

By: Senator(s) Hamilton

To: Judiciary

SENATE BILL NO. 2312

1 AN ACT ENTITLED THE UNIFORM ATHLETE AGENTS ACT; TO PROVIDE
 2 DEFINITIONS; TO REQUIRE REGISTRATION FOR ATHLETE AGENTS; TO
 3 PROVIDE FOR A CERTIFICATE OF REGISTRATION ISSUED OR DENIED BY THE
 4 SECRETARY OF STATE; TO PROVIDE FOR THE SUSPENSION, REVOCATION OR
 5 REFUSAL TO RENEW REGISTRATION; TO PROVIDE FOR TEMPORARY
 6 REGISTRATION; TO PROVIDE FOR FEES; TO PROVIDE FOR THE FORM OF AN
 7 AGENCY CONTRACT; TO PROVIDE FOR NOTICE TO EDUCATIONAL
 8 INSTITUTIONS; TO PROVIDE FOR THE STUDENT ATHLETE'S RIGHT TO CANCEL
 9 A CONTRACT; TO PROVIDE FOR RECORDKEEPING; TO PROHIBIT CERTAIN
 10 ACTS; TO PROVIDE CRIMINAL AND CIVIL PENALTIES FOR VIOLATIONS OF
 11 THIS ACT; TO REPEAL SECTIONS 73-41-1 THROUGH 73-41-23, MISSISSIPPI
 12 CODE OF 1972, WHICH ARE THE ATHLETE AGENTS' REGISTRATION
 13 REQUIREMENTS ADMINISTERED BY THE SECRETARY OF STATE; AND FOR
 14 RELATED PURPOSES.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

16 SECTION 1. **Short Title.** This act may be cited as the
 17 "Uniform Athlete Agents Act."

18 SECTION 2. **Definitions.** In this act:

19 (a) "Agency contract" means an agreement in which a
 20 student-athlete authorizes a person to negotiate or solicit on
 21 behalf of the student-athlete a professional-sports-services
 22 contract or an endorsement contract.

23 (b) "Athlete agent" means an individual who enters into
 24 an agency contract with a student-athlete or, directly or
 25 indirectly, recruits or solicits a student-athlete to enter into
 26 an agency contract. The term does not include a spouse, parent,
 27 sibling, grandparent or guardian of the student-athlete or an
 28 individual acting solely on behalf of a professional sports team
 29 or professional sports organization. The term includes an
 30 individual who represents to the public that the individual is an
 31 athlete agent.

32 (c) "Athletic director" means an individual responsible
33 for administering the overall athletic program of an educational
34 institution or, if an educational institution has separately
35 administered athletic programs for male students and female
36 students, the athletic program for males or the athletic program
37 for females, as appropriate.

38 (d) "Contact" means a communication, direct or
39 indirect, between an athlete agent and a student-athlete, to
40 recruit or solicit the student-athlete to enter into an agency
41 contract.

42 (e) "Endorsement contract" means an agreement under
43 which a student-athlete is employed or receives consideration to
44 use on behalf of the other party any value that the
45 student-athlete may have because of publicity, reputation,
46 following, or fame obtained because of athletic ability or
47 performance.

48 (f) "Intercollegiate sport" means a sport played at the
49 collegiate level for which eligibility requirements for
50 participation by a student-athlete are established by a national
51 association for the promotion or regulation of collegiate
52 athletics.

53 (g) "Person" means an individual, corporation, business
54 trust, estate, trust, partnership, limited liability company,
55 association, joint venture, government; governmental subdivision,
56 agency or instrumentality; public corporation, or any other legal
57 or commercial entity.

58 (h) "Professional-sports-services contract" means an
59 agreement under which an individual is employed or agrees to
60 render services as a player on a professional sports team, with a
61 professional sports organization, or as a professional athlete.

62 (i) "Record" means information that is inscribed on a
63 tangible medium or that is stored in an electronic or other medium
64 and is retrievable in perceivable form.

65 (j) "Registration" means registration as an athlete
66 agent pursuant to this act.

67 (k) "State" means a state of the United States, the
68 District of Columbia, Puerto Rico, the United States Virgin
69 Islands, or any territory or insular possession subject to the
70 jurisdiction of the United States.

71 (l) "Student-athlete" means an individual who engages
72 in, is eligible to engage in, or may be eligible in the future to
73 engage in, any intercollegiate sport. If an individual is
74 permanently ineligible to participate in a particular
75 intercollegiate sport, the individual is not a student-athlete for
76 purposes of that sport.

77 **SECTION 3. Administration; service of process; subpoenas.**

78 (1) The Secretary of State shall administer this act.

79 (2) By engaging in the business of an athlete agent in this
80 state, a nonresident individual appoints the Secretary of State as
81 the individual's agent to accept service of process in any civil
82 action related to the individual's business as an athlete agent in
83 this state.

84 (3) The Secretary of State may issue subpoenas for any
85 relevant material under this act.

86 **SECTION 4. Athlete agents: registration required.**

87 (1) Except as otherwise provided in subsection (2), an
88 individual may not act as an athlete agent in this state before
89 being issued a certificate of registration under Section 6 or 8.

90 (2) An individual may act as an athlete agent before being
91 issued a certificate of registration for all purposes except
92 signing an agency contract if:

93 (a) A student-athlete or another acting on behalf of
94 the student-athlete initiates communication with the individual;
95 and

96 (b) Within seven (7) days after an initial act as an
97 athlete agent, the individual submits an application to register
98 as an athlete agent in this state.

99 (3) An agency contract resulting from conduct in violation
100 of this section is void. The athlete agent shall return any
101 consideration received under the contract.

102 SECTION 5. Registration as athlete agent; form;

103 **requirements.** (1) An applicant for registration shall submit an
104 application for registration to the Secretary of State in a form
105 prescribed by the Secretary of State. An application filed under
106 this section is a public record. Except as otherwise provided in
107 subsection (2), the application must be in the name of an
108 individual and signed by the applicant under penalty of perjury
109 and must state or contain:

110 (a) The name of the applicant and the address of the
111 applicant's principal place of business;

112 (b) The name of the applicant's business or employer,
113 if applicable;

114 (c) Any business or occupation engaged in by the
115 applicant for the five (5) years next preceding the date of
116 submission of the application;

117 (d) A description of the applicant's:

118 (i) Formal training as an athlete agent;

119 (ii) Practical experience as an athlete agent; and

120 (iii) Educational background relating to the
121 applicant's activities as an athlete agent.

122 (e) The names and addresses of three (3) individuals
123 not related to the applicant who are willing to serve as
124 references;

125 (f) The name, sport and last known team for each
126 individual for whom the applicant provided services as an athlete
127 agent during the five (5) years next preceding the date of
128 submission of the application;

129 (g) The names and addresses of all persons who are:

130 (i) With respect to the athlete agent's business
131 if it is not a corporation, the partners, officers, associates or
132 profit-sharers; and

133 (ii) With respect to a corporation employing the
134 athlete agent, the officers, directors and any shareholder of the
135 corporation with a five percent (5%) or greater interest.

136 (h) Whether the applicant or any other person named
137 pursuant to paragraph (g) has been convicted of a crime that, if
138 committed in this state, would be a felony or other crime
139 involving moral turpitude, and identify the crime;

140 (i) Whether there has been any administrative or
141 judicial determination that the applicant or any other person
142 named pursuant to paragraph (g) has made a false, misleading,
143 deceptive or fraudulent representation;

144 (j) Any instance in which the conduct of the applicant
145 or any other person named pursuant to paragraph (g) resulted in
146 the imposition of a sanction, suspension or declaration of
147 ineligibility to participate in an interscholastic or
148 intercollegiate athletic event on a student-athlete or educational
149 institution;

150 (k) Any sanction, suspension or disciplinary action
151 taken against the applicant or any other person named pursuant to
152 paragraph (g) arising out of occupational or professional conduct;
153 and

154 (l) Whether there has been any denial of an application
155 for, suspension or revocation of, or refusal to renew, the
156 registration or licensure of the applicant or any other person
157 named pursuant to paragraph (g) as an athlete agent in any state.

158 (2) An individual who has submitted an application for, and
159 received a certificate of, registration or licensure as an athlete
160 agent in another state, may submit a copy of the application and a
161 valid certificate of registration or licensure from the other

162 state in lieu of submitting an application in the form prescribed
163 pursuant to subsection (1). The Secretary of State shall accept
164 the application and the certificate from the other state as an
165 application for registration in this state if the application to
166 the other state:

167 (a) Was submitted in the other state within the six (6)
168 months next preceding the submission of the application in this
169 state and the applicant certifies the information contained in the
170 application is current;

171 (b) Contains information substantially similar to or
172 more comprehensive than that required in an application submitted
173 in this state; and

174 (c) Was signed by the applicant under penalty of
175 perjury.

176 **SECTION 6. Certificate of registration; issuance or denial;**
177 **renewal.** (1) Except as otherwise provided in subsection (3), the
178 Secretary of State shall issue a certificate of registration to an
179 individual who complies with Section 5(1).

180 (2) Except as otherwise provided in subsection (3), the
181 Secretary of State shall issue a certificate of registration to an
182 individual whose application has been accepted under Section 5(2).

183 (3) The Secretary of State may refuse to issue a certificate
184 of registration if the Secretary of State determines that the
185 applicant has engaged in conduct that has a significant adverse
186 effect on the applicant's fitness to serve as an athlete agent.
187 In making the determination, the Secretary of State may consider
188 whether the applicant has:

189 (a) Been convicted of a crime that, if committed in
190 this state, would be a felony or other crime involving moral
191 turpitude;

192 (b) Made a materially false, misleading, deceptive or
193 fraudulent representation as an athlete agent or in the
194 application;

195 (c) Engaged in conduct that would disqualify the
196 applicant from serving in a fiduciary capacity;

197 (d) Engaged in conduct prohibited by Section 14;

198 (e) Had a registration or licensure as an athlete agent
199 suspended, revoked, or denied or been refused renewal of
200 registration or licensure in any state;

201 (f) Engaged in conduct or failed to engage in conduct
202 the consequence of which was that a sanction, suspension or
203 declaration of ineligibility to participate in an interscholastic
204 or intercollegiate athletic event was imposed on a student-athlete
205 or educational institution; or

206 (g) Engaged in conduct that significantly adversely
207 reflects on the applicant's credibility, honesty or integrity.

208 (4) In making a determination under subsection (3), the
209 Secretary of State shall consider:

210 (a) How recently the conduct occurred;

211 (b) The nature of the conduct and the context in which
212 it occurred; and

213 (c) Any other relevant conduct of the applicant.

214 (5) An athlete agent may apply to renew a registration by
215 submitting an application for renewal in a form prescribed by the
216 Secretary of State. An application filed under this section is a
217 public record. The application for renewal must be signed by the
218 applicant under penalty of perjury and must contain current
219 information on all matters required in an original registration.

220 (6) An individual who has submitted an application for
221 renewal of registration or licensure in another state, in lieu of
222 submitting an application for renewal in the form prescribed
223 pursuant to subsection (5), may file a copy of the application for
224 renewal and a valid certificate of registration from the other
225 state. The Secretary of State shall accept the application for
226 renewal from the other state as an application for renewal in this
227 state if the application to the other state:

228 (a) Was submitted in the other state within the last
229 six (6) months and the applicant certifies the information
230 contained in the application for renewal is current;

231 (b) Contains information substantially similar to or
232 more comprehensive than that required in an application for
233 renewal submitted in this state; and

234 (c) Was signed by the applicant under penalty of
235 perjury.

236 (7) A certificate of registration or a renewal of a
237 registration is valid for two (2) years.

238 **SECTION 7. Suspension, revocation or refusal to renew**

239 **registration.** (1) The Secretary of State may suspend, revoke or
240 refuse to renew a registration for conduct that would have
241 justified denial of registration under Section 6(3).

242 (2) The Secretary of State may deny, suspend, revoke or
243 refuse to renew a registration only after proper notice and an
244 opportunity for a hearing.

245 **SECTION 8. Temporary registration.** The Secretary of State
246 may issue a temporary certificate of registration while an
247 application for registration or renewal is pending.

248 **SECTION 9. Registration and renewal fee.** An application for
249 registration or renewal of registration must be accompanied by a
250 fee in the following amount:

251 (a) One Hundred Dollars (\$100.00) for an initial
252 application for registration;

253 (b) One Hundred Dollars (\$100.00) for an application
254 for registration based upon a certificate of registration or
255 licensure issued by another state;

256 (c) Fifty Dollars (\$50.00) for an application for
257 renewal of registration; or

258 (d) Fifty Dollars (\$50.00) for an application for
259 renewal of registration based upon an application for renewal of
260 registration or licensure submitted in another state.

294 (5) The athlete agent shall give a copy of the signed agency
295 contract to the student-athlete at the time of signing.

296 SECTION 11. Notice to educational institution. (1) Within
297 seventy-two (72) hours after entering into an agency contract or
298 before the next scheduled athletic event in which the
299 student-athlete may participate, whichever occurs first, the
300 athlete agent shall give notice in a record of the existence of
301 the contract to the athletic director of the educational
302 institution at which the student-athlete is enrolled or the
303 athlete agent has reasonable grounds to believe the
304 student-athlete intends to enroll.

305 (2) Within seventy-two (72) hours after entering into an
306 agency contract or before the next athletic event in which the
307 student-athlete may participate, whichever occurs first, the
308 student-athlete shall inform the athletic director of the
309 educational institution at which the student-athlete is enrolled
310 that he or she has entered into an agency contract.

311 SECTION 12. Student-athlete's right to cancel. (1) A
312 student-athlete may cancel an agency contract by giving notice in
313 a record to the athlete agent of the cancellation within fourteen
314 (14) days after the contract is signed.

315 (2) A student-athlete may not waive the right to cancel any
316 agency contract.

317 (3) If a student-athlete cancels an agency contract, the
318 student-athlete is not required to pay any consideration under the
319 contract or to return any consideration received from the agent to
320 induce the student-athlete to enter into the contract.

321 SECTION 13. Required records. (1) An athlete agent shall
322 retain the following records for a period of five (5) years:

323 (a) The name and address of each individual represented
324 by the athlete agent;

325 (b) Any agency contract entered into by the athlete
326 agent; and

327 (c) Any direct costs incurred by the athlete agent in
328 the recruitment or solicitation of a student-athlete.

329 (2) Records required by subsection (1) to be retained are
330 open to inspection by the Secretary of State during normal
331 business hours.

332 SECTION 14. Prohibited acts. (1) An athlete agent may not
333 do any of the following with the intent to induce a
334 student-athlete to enter into an agency contract:

335 (a) Give any materially false or misleading information
336 or make a materially false promise or representation;

337 (b) Furnish anything of value to a student-athlete
338 before the student-athlete enters into the agency contract; or

339 (c) Furnish anything of value to any individual other
340 than the student-athlete or another registered athlete agent.

341 (2) An athlete agent may not intentionally:

342 (a) Initiate contact with a student-athlete unless
343 registered under this act;

344 (b) Refuse or willfully fail to retain or permit
345 inspection of the records required by Section 13;

346 (c) Violate Section 4 by failing to register;

347 (d) Provide materially false or misleading information
348 in an application for registration or renewal of registration;

349 (e) Predate or postdate an agency contract; or

350 (f) Fail to notify a student-athlete prior to the
351 student-athlete's signing an agency contract for a particular
352 sport that the signing by the student-athlete may make the
353 student-athlete ineligible to participate as a student-athlete in
354 that sport.

355 SECTION 15. Criminal penalties. The commission of any act
356 prohibited by Section 14 by an athlete agent is a felony
357 punishable by a fine of not more than Ten Thousand Dollars
358 (\$10,000.00) or by imprisonment of not more than two (2) years, or
359 both.

360 SECTION 16. Civil remedies. (1) An educational institution
361 has a right of action against an athlete agent or a former
362 student-athlete for damages caused by a violation of this act. In
363 an action under this section, the court may award to the
364 prevailing party costs and reasonable attorney's fees.

365 (2) Damages of an educational institution under subsection
366 (1) include losses and expenses incurred because, as a result of
367 the activities of an athlete agent or former student-athlete, the
368 educational institution was injured by a violation of this act or
369 was penalized, disqualified or suspended from participation in
370 athletics by a national association for the promotion and
371 regulation of athletics, by an athletic conference, or by
372 reasonable self-imposed disciplinary action taken to mitigate
373 sanctions.

374 (3) A right of action under this section does not accrue
375 until the educational institution discovers or by the exercise of
376 reasonable diligence would have discovered the violation by the
377 athlete agent or former student-athlete.

378 (4) Any liability of the athlete agent or the former
379 student-athlete under this section is several and not joint.

380 (5) This act does not restrict rights, remedies or defenses
381 of any person under law or equity.

382 SECTION 17. Administrative penalty. The Secretary of State
383 may assess a civil penalty against an athlete agent not to exceed
384 Twenty-five Thousand Dollars (\$25,000.00) for a violation of this
385 act.

386 SECTION 18. Application and construction. In applying and
387 construing this uniform act, consideration must be given to the
388 need to promote uniformity of the law with respect to its subject
389 matter of this act among states that enact it.

390 SECTION 19. Sections 73-41-1, 73-41-3, 73-41-5, 73-41-7,
391 73-41-9, 73-41-11, 73-41-13, 73-41-15, 73-41-17, 73-41-19,
392 73-41-21 and 73-41-23, Mississippi Code of 1972, which are the

393 athlete agents' registration requirements administered by the
394 Secretary of State, are hereby repealed.

395 SECTION 20. This act shall take effect and be in force from
396 and after July 1, 2001.