

By: Representative Lamar

To: Judiciary A

HOUSE BILL NO. 787

1 AN ACT TO AMEND SECTION 72-42-3, MISSISSIPPI CODE OF 1972, TO
 2 UPDATE DEFINITIONS; TO AMEND SECTION 73-42-13, MISSISSIPPI CODE OF
 3 1972, TO SPECIFY VENUE FOR CAUSES OF ACTION RELATED TO ATHLETE
 4 AGENT CONTRACTS; TO AMEND SECTION 73-42-19, MISSISSIPPI CODE OF
 5 1972, TO CLARIFY CONTRACTUAL REQUIREMENTS FOR AGENCY CONTRACTS; TO
 6 AMEND SECTION 73-42-23, MISSISSIPPI CODE OF 1972, TO RECOGNIZE
 7 RIGHTS OF PARENTS OR GUARDIANS OF MINOR; TO AMEND SECTION
 8 73-42-34, MISSISSIPPI CODE OF 1972, TO CONFORM WITH VENUE
 9 REQUIREMENTS; TO ENACT SECTION 73-42-41, MISSISSIPPI CODE OF 1972,
 10 TO RECOGNIZE THE AUTHORITY AND AUTONOMY OF EDUCATIONAL
 11 INSTITUTIONS; AND FOR RELATED PURPOSES.

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

13 **SECTION 1.** Section 73-42-3, Mississippi Code of 1972, is
 14 amended as follows:

15 73-42-3. In this chapter:

16 (a) "Agency contract" means an agreement in which a
 17 student-athlete authorizes a person to negotiate or solicit on
 18 behalf of the student-athlete a professional-sports-services
 19 contract, an endorsement contract, or enrollment at any
 20 educational institution that offers an athletic scholarship to the
 21 student-athlete.



22 (b) (i) "Athlete agent" means an individual, whether
23 or not registered under this chapter, who:

24 1. * * * Directly or indirectly,
25 recruits * * * or solicits a student-athlete to enter into an
26 agency contract * * *, or, for compensation, procures employment
27 or offers, promises, attempts, or negotiates to obtain employment
28 for a student-athlete as a professional athlete or member of a
29 professional sports team or organization.

30 2. For compensation or in anticipation of
31 compensation related to a student-athlete's participation in
32 athletics:

33 a. Serves the athlete in an advisory
34 capacity on a matter related to finances, business pursuits, or
35 career management decisions, unless the individual is an employee
36 of an educational institution acting exclusively as an employee of
37 the institution for the benefit of the institution; or

38 b. Manages the business affairs of the
39 athlete by providing assistance with bills, payments, contracts,
40 or taxes.

41 3. In anticipation of representing a
42 student-athlete for a purpose related to the athlete's
43 participation in athletics:

44 a. Gives consideration to the
45 student-athlete or another person;



46 b. Serves the athlete in an advisory
47 capacity on a matter related to finances, business pursuits, or
48 career management decisions; or

49 c. Manages the business affairs of the
50 athlete by providing assistance with bills, payments, contracts,
51 or taxes; but

52 (ii) "Athlete agent" does not mean an individual
53 who:

54 1. Acts solely on behalf of a professional
55 sports team or organization; or

56 2. Is a spouse, parent, sibling, grandparent
57 or guardian of the student-athlete; or

58 3. Is a licensed, registered, or certified
59 professional and offers or provides services to a student-athlete
60 customarily provided by members of that profession, unless the
61 individual also recruits or solicits the athlete to enter into an
62 agency contract.

63 (c) "Athletic director" means an individual responsible
64 for administering the overall athletic program of an educational
65 institution or, if an educational institution has separately
66 administered athletic programs for male students and female
67 students, the athletic program for males or the athletic program
68 for females, as appropriate.

69 (d) "Contact" means a communication, direct or
70 indirect, written or oral, between an athlete agent and a



71 student-athlete, to recruit, induce or solicit the student-athlete
72 to enter into an agency contract.

73 (e) "Educational institution" includes a public or
74 private secondary school, technical or vocational school,
75 community college, college, or university.

76 (* * * f) "Endorsement contract" means an agreement
77 under which a student-athlete is employed or receives
78 consideration or anything of value for the student-athlete's
79 publicity, reputation, following, or fame obtained because of the
80 student-athlete's athletic ability or performance.

81 (* * * g) "Intercollegiate sport" means a sport played
82 at the collegiate level for which eligibility requirements for
83 participation by a student-athlete are established by a national
84 association for the promotion or regulation of collegiate
85 athletics.

86 (h) "Interscholastic sport" means a sport played
87 between educational institutions that are not community colleges,
88 colleges, or universities.

89 (i) "Licensed, registered, or certified professional"
90 means an individual licensed registered or certified as an
91 attorney, dealer in securities, financial planner, insurance
92 agent, real estate broker or sales agent, tax consultant,
93 accountant, or member of a profession, other than that of athlete
94 agent, who is licensed, registered, or certified by the state or a
95 nationally recognized organization that licenses, registers, or



96 certifies members of that profession on the basis of experience,
97 education, or testing.

98 (* * *j) "Person" means an individual, corporation,
99 business trust, estate, trust, partnership, limited liability
100 company, association, joint venture, government; governmental
101 subdivision, agency or instrumentality; public corporation, or any
102 other legal or commercial entity.

103 (* * *k) "Professional-sports-services contract" means
104 an agreement under which an individual is employed or agrees to
105 render services as a player on a professional sports team, with a
106 professional sports organization, or as a professional athlete.

107 (* * *l) "Record" means information that is inscribed
108 on a tangible medium or that is stored in an electronic or other
109 medium and is retrievable in perceivable form.

110 (m) "Recruit or solicit" means an attempt to influence
111 a student-athlete's selection of an athlete agent, or, if the
112 athlete is a minor, a parent or guardian of the athlete. The term
113 does not include giving advice on the selection of a particular
114 agent in a family, coaching, or social situation unless the
115 individual giving the advice does so because of the receipt or
116 anticipated receipt of an economic benefit, directly or
117 indirectly, from the agent.

118 (* * *n) "Registration" means registration as an
119 athlete agent pursuant to this chapter.



120 (* * *o) "State" means a state of the United States,
121 the District of Columbia, Puerto Rico, the United States Virgin
122 Islands, or any territory or insular possession subject to the
123 jurisdiction of the United States.

124 (* * *p) "Student-athlete" means an individual who
125 engages in, is eligible to engage in, or may be eligible in the
126 future to engage in, a sport for a professional sports team or in
127 any intercollegiate sport at any educational institution. If an
128 individual is permanently ineligible to participate in a
129 particular intercollegiate sport, the individual is not a
130 student-athlete for purposes of that sport.

131 **SECTION 2.** Section 73-42-13, Mississippi Code of 1972, is
132 amended as follows:

133 73-42-13. (1) After proper notice and an opportunity for a
134 hearing, the Secretary of State may deny, suspend, revoke or
135 refuse to renew a registration for conduct that would have
136 justified denial of registration under Section 73-42-11(3) or for
137 a violation of any provision of this chapter.

138 (2) (a) The Secretary of State shall appoint at least one
139 (1) hearing officer for the purpose of holding hearings, compiling
140 evidence and rendering decisions under this section and Section
141 73-42-11. The hearing officer shall fix the date for an
142 adjudicatory hearing and notify the athlete agent involved. The
143 hearing shall be held at a location to be designated by the
144 hearing officer. Unless the time period is extended by the



145 hearing officer, the hearing shall be held not less than fifteen
146 (15) nor more than thirty (30) days after the mailing of notice to
147 the athlete agent involved. At the conclusion of the hearing, the
148 hearing officer shall make a recommendation regarding the
149 registration of the athlete agent involved. The Secretary of
150 State shall then take appropriate action by final order.

151 (b) Any athlete agent whose application for
152 registration has been denied or not renewed, or whose registration
153 has been revoked or suspended by the Secretary of State, within
154 thirty (30) days after the date of such final order, shall have
155 the right of a trial de novo on appeal to the circuit court of the
156 county of residence of the athlete agent, * * * if the agent is a
157 Mississippi resident, or the circuit court of the county in which
158 the educational institution that the student-athlete attended is
159 located. If the secretary's final order is supported by
160 substantial evidence and does not violate a state or federal law,
161 then it shall be affirmed by the circuit court. Either party
162 shall have the right of appeal to the Supreme Court as provided by
163 law from any decision of the circuit court. No athlete agent
164 shall be allowed to deliver services to a student-athlete
165 domiciled or residing in Mississippi while any such appeal is
166 pending.

167 (3) In addition to the reasons specified in subsection (1)
168 of this section, the secretary shall be authorized to suspend the
169 registration of any person for being out of compliance with an



170 order for support, as defined in Section 93-11-153. The procedure
171 for suspension of a registration for being out of compliance with
172 an order for support, and the procedure for the reissuance or
173 reinstatement of a registration suspended for that purpose, and
174 the payment of any fees for the reissuance or reinstatement of a
175 registration suspended for that purpose, shall be governed by
176 Section 93-11-157 or 93-11-163, as the case may be. Actions taken
177 by the secretary in suspending the registration of a person when
178 required by Section 93-11-157 are not actions from which an appeal
179 may be taken under this section. Any appeal of a registration
180 suspension that is required by Section 93-11-157 or 93-11-163
181 shall be taken in accordance with the appeal procedure specified
182 in Section 93-11-157 or 93-11-163, as the case may be, rather than
183 the procedure specified in this section. If there is any conflict
184 between any provision of Section 93-11-157 or 93-11-163 and any
185 provision of this chapter, the provisions of Section 93-11-157 or
186 93-11-163, as the case may be, shall control.

187 **SECTION 3.** Section 73-42-19, Mississippi Code of 1972, is
188 amended as follows:

189 73-42-19. (1) An agency contract must be in a record,
190 signed by the parties.

191 (2) An agency contract must state or contain:

192 (a) A statement that the athlete agent is registered as
193 an athlete agent in this state;



194 (* * *b) The amount and method of calculating the
195 consideration to be paid by the student-athlete for services to be
196 provided by the athlete agent under the contract and any other
197 consideration or anything of value that the athlete agent has
198 received or will receive from any other source for entering into
199 the contract or for providing the services;

200 (* * *c) The name of any person not listed in the
201 agent's application for registration or renewal who will be
202 compensated because the student-athlete signed the agency
203 contract;

204 (* * *d) A description of any expenses that the
205 student-athlete agrees to reimburse;

206 (* * *e) A description of the services to be provided
207 to the student-athlete;

208 (* * *f) The duration of the contract; and

209 (* * *g) The date of execution.

210 (3) An agency contract must contain, in close proximity to
211 the signature of the student-athlete, a conspicuous notice in
212 boldface type in capital letters stating:

213 **WARNING TO STUDENT-ATHLETE**

214 **IF YOU SIGN THIS CONTRACT:**

215 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A**
216 **STUDENT-ATHLETE IN YOUR SPORT;**

217 (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL**
218 **YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN**



219 **72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT OR BEFORE THE NEXT**
220 **SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER**
221 **OCCURS FIRST; AND**

222 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
223 SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR
224 ELIGIBILITY **AS A STUDENT-ATHLETE IN YOUR SPORT.**

225 (4) * * * An agency contract must be accompanied by a
226 separate record signed by the student-athlete, or, if the athlete
227 is a minor, the parent or guardian of the athlete acknowledging
228 that signing the contract may result in the loss of the athlete's
229 eligibility to participate in the athlete's sport.

230 (5) * * * A student-athlete, or, if the athlete is a minor,
231 the parent or guardian of the athlete may void an agency contract
232 that does not conform to this section. If the contract is voided,
233 any consideration received from the athlete agent under the
234 contract to induce the student-athlete entering into the contract
235 is not required to be returned.

236 At the time an agency contract is executed, the athlete agent
237 shall give the student-athlete or, if the athlete is a minor, the
238 parent or guardian of the athlete, a copy of the representation
239 contract and the separate acknowledgement required by subsection
240 (4).

241 (6) If the student-athlete is a minor, an agency contract
242 must be signed by the parent or guardian of the minor and the
243 notice required by subsection (3) must be revised accordingly.



244 **SECTION 4.** Section 73-42-23, Mississippi Code of 1972, is
245 amended as follows:

246 73-42-23. (1) A student-athlete, or, if the athlete is a
247 minor, the parent or guardian of the athlete, may cancel an agency
248 contract by giving notice to the athlete agent of the cancellation
249 within fourteen (14) days after the date the contract is signed.

250 (2) A student-athlete, or, if the athlete is a minor, the
251 parent or guardian of the athlete, may not waive the right to
252 cancel any agency contract.

253 (3) If a student-athlete, parent or guardian cancels an
254 agency contract, the * * * athlete, parent nor guardian is * * *
255 required to pay any consideration under the contract or to return
256 any consideration received from the athlete agent to induce
257 the * * * athlete to enter into the contract.

258 **SECTION 5.** Section 73-42-34, Mississippi Code of 1972, is
259 amended as follows:

260 73-42-34. (1) If the Secretary of State determines that a
261 person has engaged in or is engaging in an act, practice, or
262 course of business constituting a violation of this chapter or a
263 rule adopted or order issued under this chapter, or that a person
264 has materially aided or is materially aiding in an act, practice,
265 or course of business constituting a violation of this chapter or
266 a rule adopted or order issued under this chapter, then the
267 secretary may:



268 (a) Issue an order directing the person to cease and
269 desist from engaging in the act, practice, or course of business,
270 or to take other action necessary or appropriate to comply with
271 this chapter or any rule adopted or order issued under this
272 chapter;

273 (b) Issue an order imposing an administrative penalty
274 against an athlete agent who violated any provision of this
275 chapter or any rule adopted or order issued under this chapter;
276 and

277 (c) Take any other action authorized under the
278 provisions of this chapter.

279 (2) An order issued under subsection (1) of this section is
280 effective on the date of its issuance. Upon the order's issuance,
281 the Secretary of State shall promptly serve each person subject to
282 the order with a copy of the order and a notice that the order has
283 been entered. The order must include a statement of any civil
284 penalty or other administrative remedy to be imposed under
285 subsection (1) of this section, a statement of the costs of
286 investigation that the secretary will seek to recover, a statement
287 of the reasons for the order, and a statement notifying the person
288 of his or her right to a hearing under Section 73-42-13. If a
289 person subject to the order does not request a hearing in writing
290 within thirty (30) days of the date of the order and none is
291 ordered by the hearing officer, then the order, including the
292 imposition of a civil penalty or requirement for payment of the



293 costs of investigation, shall become final as to that person by
294 operation of law.

295 (3) In a final order, the secretary may charge the actual
296 cost of an investigation or proceeding for a violation of this
297 chapter or a rule adopted or order issued under this chapter.

298 (4) If a petition for judicial review of a final order is
299 not filed in accordance with Section 73-42-37, or the petition is
300 denied by the court, the secretary may file a certified copy of
301 the final order with the clerk of a court in the jurisdiction
302 where enforcement will be sought. The order so filed has the same
303 effect as a judgment of the court and may be recorded, enforced,
304 or satisfied in the same manner as a judgment of the court.

305 (5) If a person does not comply with an order issued under
306 this section, the secretary may petition a court of competent
307 jurisdiction to enforce the order and collect administrative civil
308 penalties and costs imposed under the final order. The court may
309 not require the secretary to post a bond in an action or
310 proceeding under this section. If the court finds, after service
311 and opportunity for hearing, that the person did not comply with
312 the order, the court may adjudge the person in civil contempt of
313 the order. The court may grant any relief the court determines is
314 just and proper in the circumstances.

315 (6) Any person aggrieved by a final order of the secretary
316 may obtain a review of the order in the circuit court of the
317 county of residence of the athlete agent, * * * if the athlete



318 agent is a Mississippi resident, or in the circuit court of the
319 county in which the educational institution that the
320 student-athlete attended is located, by filing within thirty (30)
321 days after the entry of the order, a written petition praying that
322 the order be modified or set aside, in whole or in part. A copy
323 of the petition shall be served upon the secretary, and the
324 secretary shall certify and file with the court a copy of the
325 record and evidence upon which the order was entered. When these
326 have been filed, the court has exclusive jurisdiction to affirm,
327 modify, enforce or set aside the order, in whole or in part. The
328 findings of the secretary as to the facts, if supported by
329 competent material and substantial evidence, are conclusive. The
330 beginning of proceedings under this subsection does not operate as
331 a stay of the secretary's order, unless specifically ordered by
332 the court.

333 **SECTION 6.** The following shall be codified as Section
334 73-42-41, Mississippi Code of 1972:

335 73-42-41. Nothing contained in this chapter shall be
336 interpreted or construed to limit, in any way, the right of
337 Mississippi educational institutions to adopt and enforce their
338 own policies, rules, or regulations addressing athlete agent
339 solicitations or interactions with the student-athletes attending
340 their institution.

341 **SECTION 7.** This act shall take effect and be in force from
342 and after July 1, 2018.

