operators from knowingly accepting a bet from an athlete, coach, referee, or other staff affiliated with an athlete or team that is participating in the sports event on which the person seeks to wager; and knowingly accepting a bet from a director, officer, or owner of the gambling operator and their relatives and people living in the same household.¹⁸⁴

Further, Louisiana prohibits its gambling operators from allowing bettors to wager on:

- (1) Any sport or athletic event not authorized by law[;]
- (2) Any sport or athletic event which the operator knows or reasonably should know is being placed by or on behalf of an official, owner, coach, or staff of a participant or team that participates in that event[;]
- (3) A single act in a team event solely in the control of one participant acting independently[; and]
- (4) The occurrence of injuries or penalties, or the outcome of an athlete’s disciplinary rulings, or replay reviews.¹⁸⁵

As such, Louisiana partially relies on sports betting operators to protect the integrity of the game.

The new legislation leaves Louisiana’s anti-bribery and anti-corruption laws untouched. Louisiana’s sports bribery law makes it a felony for a person to offer, give, promise, or accept anything of present or future value “with the intent to influence [a sports participant] to

180. IOWA CODE § 99F.15(4)(f) (2014).

181. *Id.* § 99.F.1(4).

182. *Id.*

183. *See* Act of July 1, 2021, No. 440, 2021 La. Acts. The bill number is S.B. 247. *Id.*

184. LA. STAT. ANN. § 47:9099(B) (2021).

185. *Id.* § 47:9099(C).

lose or cause to be lost, or corruptly to affect or influence the result thereof, or to limit [the participant's] or his teams or his mount or beast's margin of victory."¹⁸⁶ Similarly, Louisiana's anti-corruption law prohibits any person from corruptly giving, offering, or promising any participant—and any participant from soliciting or accepting—"any gift or gratuity" to "any participant in any contest of skill, speed, strength, or endurance" while intending to "influence the participant to refrain from exerting his full degree of skill, speed, strength, or endurance in the contest."¹⁸⁷ Likewise, no person may corruptly give, offer, or promise to any "umpire, referee, judge or any official"—and any such person may not solicit or accept—a gift or beneficial act "with the intention or understanding that the person will corruptly or dishonestly umpire, referee, judge, or officiate so as to affect or influence the result thereof."¹⁸⁸

Maryland

Maryland voters approved sports betting in November 2020, with the bill going into effect in 2021.¹⁸⁹ The new law prevents any person from wagering when the person:

- (3) is an athlete, a coach, a referee, or a director or an employee of a sports governing entity or any of its member teams;
- (4) is the direct or indirect legal or beneficial owner of 10% or more of a sports governing entity or any of its member teams if any member team of that sports governing entity participates in the sporting event;
- (5) has access to certain types of exclusive information on any sporting event overseen by that individual's sports governing entity;
- (6) holds a position of authority or influence sufficient to exert influence over the participants in a sporting event, including coaches, managers, handlers, or athletic trainers;

186. LA. STAT. ANN. § 14:118.1 (2014).

187. *See* LA. STAT. ANN. § 4:9 (2011).

188. *Id.*

189. *See* Pat Evans, *Maryland Sports Betting Bill Passes Months After Voters Back Wagering*, LEGAL SPORTS REP. (Apr. 12, 2021) <https://www.legalsportsreport.com/50300/house-senate-pass-maryland-sports-betting/> [<https://perma.cc/SUS6-Q6LR>]; *see also* Act of May 18, 2021, ch. 356, 2021 Md. Laws. The bill number is H.B. 940. *Id.*

- (7) is identified on a mandatory or voluntary sports wagering exclusion list maintained by the Commission;
- (8) is the operator, director, officer, owner, or employee of the sports wagering licensee or online sports wagering operator or any relative of the licensee or operator living in the same household as the licensee or operator;
- (9) has access to nonpublic confidential information held by the sports wagering licensee or online sports wagering operator; or
- (10) is a category of individuals prohibited by the Commission under subsection (e) of this section from wagering on a sporting event.¹⁹⁰

The 2021 law does not establish any new criminal penalties for those who seek to undermine the integrity of a sports match. However, Maryland does have an anti-bribery law that makes it a misdemeanor for anyone to bribe or attempt to bribe any person participating in or connected with an athletic contest.¹⁹¹

Michigan

Michigan voters approved the state's sports wagering bill in 2019.¹⁹² In drafting the bill, the legislature sought to promote the state and citizens' best interests in creating a "secure, responsible, fair, and legal system" for sports betting.¹⁹³

The new law makes it a felony for an unlicensed person to offer internet sports betting.¹⁹⁴ It also imposes one of the most comprehensively worded match-fixing laws of all the states.¹⁹⁵ Michigan now

190. MD. CODE ANN., STATE GOV'T § 9-1E-11(a) (West 2021).

191. MD. CODE ANN., CRIM. LAW § 9-204 (LexisNexis 2002).

192. Lawful Sports Betting Act, No. 149, 2019 Mich. Pub. Acts. The bill number is H.B. 4916.
Id.

193. *Id.* at § 2(d).

194. MICH. COMP. LAWS § 432.413(1)(a), (2) (2019).

195. *Id.* § 432.413(1)(e), (g)–(i). The statute addresses match-fixing with the following language:

- (1) A person shall not do any of the following:

-
- (e) Knowingly, with the intent to cheat, alter, tamper with, or manipulate any game, platform, equipment, software, hardware, devices, or supplies used to conduct internet sports betting, in order to alter the odds or the payout, or to disable the game, platform, equipment, software, hardware, devices, or supplies from operating in the manner authorized by the board, or knowingly, with the intent to cheat, offer or allow to be offered, with the intent to cheat, any game, platform, equipment,

makes it a misdemeanor to bribe with the intent to influence the outcome of a sports match; tamper or “manipulate” a sports game with the intent to cheat; seek to or actually collect anything of value from a betting operator with the intent to defraud; or place, increase, or decrease a bet based on acquired knowledge not available to the general public or all players.¹⁹⁶

Mississippi

When PAPSA was overturned, sports betting became legal in Mississippi due to the Fantasy Contest Act.¹⁹⁷ Focusing primarily on cleaning up the state’s fantasy league rules, the Act sneakily deleted key language prohibiting sports betting from the state’s code.¹⁹⁸

software, hardware, devices, or supplies that have been altered, tampered with, or manipulated in such a manner.

....

(g) Claim, collect, or take, or attempt to claim, collect, or take, money or anything of value from an internet sports betting operator with the intent to defraud, or to claim, collect, or take an amount greater than the amount won.

(h) Offer, promise, or give anything of value to a person for the purpose of influencing the outcome of a sporting or athletic event, contest, or game on which an internet sports betting wager may be made, or place, increase, or decrease an internet sports betting wager after acquiring knowledge, not available to the general public, that anyone has been offered, promised, or given anything of value for the purpose of influencing the outcome of the sporting or athletic event on which the internet sports betting wager is placed, increased, or decreased.

(i) Place, increase, or decrease an internet sports betting wager or determine the course of play after acquiring knowledge, not available to all players, of the outcome of the athletic event or any event that affects the outcome of the athletic event or that is the subject of the internet sports bet or aid a person in acquiring the knowledge described in this subdivision for the purpose of placing, increasing, or decreasing an internet sports betting wager or determining the course of play contingent on that event or outcome.

Id.

196. *Id.*

197. Adam Ganucheau, *Lawmakers Didn’t Think Law Would Legalize Sports Betting*, MISS. TODAY (July 14, 2017), <https://mississippitoday.org/2017/07/14/lawmakers-didnt-think-law-would-legalize-sports-betting/> [<https://perma.cc/UE4P-HGNM>].

198. *Id.*; see Fantasy Contest Act, ch. 336, § 11, 2017 Miss. Laws; Mississippi Budget Transparency and Simplification Act of 2016, ch. 459, § 5, 2016 Miss. Laws; compare MISS. CODE ANN. § 75-76-33(3) (2017), with MISS. CODE ANN. § 75-76-33(3)(a) (2016) (amended 2017). The 2016 version of the Mississippi Code section 75-76-33 subsection (3)(a) prohibited a gambling licensee from accepting wagers on any athletic event’s outcome or “matter to be determined during an athletic event.” MISS. CODE ANN. § 75-76-33(3)(a) (2016) (amended 2017); Mississippi Budget Transparency and Simplification Act of 2016, ch. 459, § 5, 2016 Miss. Laws. The 2017 Fantasy Contest Act eliminated this language. See MISS. CODE ANN. § 75-76-33(3) (2017); Fantasy Contest Act, ch. 336, § 11, 2017 Miss. Laws. The Fantasy Contest Act’s bill number is H.B. 967. *Id.*

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1461

Allegedly many members of the legislature did not realize the Act's effect on sports gambling until after it passed.¹⁹⁹

The new law did not establish any additional match-fixing laws. But Mississippi has a preexisting sports bribery law that makes it a felony for anyone to offer and for any participant to accept anything of value “with the intent to influence such participant to lose or try to lose or cause to be lost or to limit his or his team’s margin of victory.”²⁰⁰ The state also makes it a crime to rely on nonpublic information to place a wager:

It is unlawful for any person:

.....

(b) To place, increase or decrease a bet or to determine the course of play after acquiring knowledge, not available to all players, of the outcome of the game or any event that affects the outcome of the game or that is the subject of the bet or to aid anyone in acquiring such knowledge for the purpose of placing, increasing or decreasing a bet or determining the course of play contingent upon that event or outcome.

.....

(e) To place or increase a bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including past-posting and pressing bets.

(f) To reduce the amount wagered or cancel the bet after acquiring knowledge of the outcome of the game or other event that is the subject of the bet, including pinching bets.²⁰¹

In this way, Mississippi criminalizes both sports bribery and the use of nonpublic information to place a sports bet.

199. Ganucheau, *supra* note 197; Geoff Pender, *Mississippi Expected to Have Sports Betting as Early as June After High Court Ruling*, CLARION LEDGER (May 14, 2018, 9:33 AM), <https://www.clarionledger.com/story/news/politics/2018/05/14/court-allows-sports-betting-mississippi-ready-roll/607123002/> [<https://perma.cc/B865-W4WD>]. Since then, the state has introduced a handful of bills aimed at legalizing online sports betting, most of which have failed. See John Brennan, *Bill in Mississippi Legislature Would Allow Mobile Sports Wagering*, SPORTS HANDLE (Jan. 4, 2022), <https://sportshandle.com/mississippi-bill-allow-mobile-sports-wagers/> [<https://perma.cc/RQY2-KS8Q>].

200. MISS. CODE ANN. § 97-29-17 (1954).

201. MISS. CODE ANN. § 75-76-301(b), (e)–(f) (West 2022).

Montana

Montana legalized sports betting in 2021.²⁰² The new legislation did not add any protections for the integrity of the game, but Montana already had a statute potentially addressing match-fixing.²⁰³ Montana's sports bribery law prohibits a person from intentionally or knowingly offering, giving or promising—or soliciting or accepting—“any pecuniary benefit” in exchange for either “the recipient’s failure to use the recipient’s best efforts . . . or . . . any benefit as consideration for a violation of a known duty as a person participating in, officiating, or connected with any professional or amateur athletic contest, sporting event, or exhibition.”²⁰⁴

Additionally, Montana criminalizes obtaining anything of value from “an activity involving gambling” by misrepresentation or fraud.²⁰⁵ While there are no judicial decisions interpreting this statute, it seems questionable whether a court would find this statute prohibits tampering.

New Hampshire

New Hampshire passed a bill establishing its sports gambling framework in 2019.²⁰⁶ The new law does not add any new criminal penalties. Rather, it contains a section titled “Maintaining Sports Integrity” that allows the state’s new gambling commission to share information with “national and international monitoring services” and sports leagues to protect a match’s integrity.²⁰⁷

New Hampshire had two preexisting match-fixing laws addressing sports bribery, extortion, and tampering. Its sports bribery law creates felony liability for any person who “confers or offers or agrees to confer any benefit upon or threatens injury to such participant or prospective participant . . . or . . . knowingly solicits, accepts or agrees to accept any benefit” with the intent to influence a participant to not give his or her best efforts or an official to improperly execute his or her duties.²⁰⁸ As such, the law prohibits bribing and extorting sports

202. Legalizing Multiple Competitor Sports Pools Act, ch. 438, 2021 Mont. Laws. Montana refers to sports gambling as a “sports pool.” MONT. CODE ANN. § 23-5-501(2) (2021).

203. See MONT. CODE ANN. § 23-5-110(1)(a)–(d) (2021).

204. *Id.* § 45-8-214(1)(a)–(b).

205. *Id.* § 23-5-156.

206. Act of July 12, 2019, ch. 215, 2019 N.H. Laws 257. The bill number is H.B. 480. *Id.*

207. N.H. REV. STAT. ANN. § 287-I:13 (2023).

208. *Id.* § 638:8(1)(a), (b), (d).

participants and officials. The state also makes it a felony to tamper with “any person, animal or thing contrary to the rules and usages purporting to govern such a contest.”²⁰⁹

New Jersey

New Jersey quickly passed its sports gambling legislation after *Murphy*.²¹⁰ The new law added a single new offense prohibiting anyone affiliated with a sports match or league from owning an interest in a sports wagering operation.²¹¹ It does not appear that New Jersey has any other laws explicitly addressing match-fixing in sports. As such, prosecutors would likely attempt to prosecute intrastate match-fixing by applying general conspiracy, extortion, and bribery laws.

New York

In 2013, New York passed a law allowing sports wagering contingent upon a change in federal law.²¹² When the Supreme Court overturned PASPA, the state legislature amended the law in 2020 to remove the contingency language and add minor revisions.²¹³ In 2021, the legislature comprehensively revised the statute, including delineating the types of sporting events on which the public could bet and adding civil penalties for unlicensed or illegal sports betting operators.²¹⁴

While the new law did not establish any additional criminal penalties, New York already had two laws regarding sports bribery and tampering. Its sports gambling law makes it a felony to offer, accept, or agree to accept any benefit in exchange for a participant to not use his best efforts or for a sports official to improperly perform his duties.²¹⁵ New York also makes it a misdemeanor for a person to tamper

209. *Id.* § 638:8(1)(c).

210. Act of June 11, 2018, ch. 33, 2018 N.J. Laws. 235. The New Jersey legislature passed Assembly Bill 4111 in June 2018. *Id.* In comparison, the Supreme Court decided *Murphy* in May 2018. *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1461 (2018).

211. Act of June 11, 2018, ch. 33, 2018 N.J. Laws. 235.

212. See N.Y. RAC. PARI-MUT. WAG. & BREED. LAW § 1367 (Consol. 2014); see also Act of Mar. 31, 2014, ch. 59, § 3, 2014 N.Y. Sess. Laws 290 (McKinney) (“[S]ection 1367 of the racing, pari-mutuel wagering and breeding law, as added by section two of this act, shall take effect upon a change in federal law authorizing the activity permitted by such section or upon a ruling by a court of competent jurisdiction that such activity is lawful.”).

213. N.Y. RAC. PARI-MUT. WAG. & BREED. LAW § 1367 (McKinney 2020) (amended 2021); Act of Jan. 22, 2020, ch. 59, 2020 N.Y. Laws.

214. N.Y. RAC. PARI-MUT. WAG. & BREED. § 1367 (McKinney 2020) (amended 2021); Act of Jan. 20, 2021, ch. 49, 2021 N.Y. Laws.

215. N.Y. PENAL LAW §§ 180.40, 180.45 (1965).

with any participant, official, animal, equipment, or other thing involved in a sports contest's conduct or operation "in a manner contrary to the rules and usages purporting to govern such a contest."²¹⁶

Nevada

Before the Supreme Court struck down PASPA, Nevada was one of the only states to allow sports betting.²¹⁷ As such, it did not enact a new sports gambling law post-*Murphy*.

Oregon

Oregon's legislature added sports betting to the state's sports lottery in 2019.²¹⁸ In doing so, the state subjected sports betting to the state's existing lottery rules without creating any additional laws. Under preexisting law, the state makes it a felony: (1) for a person to offer, give, or agree to give any benefit to a sports participant for the purpose of influencing them to refrain from using their best efforts; (2) to offer, give, or agree to give any benefit to a sports official for the purpose of influencing them to improperly execute their duties; or (3) to solicit, accept, or agree to accept any of the above as a participant or sports official.²¹⁹

Pennsylvania

Pennsylvania passed legislation authorizing sports gambling in 2017, conditioning the law's effectuation on the Supreme Court striking down PASPA.²²⁰ While the new law primarily added offenses relating to improper licensure, Pennsylvania had an existing law criminalizing bribery, extortion, and tampering with any "publicly exhibited contest."²²¹ Specifically, the law prevents bribing or threatening injury to a participant, official, or affiliate of a sports competition with the intent to prevent the competition from occurring according to its rules.²²² The law also criminalizes knowingly participating in a rigged public contest, including sponsoring, producing, or judging

216. *Id.* § 180.50.

217. *See* *Murphy v. Nat'l Collegiate Athletic Ass'n*, 138 S. Ct. 1461, 1471 (2018).

218. Act of June 11, 2019, ch. 355, 2019 Or. Laws. The bill directs betting proceeds to a public officer and employee retirement fund. *Id.* § 44.

219. OR. REV. STAT. §§ 165.085, 165.090 (West 2022).

220. Act of Oct. 30, 2017, No. 42, 2017 Pa. Laws. The bill number is H.B. 271. *Id.*

221. 18 PA. CONS. STAT. ANN. § 4109 (2023).

222. *Id.* § 4109(a)(1).

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1465

the contest.²²³ It also prohibits tampering with any person, animal, or thing with the same specific intent as above.²²⁴ It does not appear that Pennsylvania has a statute criminalizing the dissemination or use of nonpublic information to place a sports wager.

Rhode Island

Rhode Island “legalized” sports betting in 2018 when the governor included the issue in the state’s prospective 2019 budget.²²⁵ In 2019, the state legislature passed a law allowing patrons to gamble online, representing the state’s first affirmative step authorizing sports gambling.²²⁶ The 2019 bill did not include any new gambling-related offenses, but Rhode Island had existing laws prohibiting corruption in sports.

Specifically, Rhode Island prohibits “corrupt[ing] or attempt[ing] to corrupt a player, coach, manager . . . or other person” who plays or participates in a sports game.²²⁷ Courts have interpreted the broad term “corrupts” to include tampering with horses in a horse race.²²⁸ This interpretation, in addition to the lack of a specific intent for this act, suggests the state could use the code section to prosecute any other tampering crime as long as the act involves a participant.²²⁹ For example, in *State v. Ciulla*,²³⁰ the trial court convicted five defendants who rigged a horse race by hiring a “specialist” to tranquilize certain horses set to race.²³¹ The defendants paid each horse attendant \$200 in exchange for allowing the specialist to tranquilize the horses.²³² The defendants’ conduct directly involved race participants, so the statute applied to their conduct. In comparison, it is not clear whether the state could prosecute the defendants if the specialist snuck into the barns

223. *Id.* § 4109(b).

224. *Id.* § 4109(a)(2).

225. STATE OF R.I. & PROVIDENCE PLANTATIONS, EXECUTIVE SUMMARY, FISCAL YEAR 2019 25 (2019), http://omb.ri.gov/documents/Prior%20Year%20Budgets/Operating%20Budget%202019/ExecutiveSummary/0_%20Complete%20FY%202019%20Executive%20Summary.pdf [<https://perma.cc/8BMS-V9H8>]; see also Press Release, Off. of the Governor, Raimondo Signs Budget: Touts Investments in Education, Jobs, Opportunity (June 22, 2018), <https://www.ri.gov/press/view/33532> [<https://perma.cc/3KRJ-TNP7>].

226. Act of Mar. 25, 2019, ch. 7, § 42-61.2-1, 2019 R.I. Pub. Laws.

227. 11 R.I. GEN. LAWS § 11-7-9 (2021).

228. *State v. Ciulla*, 351 A.2d 580, 582 (R.I. 1976).

229. See 11 R.I. GEN. LAWS § 11-7-9 (2021).

230. 351 A.2d 580 (R.I. 1976).

231. *Id.* at 582.

232. *Id.* at 583.

and tranquilized the horses without involving the trainers.²³³ Rhode Island also specifically criminalizes bribery—giving anything of value to a player or official with the intent to influence that person’s conduct—and accepting bribes.²³⁴

Additionally, Rhode Island seeks to prevent the social acceptance of match-fixing. It subjects anyone who “knows or has reason to know” about a sports player or official’s corruption to a misdemeanor charge.²³⁵ The language about one who “has reason to know” seems to target willful blindness, where an individual purposefully avoids situations that would confirm a fact.²³⁶

South Dakota

In 2020, South Dakotans amended the state’s constitution to allow the state legislature to make laws approving sports betting.²³⁷ The state legislature then enacted S.B. 44 in 2021.²³⁸ S.B. 44 authorized sports gambling only in the City of Deadwood.²³⁹ The law forbids licensed betting operators from accepting bets from an athlete, “[a]ny person who holds a position of authority or influence sufficient to exert influence over the outcome of the sporting event on which the bet is placed,” a licensed betting operator’s employee, any person purporting to place or redeem a bet on another’s behalf, and any person using false identification to place or redeem a bet.²⁴⁰ The state makes it a felony for any of these people to place such a bet.²⁴¹ These new prohibitions are the only regulations South Dakota has set in place to address match-fixing.

233. Neither the statute nor case law defines the act of corruption. *See* 11 R.I. GEN. LAWS § 11-7-9 (2021).

234. 11 R.I. GEN. LAWS § 11-7-10 (2022).

235. 11 R.I. GEN. LAWS § 11-7-12 (2021).

236. *See generally* MODEL PENAL CODE § 2.02(7) (AM. L. INST., Proposed Official Draft 1962) (stating that knowledge of the existence of a particular fact is established if a person is aware of a high probability of its existence).

237. S. Res. 501, 95th Leg., Reg. Sess. (S.D. 2021) (approved by voters as Amendment B); *South Dakota Constitutional Amendment B*, BALLOTPEDIA, [https://ballotpedia.org/South_Dakota_Constitutional_Amendment_B_Deadwood_Sports_Betting_Legalization_Amendment_\(2020\)](https://ballotpedia.org/South_Dakota_Constitutional_Amendment_B_Deadwood_Sports_Betting_Legalization_Amendment_(2020)) [<https://perma.cc/WGB8-5Y5X>].

238. Act of Mar. 18, 2021, ch. 189, 2021 S.D. Sess. Laws.

239. *Id.*

240. *Id.*; S.D. CODIFIED LAWS § 42-7B-83 (2023).

241. S.D. CODIFIED LAWS § 42-7B-83 (2023).

Tennessee

Tennessee's legislature legalized sports betting in 2012 by passing the Tennessee Sports Gaming Act.²⁴² While the Act's text overwhelmingly focuses on creating regulatory bodies and establishing licensure procedures, the Act includes a few key provisions to prevent those connected to sports from gambling.²⁴³ The Act expressly prohibits from gambling certain people affiliated with the state's gambling council, betting operators' management, and their contractors, subcontractors, officers, and employees.²⁴⁴ It also prohibits sports participants, owners, employees, umpires, union personnel, referees, coaches, and other sports officials from betting on a game overseen by the person's "sports governing body."²⁴⁵ It also prohibits from gambling any person with the ability to directly affect a match's outcome.²⁴⁶

Lastly, the statute has two sections seemingly aimed at preventing a bettor from using confidential information to place a bet. The Act targets those "with access to information known exclusively to a person who is prohibited from playing a wager in this state under this section," which includes everyone mentioned above.²⁴⁷ Additionally, the state prohibits students and college employees from placing wagers on collegiate events if the person has access to nonpublic information about a collegiate athlete or team, and the nonpublic information is relevant to the match's outcome.²⁴⁸

While the new law limits who may bet, it does not criminalize any additional types of match-fixing. Tennessee law already prohibited anyone from giving, offering, or promising any benefit to a sports participant to influence the participant not to use his or her best efforts or to a sports official in exchange "for an agreement from the official to perform the official's duties improperly."²⁴⁹ Likewise, it prohibits

242. Tennessee Sports Gaming Act, ch. 507, 2019 Tenn. Pub. Acts. Tennessee later amended its sports gambling laws in 2021. Act of June 2, 2021, ch. 593, 2021 Tenn. Pub. Acts.

243. See Tennessee Sports Gaming Act, ch. 507, §§ 4-51-311 to -312, 2019 Tenn. Pub. Acts.

244. TENN. CODE ANN. § 4-49-112(a)(1)–(5) (West 2022). All violations of section 4-49-112 are misdemeanors. *Id.* § 4-49-112(d).

245. *Id.* § 4-49-112(a)(7)–(9). Interestingly, the statute also makes it a misdemeanor to place a sports wager when the bettor's sports governing body prohibits the wager. *Id.* § 4-49-112(12).

246. *Id.* § 4-49-112(a)(14).

247. *Id.* § 4-49-112(a)(6).

248. *Id.* § 4-49-112(a)(13).

249. TENN. CODE ANN. § 39-17-1103(a)(1)–(2) (1989).

sports participants and officials from soliciting or accepting such bribes.²⁵⁰

Virginia

Virginia legalized sports betting in 2020.²⁵¹ The new law also prohibits certain people from betting.²⁵² Specifically, it is a misdemeanor for the following people to bet on sports: the Virginia Lottery's Director and any Board member, officer, or employee; any licensed gambling operator and their directors, officers, owners, employees, and any relative living in the same household as any of the preceding people; and any officer or employee working with the Virginia Lottery pursuant to a contract.²⁵³

These new restrictions add to Virginia's existing penal code that prohibits sports bribery. Specifically, the state makes it a felony for anyone to offer "any valuable thing" to a sports participant or prospective participant "with [the] intent to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory."²⁵⁴ Likewise, it is a felony for a participant, prospective participant, manager, coach, or trainer to solicit or accept "any valuable thing to influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory."²⁵⁵

West Virginia

The West Virginia legislature approved a state sports wagering scheme in spring 2018.²⁵⁶ The bill's effect was contingent on PASPA's overturn.²⁵⁷ In enacting the statute, the legislature found legalization in the state's best interests, considering the "critical role" racetracks play in its economy.²⁵⁸ The legislature also sought to remove the "critical threat" of illegal gambling, finding that the legal regulation and operation of sports wagering would best "protect the

250. *Id.* § 39-17-1103(a)(3)–(4).

251. Act of Apr. 22, 2020, ch. 1218, 2020 Va. Acts.

252. VA. CODE ANN. § 58.1-4041(A) (2020).

253. *Id.* § 58.1-4041(A)-(D).

254. VA. CODE ANN. § 18.2-442 (2022).

255. VA. CODE ANN. § 18.2-443 (1975).

256. Act of Mar. 3, 2018, ch. 101, 2018 W. Va. Acts.

257. *See id.* (stating that gambling would be permitted "after a federal law against such wagering is no longer in effect").

258. *Id.*; W. VA. CODE § 29-22D-2 (2018).

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1469

public and positively benefit state revenues and the state's economy."²⁵⁹

To that end, West Virginia's 2018 sports wagering law overwhelmingly focused on licensing.²⁶⁰ But, the new law also added a few match-fixing provisions. The law prohibits anyone from offering, promising to give, or giving "anything of value" to anyone to influence a sport match's outcome upon which the public may wager.²⁶¹ Similarly, it prohibits increasing or decreasing a wager after acquiring non-public information, including information that a person has bribed another to influence a sport match's outcome.²⁶² Lastly, the law forbids anyone from redeeming "anything of value" from a licensed sports betting operator "with intent to defraud or attempt[ing] such action without having made a wager in which such amount or value is legitimately won or owed."²⁶³ The law subjects violators to a felony charge.²⁶⁴

Wyoming

The Wyoming legislature approved H.B. 133, which legalized online sports betting, in 2021.²⁶⁵ The bill completely addresses licensing and does not add any criminal penalties to protect the integrity of the game.²⁶⁶ Wyoming only has one preexisting match-fixing law. The law makes it a felony to bribe a sports participant intending to influence the participant to lose the game or "limit the margin of victory or defeat."²⁶⁷ It is also a felony to bribe a sports official with the intent to influence the "official's decision, opinion[,] or judgment for the purpose of losing or limiting the margin of victory or defeat."²⁶⁸ Likewise,

259. Act of Mar. 3, 2018, ch. 101, 2018 W. Va. Acts; W. VA. CODE § 29-22D-2 (2018).

260. See W. VA. CODE §§ 29-22D-1 to -24 (2018).

261. *Id.* § 29-22D-21(b)(1). This provision seems narrower than the state's general anti-bribery law that prohibits the public from offering, promising, and giving "any valuable thing" to a professional or amateur sports participant with the intent to influence the participant to lose or try to lose a match. W. VA. CODE § 61-10-22 (1945). Likewise, it is also a felony for a sports participant to agree to accept or accept such a bribe. *Id.*

262. W. VA. CODE § 29-22D-21(b)(1), (4) (2018).

263. *Id.* § 29-22D-21(b)(5).

264. *Id.* § 29-22D-21(b).

265. Online Sports Wagering Act, ch. 100, § 1, 2021 Wyo. Sess. Laws.

266. See *id.*

267. WYO. STAT. ANN. § 6-3-609(b)(i)(A) (2022). The statute defines the verb "bribe" as "to confer a direct or indirect gift, emolument, money, thing of value, testimonial, privilege, appointment or personal advantage." *Id.* § 6-3-609(a)(ii).

268. *Id.* § 6-3-609(b)(i)(B).

any sports participant or official who accepts such a bribe is also guilty of a felony.²⁶⁹

V. PROPOSAL

The proposal below provides a precise and comprehensive model state law that targets the four types of match-fixing discussed in this Note. As shown above, many states criminalize only one or two types of match-fixing, with bribery and tampering being the most common. Additionally, even when states criminalize the same conduct, they use drastically different language to describe the criminal act. The proposed law criminalizes all four types of match-fixing identified in this Note and seeks to use precise, narrow language.

A. *A Model Law*

It shall be unlawful for any person to engage in any of the following conduct:

- (1) **Bribery, Offering:** No person shall offer to confer, promise to confer, or confer any benefit or thing of value to a person with the ability or authority, by virtue of their employment, to affect a sport match's outcome or margin of victory or defeat.
- (2) **Bribery, Soliciting:** No person, with the ability or authority by virtue of their employment, shall solicit, promise to accept, or accept any benefit or thing of value in consideration for or pursuant to an understanding for that person to affect a sport match's outcome or margin of victory or defeat.
- (3) **Extortion:** No person shall threaten, with the intent to influence a sport match's outcome or margin of victory or defeat, any detriment to a participant, official, or other person with the ability or authority, by virtue of their employment, to affect a sport match's outcome or margin of victory or defeat, or to otherwise manipulate the match for the person's material gain.

For the purposes of this section, "detriment" shall include either physical or financial detriment, including physical or financial detriment to the person's relatives or members of their household.

269. *Id.* § 6-3-609(b)(ii), (c).

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1471

(4) Use of Nonpublic Information:

(A) No person shall directly or indirectly place or conspire to place a sports wager if the person has received nonpublic information relevant to the wager's subject.

(B) No person shall increase or decrease a wager after obtaining nonpublic information relevant to the wager's subject.

(5) Tampering:

(A) No person shall tamper or cause another person or thing to tamper with any person, animal, or thing with the intent to influence a sport game's outcome, margin of victory or defeat, or to obtain any material gain.

(B) No player shall knowingly or intentionally refrain from using his best efforts with the intent to obtain any material gain.

(C) No officiant or referee shall knowingly or intentionally refrain from using his neutral and impartial judgment with the intent to obtain any material gain.

B. Justification

1. Bribery

Bribery laws generally seek to prohibit people from exchanging money for an improper act. In the context of sports wagering and protecting sports' integrity, the improper act is manipulating the game to undermine sports matches' unpredictability. The proposed law seeks to reflect this concern in two primary ways.

First, it clearly delineates the conduct it seeks to prohibit. In comparison, some states' bribery laws narrow the required intent specifically to influencing participants to refrain from using their best efforts.²⁷⁰ While this language mirrors many leagues' CBAs,²⁷¹ the "best efforts" language is vague. The CBAs do not indicate how to quantify a player's "best efforts," and the laws similarly provide no guidance.

Additionally, the proposed law eliminates references to specific participants that artificially limit the conduct prohibited. For example, Virginia's bribery law states in part: "A professional or amateur

270. *E.g.*, 720 ILL. COMP. STAT. ANN. 5 §§ 29-1(a), 29-2 (2012); IND. CODE § 35-44.1-1-2 (2020); LA. STAT. ANN. § 4:9 (2011); N.H. REV. STAT. ANN. § 638:8(1)(a), (b), (d) (2023).

271. *See supra* Section II.C.

participant or *prospective participant* in any game, contest or sport or a *manager, coach* or *trainer* of any team or *individual participant* or *prospective participant* in any such game, contest or sport, who solicits or accepts any valuable thing to *influence him to lose or try to lose or cause to be lost or to limit his or his team's margin of victory in any game*, contest or sport in which he is taking part, or expects to take part, or has any duty or connection therewith, shall be guilty of a Class 5 felony.”²⁷² By specifically limiting its scope to participants, prospective participants, managers, coaches, and trainers, the Virginia statute assumes only those people may accept bribes to affect the match’s outcome. To avoid this, the proposed statute encompasses anyone “with the ability or authority, by virtue of their employment” to reach any stadium employee, league employee, contractor, and any other person who could potentially accept a bribe to manipulate—or tamper with—some aspect of a sports game.

2. Extortion/Blackmail

Only a few states have an extortion law in the sports wagering context.²⁷³ The model law seeks to deter others from attempting to force players or referees from manipulating the game under the threat of harm to themselves or their families. The last part of the model law section 3 seeks to capture other game-related manipulations, such as tampering or manipulating the occurrence or nonoccurrence of the subject of a prop bet.

3. Using Nonpublic Information to Place a Wager

Few states have laws prohibiting persons from using nonpublic information to place or change a wager. The use of nonpublic information resembles insider trading.²⁷⁴ This prohibition seeks to ensure all bettors have a level playing field and only use publicly available information to place their bets.

4. Tampering

A few concerns led to the relatively lengthy proposed rule. First, the large number of people employed by or under contract with sports leagues, teams, and stadiums readily expose many non-determinative

272. VA. CODE ANN. § 18.2-443 (2022) (emphasis added).

273. See N.H. REV. STAT. ANN. § 638:8(1)(c) (2023); CONN. GEN. STAT. § 53a-162 (1969); 18 PA. CONS. STAT. § 4109(a)(1) (2023).

274. Balsam, *supra* note 45, at 5.

2023] *PROTECTING AMERICA'S FAVORITE PASTIME* 1473

aspects of the game to manipulation. If states allow prop bets on non-determinative events, such as the color of Gatorade the players will throw on their coach, those events will be vulnerable to manipulation.

Second, the proposed tampering rule seeks to deter point-shaving. The proposed statute uses the “best efforts” language from player CBAs, and it imposes a scienter requirement to ensure the law does not criminalize innocent conduct. Lastly, the proposed rule seeks to criminalize game manipulation by referees. It seeks to fill the gap in which prosecutors struggled to hold Tim Donaghy accountable.²⁷⁵

CONCLUSION

In the wake of *Murphy* and as states continue to legalize sports gambling, all states must reexamine their match-fixing laws, especially in the context of federal gambling laws. Many of these laws were enacted in the mid-1900s and likely have limited applicability to today’s match-fixing concerns. Federal law in particular only has one match-fixing law prohibiting bribery that occurs across state lines. The other three federal statutes regulating gambling do not address match-fixing, and they only apply when bettors move between states that prohibit sports gambling. States must also consider the types of match-fixing they criminalize and evaluate whether their laws are able to effectively prosecute match-fixing. The majority of states with legal sports gambling only criminalize one or two types of match-fixing, and even when states criminalize the same conduct, their statutes vary widely in the language used to describe the bad acts. In examining and revising their match-fixing laws, states must protect bettors, the public, and sports participants from effort to undermine the integrity of the game.

275. See *supra* Section II.A.2.a.