

By: Representatives Deweese, Bounds

To: Universities and Colleges

HOUSE BILL NO. 1068

1 AN ACT TO BRING FORWARD SECTIONS 37-97-101, 37-97-103,
 2 37-97-105, 37-97-107 AND 37-97-109, MISSISSIPPI CODE OF 1972,
 3 WHICH IS THE MISSISSIPPI INTERCOLLEGIATE ATHLETICS COMPENSATION
 4 RIGHTS ACT, FOR THE PURPOSES OF POSSIBLE AMENDMENT; TO BRING
 5 FORWARD SECTIONS 73-42-1, 73-42-3, 73-42-5, 73-42-7, 73-42-9,
 6 73-42-11, 73-42-13, 73-42-15, 73-14-17, 73-42-19, 73-42-21,
 7 73-42-23, 73-42-25, 73-42-27, 73-42-29, 73-42-31, 73-42-33,
 8 73-42-34, 73-42-35, 73-42-37 AND 73-42-39, MISSISSIPPI CODE OF
 9 1972, WHICH IS THE MISSISSIPPI UNIFORM AGENTS ACT, FOR THE
 10 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

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

12 **SECTION 1.** Section 37-97-101, Mississippi Code of 1972, is
 13 brought forward as follows:

14 37-97-101. This article shall be known and may be cited as
 15 the "Mississippi Intercollegiate Athletics Compensation Rights
 16 Act."

17 **SECTION 2.** Section 37-97-103, Mississippi Code of 1972, is
 18 brought forward as follows:

19 37-97-103. (1) As used in this article, the following terms
 20 shall have the following meanings unless the context clearly
 21 indicates otherwise:



22 (a) "Compensation" means anything of value, monetary or
23 otherwise, including, but not limited to, cash, gifts, in-kind
24 items of value, social media compensation, payments for licensing
25 or use of publicity rights, payments for other intellectual or
26 intangible property rights under federal or state law, and any
27 other form of payment or remuneration, except as excluded under
28 this article.

29 For the purposes of this article, "compensation" shall not
30 mean or include the following:

31 (i) Tuition, room, board, books, fees and personal
32 expenses that a postsecondary educational institution provides a
33 student-athlete in accordance with the rules of the athletic
34 association or conference of which the postsecondary educational
35 institution is a member;

36 (ii) Federal Pell Grants and other state and
37 federal grants or scholarships unrelated to, and not awarded
38 because of a student-athlete's participation in intercollegiate
39 athletics or sports competition;

40 (iii) Any other financial aid, benefits or awards
41 that a postsecondary educational institution provides a
42 student-athlete in accordance with the rules of the athletic
43 association or conference of which the postsecondary educational
44 institution is a member; or

45 (iv) The payment of wages and benefits to a
46 student-athlete for work actually performed (but not for athletic



47 ability or participation in intercollegiate athletics) at a rate
48 commensurate with the prevailing rate for similar work in the
49 locality of the student-athlete's postsecondary educational
50 institution.

51 (b) "Image" means a picture of the student-athlete.

52 (c) "Intercollegiate athletics program" means an
53 intercollegiate athletics program played at the collegiate level
54 for which eligibility requirements for participation by a
55 student-athlete are established by a national association for the
56 promotion or regulation of collegiate athletics.

57 (d) "Likeness" means a physical, digital or other
58 depiction or representation of a student-athlete.

59 (e) "Name" means the first or last name, or the
60 nickname, of a student-athlete when used in a context that
61 reasonably identifies the student-athlete with particularity.

62 (f) "Name, Image and Likeness Agreement" means a
63 contract or similar arrangement between a student-athlete and a
64 third-party licensee regarding the commercial use of the name,
65 image or likeness of the student-athlete.

66 (g) "Publicity right" means any right that is:

67 (i) Licensed under a name, image, and likeness
68 agreement; or

69 (ii) Recognized under a federal or state law that
70 permits an individual to control and profit from the commercial
71 use of the name, image or likeness of the individual.



72 (h) "Postsecondary educational institution" means a
73 public university or community college or private university or
74 college.

75 (i) "Social media compensation" means all forms of
76 payment for engagement on social media received by a
77 student-athlete as a result of the use of that student-athlete's
78 name, image or likeness.

79 (j) "Student-athlete" means an individual who engages
80 in, is eligible to engage in, or may be eligible in the future to
81 engage in, intercollegiate athletics program at a postsecondary
82 educational institution. If an individual is permanently
83 ineligible to participate in a particular intercollegiate sport,
84 the individual is not a student-athlete for purposes of that
85 sport.

86 (k) "Third-party licensee" means any individual or
87 entity that licenses publicity rights or the use of name, image or
88 likeness from any prospective or current student-athlete or group
89 of student-athletes. The term "third-party licensee" shall not
90 include any national association for the promotion or regulation
91 of collegiate athletics, athletics conference, or postsecondary
92 educational institution.

93 **SECTION 3.** Section 37-97-105, Mississippi Code of 1972, is
94 brought forward as follows:

95 37-97-105. (1) Except as provided in Section 37-97-107, a
96 student-athlete may:



97 (a) Earn compensation, commensurate with market value,
98 for the use of the name, image, or likeness of the student-athlete
99 while enrolled at a postsecondary educational institution; and

100 (b) Obtain and retain a certified agent for any matter
101 or activity relating to such compensation.

102 (2) No student-athlete may earn compensation in exchange for
103 the student-athlete's athletic ability or participation in
104 intercollegiate athletics or sports competition.

105 (3) Notwithstanding any other provision of applicable law or
106 agreement to the contrary, a student-athlete shall not be deemed
107 an employee or independent contractor of an association, a
108 conference, or a postsecondary educational institution based on
109 the student-athlete's participation in an intercollegiate
110 athletics program.

111 **SECTION 4.** Section 37-97-107, Mississippi Code of 1972, is
112 brought forward as follows:

113 37-97-107. (1) Except as provided for under this article, a
114 postsecondary educational institution shall not uphold any
115 contract, rule, regulation, standard or other requirement that
116 prevents a student-athlete of that institution from earning
117 compensation as a result of the use of the student's name, image,
118 or likeness. Any such contract, rule, regulation standard or
119 other requirement shall be void and unenforceable against the
120 postsecondary educational institution or the student-athlete.
121 Compensation from the use of a student-athlete's name, image, or



122 likeness may not affect the student-athlete's scholarship
123 eligibility, grant-in-aid or other financial aid, awards or
124 benefits, or the student-athlete's intercollegiate athletic
125 eligibility. Nothing in this article is intended to alter any
126 state and federal laws or regulations regarding the award of
127 financial aid at postsecondary educational institutions.

128 (2) Except as provided for in this article, an athletic
129 association, conference or other group or organization with
130 authority over intercollegiate athletic programs, including, but
131 not limited to, the National Collegiate Athletic Association
132 (NCAA) and the National Junior College Athletic Association
133 (NJCAA), shall not prevent, or otherwise enforce a contract, rule,
134 regulation, standard or other requirement that prevents, a
135 student-athlete of a postsecondary educational institution from
136 earning compensation as a result of the use of the
137 student-athlete's name, image or likeness.

138 (3) To protect the integrity of its educational mission and
139 intercollegiate athletics program, a postsecondary educational
140 institution may impose reasonable limitations on the dates and
141 time that a student-athlete may participate in endorsement,
142 promotional, social media or other activities related to the
143 license or use of the student-athlete's name, image and likeness.
144 Nothing in this article shall restrict a postsecondary educational
145 institution from exercising its sole discretion to control the
146 authorized use of its marks or logos or to determine a



147 student-athlete's apparel, gear or other wearables during an
148 intercollegiate athletics competition or institution-sponsored
149 event. A student-athlete may not receive or enter into a contract
150 for compensation for the use of his or her name, image or likeness
151 in a way that also uses any registered or licensed marks, logos,
152 verbiage or designs of a postsecondary institution, unless the
153 institution has provided the student-athlete with written
154 permission to do so prior to execution of the contract or receipt
155 of compensation. If permission is granted, the postsecondary
156 educational institution, by agreement of all parties, may be
157 compensated for the use in a manner consistent with market rates.
158 A postsecondary educational institution may also prohibit a
159 student-athlete from wearing any item of clothing, shoes, or other
160 gear or wearables with the name, logo or insignia of any entity
161 during an intercollegiate athletics competition or
162 institution-sponsored event.

163 (4) An athletic association, conference or other group or
164 organization with authority over intercollegiate athletics
165 programs, including, but not limited to, the National Collegiate
166 Athletic Association and the National Junior College Athletic
167 Association, shall not enforce a contract, rule, regulation,
168 standard or other requirement that prevents a postsecondary
169 educational institution from participating in an intercollegiate
170 athletics program as a result of the compensation of a



171 student-athlete for the use of the student-athlete's name, image
172 or likeness.

173 (5) A postsecondary educational institution, athletic
174 association, conference or other group or organization with
175 authority over intercollegiate athletics programs, including, but
176 not limited to, the National Collegiate Athletic Association and
177 the National Junior College Athletic Association, shall not,
178 directly or indirectly:

179 (a) Enter into, or offer to enter into, a name, image
180 and likeness agreement with a prospective or current
181 student-athlete; or

182 (b) Provide a prospective or current student-athlete or
183 the student-athlete's family compensation in relation to the use
184 of the student-athlete's name, image or likeness.

185 (6) A postsecondary educational institution, athletic
186 association, conference or other group or organization with
187 authority over intercollegiate athletics programs, including, but
188 not limited to, the National Collegiate Athletic Association and
189 the National Junior College Athletic Association shall not prevent
190 a student-athlete from obtaining professional representation in
191 relation to name, image or likeness, or to secure a name, image
192 and likeness agreement, including, but not limited to,
193 representation provided by athlete agents or legal representation
194 provided by attorneys. A student-athlete shall provide the
195 postsecondary educational institution with written notice at least



196 seven (7) days prior to entering into a representation agreement
197 with any individual for the purpose of exploring or securing
198 compensation for use of the student-athlete's name, image or
199 likeness.

200 (7) Professional representation obtained by student-athletes
201 must be from persons registered as athlete agents as provided in
202 Section 73-42-1 et seq. of the Uniform Athlete Agent Act.
203 Attorneys who provide legal representation to student-athletes
204 must be licensed to practice law in the State of Mississippi and
205 in good standing with The Mississippi Bar.

206 (8) Athlete agents representing student-athletes shall
207 comply with the Uniform Athlete Agents Act, Section 73-42-1 et
208 seq., Mississippi Code of 1972, and the federal Sports Agent
209 Responsibility and Trust Act in 15 USC Sections 7801-7807 in their
210 relationships with student-athletes.

211 (9) A grant-in-aid, including cost of attendance, and other
212 permissible financial aid, awards or benefits from the
213 postsecondary educational institution in which a student-athlete
214 is enrolled shall not be revoked, reduced, nor the terms and
215 conditions altered, as a result of a student-athlete earning
216 compensation or obtaining professional or legal representation
217 pursuant to this article.

218 (10) Before any contract for compensation for the use of a
219 student-athlete's name, image or likeness is executed, and before
220 any compensation is provided to the student-athlete in advance of



221 a contract, the student-athlete shall disclose the contract to a
222 designated official of the postsecondary educational institution
223 in which the student is enrolled in a manner prescribed by the
224 institution.

225 (11) A third-party licensee may not enter into, or offer to
226 enter into, a name, image and likeness agreement with a
227 student-athlete or otherwise compensate a student-athlete for the
228 use of the student-athlete's name, image and likeness rights if a
229 provision of the name, image and likeness agreement or the use of
230 the student-athlete's name, image and likeness rights conflicts
231 with a provision of a contract, rule, regulation, standard or
232 other requirement of the postsecondary educational institution
233 unless such contract or use is expressly approved in writing by
234 the postsecondary educational institution.

235 (12) No postsecondary educational institution, booster,
236 third-party licensee or any other individual or entity shall
237 provide a prospective or current student-athlete compensation or
238 enter into a name, image and likeness agreement as an inducement
239 for the student-athlete to attend or enroll in a specific
240 institution or group of institutions. Compensation for a
241 student-athlete's name, image, or likeness may not be conditioned
242 on athletic performance or attendance at a particular
243 postsecondary educational institution.

244 (13) No student-athlete shall enter into a name, image, and
245 likeness agreement or receive compensation from a third-party



246 licensee relating to the name, image or likeness of the
247 student-athlete before the date on which the student-athlete
248 enrolls at a postsecondary educational institution.

249 (14) No student-athlete shall enter into a name, image, and
250 likeness agreement or receive compensation from a third-party
251 licensee for the endorsement or promotion of gambling, sports
252 betting, controlled substances, marijuana, tobacco or alcohol
253 company, brand or products, alternative or electronic nicotine
254 product or delivery system, performance-enhancing supplements,
255 adult entertainment or any other product or service that is
256 reasonably considered to be inconsistent with the values or
257 mission of a postsecondary educational institution or that
258 negatively impacts or reflects adversely on a postsecondary
259 education institution or its athletic programs, including, without
260 limitation, bringing about public disrepute, embarrassment,
261 scandal, ridicule or otherwise negatively impacting the reputation
262 or the moral or ethical standards of the postsecondary educational
263 institution.

264 (15) A contract for the use of the a student-athlete's name,
265 image, or likeness which is formed while the student-athlete is
266 participating in an intercollegiate sport at a postsecondary
267 educational institution may not extend beyond the
268 student-athlete's participation in the sport at the institution.



269 (16) Nothing in this article shall be interpreted to modify
270 any requirements or obligations imposed under Title IX of the
271 Education Amendments of 1972 (20 USC 1681 et seq.).

272 **SECTION 5.** Section 37-97-109, Mississippi Code of 1972, is
273 brought forward as follows:

274 37-97-109. No postsecondary educational institution shall be
275 subject to a claim for damages of any kind under this article,
276 including, without limitation, a claim for unfair trade or
277 competition or tortious interference. No postsecondary
278 educational institution shall be subject to a claim for damages
279 related to its adoption, implementation or enforcement of any
280 contract, rule, regulation, standard or other requirement in
281 compliance with this article. This article is not intended to and
282 shall not waive or diminish any applicable defenses and
283 immunities, including, without limitation, sovereign immunity
284 applicable to postsecondary educational institutions.

285 **SECTION 6.** Section 73-42-1, Mississippi Code of 1972, is
286 brought forward as follows:

287 73-42-1. This chapter may be cited as the "Uniform Athlete
288 Agents Act."

289 **SECTION 7.** Section 73-42-3, Mississippi Code of 1972, is
290 brought forward as follows:

291 73-42-3. In this chapter:

292 (a) "Agency contract" means an agreement in which a
293 student-athlete authorizes a person to negotiate or solicit on



294 behalf of the student-athlete a professional-sports-services
295 contract, an endorsement contract, compensation for the use of the
296 student-athlete's name, image or likeness, or enrollment at any
297 educational institution that offers an athletic scholarship to the
298 student-athlete.

299 (b) "Athlete agent" means an individual who enters into
300 an agency contract with a student-athlete or, directly or
301 indirectly, recruits, induces or solicits a student-athlete to
302 enter into an agency contract. The term does not include a
303 spouse, parent, sibling, grandparent or guardian of the
304 student-athlete or an individual acting solely on behalf of a
305 professional sports team or professional sports organization. The
306 term includes an individual who represents to the public that the
307 individual is an athlete agent.

308 (c) "Athletic director" means an individual responsible
309 for administering the overall athletic program of an educational
310 institution or, if an educational institution has separately
311 administered athletic programs for male students and female
312 students, the athletic program for males or the athletic program
313 for females, as appropriate.

314 (d) "Contact" means a communication, direct or
315 indirect, written or oral, between an athlete agent and a
316 student-athlete, to recruit, induce or solicit the student-athlete
317 to enter into an agency contract.

318 (e) "Endorsement contract" means:



319 (i) An agreement under which a student-athlete is
320 employed or receives consideration or anything of value for the
321 student-athlete's publicity, reputation, following, or fame
322 obtained because of the student-athlete's athletic ability or
323 performance; and

324 (ii) An agreement under which a student-athlete
325 receives compensation, consideration or anything of value for the
326 use of the student-athlete's name, image or likeness.

327 (f) "Intercollegiate sport" means a sport played at the
328 collegiate level for which eligibility requirements for
329 participation by a student-athlete are established by a national
330 association for the promotion or regulation of collegiate
331 athletics.

332 (g) "Person" means an individual, corporation, business
333 trust, estate, trust, partnership, limited liability company,
334 association, joint venture, government; governmental subdivision,
335 agency or instrumentality; public corporation, or any other legal
336 or commercial entity.

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

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



344 (j) "Registration" means registration as an athlete
345 agent pursuant to this chapter.

346 (k) "State" means a state of the United States, the
347 District of Columbia, Puerto Rico, the United States Virgin
348 Islands, or any territory or insular possession subject to the
349 jurisdiction of the United States.

350 (l) "Student-athlete" means an individual who engages
351 in, is eligible to engage in, or may be eligible in the future to
352 engage in, a sport for a professional sports team or in any
353 intercollegiate sport at any educational institution. If an
354 individual is permanently ineligible to participate in a
355 particular intercollegiate sport, the individual is not a
356 student-athlete for purposes of that sport.

357 **SECTION 8.** Section 73-42-5, Mississippi Code of 1972, is
358 brought forward as follows:

359 73-42-5. (1) The Secretary of State shall administer this
360 chapter.

361 (2) By engaging in the business of an athlete agent in this
362 state, a nonresident individual appoints the Secretary of State as
363 the individual's agent to accept service of process in any civil
364 action related to the individual's business as an athlete agent in
365 this state.

366 (3) The Secretary of State may:

367 (a) Conduct public or private investigations within or
368 outside of this state which he considers necessary or appropriate



369 to determine whether a person has violated, is violating, or is
370 about to violate any provision of this chapter or a rule adopted
371 under this chapter, or to aid in the enforcement of this chapter
372 or in the adoption of rules and forms under this chapter;

373 (b) Require or permit a person to testify, file a
374 statement, or produce a record, under oath or otherwise as he may
375 determine, as to all facts and circumstances concerning a matter
376 to be investigated or about which an action or proceeding is to be
377 instituted; and

378 (c) Publish a record concerning an action, proceeding,
379 or an investigation under, or a violation of, this chapter or a
380 rule adopted under this chapter if he determines it is necessary
381 or appropriate in the public interest.

382 (4) For the purpose of an investigation under this chapter,
383 the Secretary of State or his designated officer may administer
384 oaths and affirmations, subpoena witnesses, seek compulsion of
385 attendance, take evidence, require the filing of statements, and
386 require the production of any records that the Secretary of State
387 considers relevant or material to the investigation.

388 **SECTION 9.** Section 73-42-7, Mississippi Code of 1972, is
389 brought forward as follows:

390 73-42-7. (1) Except as otherwise provided in subsection
391 (2), an individual may not act as an athlete agent in this state
392 before being issued a certificate of registration under Section
393 73-42-11 or 73-42-15.



394 (2) Before being issued a certificate of registration, an
395 individual may act as an athlete agent for all purposes except
396 signing an agency contract if within seven (7) days after an
397 initial act as an athlete agent, the individual submits an
398 application to register as an athlete agent in this state.

399 (3) An agency contract resulting from conduct in violation
400 of this section is void. The athlete agent shall return any
401 consideration received under the contract to the individual or
402 entity who tendered or paid the consideration.

403 **SECTION 10.** Section 73-42-9, Mississippi Code of 1972, is
404 brought forward as follows:

405 73-42-9. (1) An applicant for registration shall submit an
406 application for registration to the Secretary of State in a form
407 prescribed by the Secretary of State. An application filed under
408 this section is a public record. Except as otherwise provided in
409 subsection (2), the application must be in the name of an
410 individual, signed by the applicant under penalty of perjury and
411 must state or contain:

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

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

416 (c) Any business or occupation engaged in by the
417 applicant for the five (5) years next preceding the date of
418 submission of the application;



419 (d) A description of the applicant's:
420 (i) Formal training as an athlete agent;
421 (ii) Practical experience as an athlete agent; and
422 (iii) Educational background relating to the
423 applicant's activities as an athlete agent;
424 (e) The names and addresses of three (3) individuals
425 not related to the applicant who are willing to serve as
426 references;
427 (f) The name, sport and last known team for each
428 individual for whom the applicant provided services as an athlete
429 agent during the five (5) years next preceding the date of
430 submission of the application;
431 (g) The names and addresses of all persons who are:
432 (i) With respect to the athlete agent's business
433 if it is not a corporation, the partners, officers, associates,
434 individuals or profit-sharers; and
435 (ii) With respect to a company or corporation
436 employing the athlete agent, the officers, directors and any
437 shareholder of the corporation or member with a five percent (5%)
438 or greater interest;
439 (h) Whether the applicant or any other person named
440 pursuant to paragraph (g) has been convicted of a crime that, if
441 committed in this state, would be a felony or other crime
442 involving moral turpitude, and identify the crime;



443 (i) Whether there has been any administrative or
444 judicial determination that the applicant or any other person
445 named pursuant to paragraph (g) has made a false, misleading,
446 deceptive or fraudulent representation;

447 (j) Any instance in which the conduct of the applicant
448 or any other person named pursuant to paragraph (g) resulted in
449 the imposition of a sanction, suspension or declaration of
450 ineligibility to participate in an interscholastic or
451 intercollegiate athletic event on a student-athlete or educational
452 institution;

453 (k) Any sanction, suspension or disciplinary action
454 taken against the applicant or any other person named pursuant to
455 paragraph (g) arising out of occupational or professional conduct;

456 (l) Whether there has been any denial of an application
457 for, suspension or revocation of, or refusal to renew, the
458 certification, registration or licensure of the applicant or any
459 other person named pursuant to paragraph (g) as an athlete agent
460 in any state;

461 (m) Any pending litigation against the applicant in the
462 applicant's capacity as an agent;

463 (n) A list of all other states in which the applicant
464 is currently licensed or registered as an athlete agent and a copy
465 of each state's license or registration, as applicable; and

466 (o) Consent to submit to a criminal background check
467 before being issued a certificate of registration. Any fees



468 connected with the background check shall be assessed to the
469 applicant.

470 (2) An individual who has submitted an application for, and
471 received a certificate of, registration or licensure as an athlete
472 agent in another state, may submit a copy of the application and a
473 valid certificate of registration or licensure from the other
474 state in lieu of submitting an application in the form prescribed
475 pursuant to subsection (1), along with the information requested
476 in paragraphs (l), (m), (n) and (o) of subsection (1). The
477 Secretary of State shall accept the application and the
478 certificate from the other state as an application for
479 registration in this state if the application to the other state:

480 (a) Was submitted in the other state within the six (6)
481 months next preceding the submission of the application in this
482 state and the applicant certifies the information contained in the
483 application is current;

484 (b) Contains information substantially similar to or
485 more comprehensive than that required in an application submitted
486 in this state; and

487 (c) Was signed by the applicant under penalty of
488 perjury.

489 (3) An athlete agent must notify the Secretary of State
490 within thirty (30) days whenever the information contained in any
491 application for registration as an athlete agent in this state
492 changes in a material way or is, or becomes, inaccurate or



493 incomplete in any respect. Events requiring notice shall include,
494 but are not limited to, the following:

495 (a) Change in address of the athlete agent's principal
496 place of business;

497 (b) Conviction of a felony or other crime involving
498 moral turpitude by the athlete agent;

499 (c) Denial, suspension, refusal to renew, or revocation
500 of a registration or license of the athlete agent as an athlete
501 agent in any state; or

502 (d) Sanction, suspension or other disciplinary action
503 taken against the athlete agent arising out of occupational or
504 professional conduct.

505 **SECTION 11.** Section 73-42-11, Mississippi Code of 1972, is
506 brought forward as follows:

507 73-42-11. (1) Except as otherwise provided in subsection
508 (3), the Secretary of State shall issue a certificate of
509 registration to an individual who complies with Section
510 73-42-9(1).

511 (2) Except as otherwise provided in subsection (3), the
512 Secretary of State shall issue a certificate of registration to an
513 individual whose application has been accepted under Section
514 73-42-9(2).

515 (3) The Secretary of State may refuse to issue a certificate
516 of registration if he determines that the applicant has engaged in
517 conduct that has a significant adverse effect on the applicant's



518 fitness to serve as an athlete agent. In making the
519 determination, the Secretary of State may consider whether the
520 applicant has:

521 (a) Been convicted of a crime in another state that, if
522 committed in this state, would be a felony or other crime
523 involving moral turpitude;

524 (b) Made a materially false, misleading, deceptive or
525 fraudulent representation as an athlete agent or in the
526 application;

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

529 (d) Engaged in conduct prohibited by Section 73-42-27;

530 (e) Had a registration, licensure or certification as
531 an athlete agent suspended, revoked, or denied or been refused
532 renewal of registration, licensure or certification in any state;

533 (f) Engaged in conduct or failed to engage in conduct
534 the consequence of which was that a sanction, suspension or
535 declaration of ineligibility to participate in an interscholastic
536 or intercollegiate athletic event was imposed on a student-athlete
537 or educational institution; or

538 (g) Engaged in conduct that significantly adversely
539 reflects on the applicant's trustworthiness or credibility.

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

542 (a) How recently the conduct occurred;



543 (b) The nature of the conduct and the context in which
544 it occurred; and

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

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

552 (6) An individual who has submitted an application for
553 renewal of registration or licensure in another state, in lieu of
554 submitting an application for renewal in the form prescribed
555 pursuant to subsection (5), may file a copy of the application for
556 renewal and a valid certificate of registration from the other
557 state. The Secretary of State shall accept the application for
558 renewal from the other state as an application for renewal in this
559 state if the application to the other state:

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

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

566 (c) Was signed by the applicant under penalty of
567 perjury.



568 (7) Except as provided in Section 33-1-39, a certificate of
569 registration or a renewal of a registration is valid for two (2)
570 years.

571 **SECTION 12.** Section 73-42-13, Mississippi Code of 1972, is
572 brought forward as follows:

573 73-42-13. (1) After proper notice and an opportunity for a
574 hearing, the Secretary of State may deny, suspend, revoke or
575 refuse to renew a registration for conduct that would have
576 justified denial of registration under Section 73-42-11(3) or for
577 a violation of any provision of this chapter.

578 (2) (a) The Secretary of State shall appoint at least one
579 (1) hearing officer for the purpose of holding hearings, compiling
580 evidence and rendering decisions under this section and Section
581 73-42-11. The hearing officer shall fix the date for an
582 adjudicatory hearing and notify the athlete agent involved. The
583 hearing shall be held at a location to be designated by the
584 hearing officer. Unless the time period is extended by the
585 hearing officer, the hearing shall be held not less than fifteen
586 (15) nor more than thirty (30) days after the mailing of notice to
587 the athlete agent involved. At the conclusion of the hearing, the
588 hearing officer shall make a recommendation regarding the
589 registration of the athlete agent involved. The Secretary of
590 State shall then take appropriate action by final order.

591 (b) Any athlete agent whose application for
592 registration has been denied or not renewed, or whose registration



593 has been revoked or suspended by the Secretary of State, within
594 thirty (30) days after the date of such final order, shall have
595 the right of a trial de novo on appeal to the circuit court of the
596 county of residence of the athlete agent, the student-athlete, or
597 the educational institution that issued an athletic scholarship to
598 the student-athlete. If the secretary's final order is supported
599 by substantial evidence and does not violate a state or federal
600 law, then it shall be affirmed by the circuit court. Either party
601 shall have the right of appeal to the Supreme Court as provided by
602 law from any decision of the circuit court. No athlete agent
603 shall be allowed to deliver services to a student-athlete
604 domiciled or residing in Mississippi while any such appeal is
605 pending.

606 (3) In addition to the reasons specified in subsection (1)
607 of this section, the secretary shall be authorized to suspend the
608 registration of any person for being out of compliance with an
609 order for support, as defined in Section 93-11-153. The procedure
610 for suspension of a registration for being out of compliance with
611 an order for support, and the procedure for the reissuance or
612 reinstatement of a registration suspended for that purpose, and
613 the payment of any fees for the reissuance or reinstatement of a
614 registration suspended for that purpose, shall be governed by
615 Section 93-11-157 or 93-11-163, as the case may be. Actions taken
616 by the secretary in suspending the registration of a person when
617 required by Section 93-11-157 are not actions from which an appeal



618 may be taken under this section. Any appeal of a registration
619 suspension that is required by Section 93-11-157 or 93-11-163
620 shall be taken in accordance with the appeal procedure specified
621 in Section 93-11-157 or 93-11-163, as the case may be, rather than
622 the procedure specified in this section. If there is any conflict
623 between any provision of Section 93-11-157 or 93-11-163 and any
624 provision of this chapter, the provisions of Section 93-11-157 or
625 93-11-163, as the case may be, shall control.

626 **SECTION 13.** Section 73-42-15, Mississippi Code of 1972, is
627 brought forward as follows:

628 73-42-15. The Secretary of State may issue a temporary
629 certificate of registration while an application for registration
630 or renewal is pending.

631 **SECTION 14.** Section 73-42-17, Mississippi Code of 1972, is
632 brought forward as follows:

633 73-42-17. (1) An application for registration or renewal of
634 registration must be accompanied by a fee in the following amount:

635 (a) Two Hundred Dollars (\$200.00) for an initial
636 application for registration.

637 (b) Two Hundred Dollars (\$200.00) for an application
638 for registration based upon a certificate of registration or
639 licensure issued by another state.

640 (c) Two Hundred Dollars (\$200.00) for an application
641 for renewal of registration.



642 (d) Two Hundred Dollars (\$200.00) for an application
643 for renewal of registration based upon an application for renewal
644 of registration or licensure submitted in another state.

645 (2) In addition, the Secretary of State may impose a fee for
646 the actual costs incurred by the Secretary of State's office for
647 processing and administering one or more criminal history
648 background checks.

649 **SECTION 15.** Section 73-42-19, Mississippi Code of 1972, is
650 brought forward as follows:

651 73-42-19. (1) An agency contract must be in a record,
652 signed by the parties.

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

654 (a) The amount and method of calculating the
655 consideration to be paid by the student-athlete for services to be
656 provided by the athlete agent under the contract and any other
657 consideration or anything of value that the athlete agent has
658 received or will receive from any other source for entering into
659 the contract or for providing the services;

660 (b) The name of any person not listed in the
661 application for registration or renewal who will be compensated
662 because the student-athlete signed the agency contract;

663 (c) A description of any expenses that the
664 student-athlete agrees to reimburse;

665 (d) A description of the services to be provided to the
666 student-athlete;



667 (e) The duration of the contract; and

668 (f) The date of execution.

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

672 **WARNING TO STUDENT-ATHLETE**

673 **IF YOU SIGN THIS CONTRACT:**

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

676 (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL**
677 **YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN**
678 **72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

679 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**
680 **SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR**
681 **ELIGIBILITY.**

682 (4) An agency contract that does not conform to this section
683 is voidable by the student-athlete.

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

686 **SECTION 16.** Section 73-42-21, Mississippi Code of 1972, is
687 brought forward as follows:

688 73-42-21. (1) Before an athlete agent, or his or her
689 employee or representative, may initiate a first contact, direct
690 or indirect, with any of the individuals listed below, with the
691 intent or for the purpose of soliciting the student-athlete or of



692 procuring employment from the student-athlete, the athlete agent,
693 or his or her employee or representative, must provide the
694 educational institution at which the student-athlete is enrolled
695 with written notification of the planned contact with these
696 individuals:

697 (a) The student-athlete;

698 (b) The student-athlete's spouse, parent, foster
699 parent, guardian, sibling, aunt, uncle, grandparent, child or
700 first cousin; or the parent, foster parent, sibling, aunt, uncle,
701 grandparent, child or first cousin of the student-athlete's
702 spouse; or

703 (c) A representative of any of the individuals
704 enumerated in paragraphs (a) and (b) of this subsection (1).

705 (2) Within seventy-two (72) hours after entering into an
706 agency contract or before the next scheduled athletic event in
707 which the student-athlete may participate, whichever occurs first,
708 the athlete agent shall give notice of the existence of the agency
709 contract to the athletic director of the educational institution
710 at which the student-athlete is enrolled or at which the athlete
711 agent has reasonable grounds to believe the student-athlete
712 intends to enroll.

713 (3) Within seventy-two (72) hours after entering into an
714 agency contract or before the next athletic event in which the
715 student-athlete may participate, whichever occurs first, the
716 student-athlete shall inform the athletic director of the



717 educational institution at which the student-athlete is enrolled
718 that he or she has entered into an agency contract.

719 **SECTION 17.** Section 73-42-23, Mississippi Code of 1972, is
720 brought forward as follows:

721 73-42-23. (1) A student-athlete may cancel an agency
722 contract by giving notice to the athlete agent of the cancellation
723 within fourteen (14) days after the date the contract is signed.

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

726 (3) If a student-athlete cancels an agency contract, the
727 student-athlete is not required to pay any consideration under the
728 contract or to return any consideration received from the athlete
729 agent to induce the student-athlete to enter into the contract.

730 **SECTION 18.** Section 73-42-25, Mississippi Code of 1972, is
731 brought forward as follows:

732 73-42-25. (1) An athlete agent shall retain the following
733 records for a period of five (5) years:

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

736 (b) Any agency contract entered into by the athlete
737 agent; and

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



740 (2) Records required by subsection (1) to be retained are
741 open to inspection by the Secretary of State during normal
742 business hours.

743 **SECTION 19.** Section 73-42-27, Mississippi Code of 1972, is
744 brought forward as follows:

745 73-42-27. (1) An athlete agent may not engage in any of the
746 following activities, within this state or otherwise, with the
747 intent to induce a student-athlete to enter into an agency
748 contract:

749 (a) Give any materially false or misleading information
750 or make a materially false promise or representation;

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

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

755 (2) An athlete agent may not intentionally:

756 (a) Initiate contact with a student-athlete unless
757 registered under this chapter;

758 (b) Refuse or willfully fail to retain or permit
759 inspection of the records required by Section 73-42-25 or fail to
760 provide the Secretary of State with any statements, documents,
761 records or testimony required by the secretary under Section
762 73-42-5(3) and (4);

763 (c) Violate Section 73-42-7 by failing to register;



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

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

767 (f) Fail to notify a student-athlete prior to the
768 student-athlete's signing an agency contract for a particular
769 sport that the signing by the student-athlete may make the
770 student-athlete ineligible to participate as a student-athlete in
771 that sport.

772 **SECTION 20.** Section 73-42-29, Mississippi Code of 1972, is
773 brought forward as follows:

774 73-42-29. The commission of any act prohibited by Section
775 73-42-27 by an athlete agent is a felony punishable by a fine of
776 not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment
777 of not more than two (2) years, or both.

778 **SECTION 21.** Section 73-42-31, Mississippi Code of 1972, is
779 brought forward as follows:

780 73-42-31. (1) An educational institution has a right of
781 action against an athlete agent or a former student-athlete for
782 damages caused by a violation of this act. In an action under
783 this section, the court may award to the prevailing party costs
784 and reasonable attorney's fees.

785 (2) Damages of an educational institution under subsection
786 (1) include losses and expenses incurred because, as a result of
787 the activities of an athlete agent or former student-athlete, the
788 educational institution was injured by a violation of this chapter



789 or was penalized, disqualified or suspended from participation in
790 athletics by a national association for the promotion and
791 regulation of athletics, by an athletic conference, or by
792 reasonable self-imposed disciplinary action taken to mitigate
793 sanctions.

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

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

800 (5) This chapter does not restrict rights, remedies or
801 defenses of any person under law or equity.

802 **SECTION 22.** Section 73-42-33, Mississippi Code of 1972, is
803 brought forward as follows:

804 73-42-33. The Secretary of State may assess a civil penalty
805 against an athlete agent not to exceed Twenty-five Thousand
806 Dollars (\$25,000.00) for a violation of this chapter.

807 **SECTION 23.** Section 73-42-34, Mississippi Code of 1972, is
808 brought forward as follows:

809 73-42-34. (1) If the Secretary of State determines that a
810 person has engaged in or is engaging in an act, practice, or
811 course of business constituting a violation of this chapter or a
812 rule adopted or order issued under this chapter, or that a person
813 has materially aided or is materially aiding in an act, practice,



814 or course of business constituting a violation of this chapter or
815 a rule adopted or order issued under this chapter, then the
816 secretary may:

817 (a) Issue an order directing the person to cease and
818 desist from engaging in the act, practice, or course of business,
819 or to take other action necessary or appropriate to comply with
820 this chapter or any rule adopted or order issued under this
821 chapter;

822 (b) Issue an order imposing an administrative penalty
823 against an athlete agent who violated any provision of this
824 chapter or any rule adopted or order issued under this chapter;
825 and

826 (c) Take any other action authorized under the
827 provisions of this chapter.

828 (2) An order issued under subsection (1) of this section is
829 effective on the date of its issuance. Upon the order's issuance,
830 the Secretary of State shall promptly serve each person subject to
831 the order with a copy of the order and a notice that the order has
832 been entered. The order must include a statement of any civil
833 penalty or other administrative remedy to be imposed under
834 subsection (1) of this section, a statement of the costs of
835 investigation that the secretary will seek to recover, a statement
836 of the reasons for the order, and a statement notifying the person
837 of his or her right to a hearing under Section 73-42-13. If a
838 person subject to the order does not request a hearing in writing



839 within thirty (30) days of the date of the order and none is
840 ordered by the hearing officer, then the order, including the
841 imposition of a civil penalty or requirement for payment of the
842 costs of investigation, shall become final as to that person by
843 operation of law.

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

847 (4) If a petition for judicial review of a final order is
848 not filed in accordance with Section 73-42-37, or the petition is
849 denied by the court, the secretary may file a certified copy of
850 the final order with the clerk of a court in the jurisdiction
851 where enforcement will be sought. The order so filed has the same
852 effect as a judgment of the court and may be recorded, enforced,
853 or satisfied in the same manner as a judgment of the court.

854 (5) If a person does not comply with an order issued under
855 this section, the secretary may petition a court of competent
856 jurisdiction to enforce the order and collect administrative civil
857 penalties and costs imposed under the final order. The court may
858 not require the secretary to post a bond in an action or
859 proceeding under this section. If the court finds, after service
860 and opportunity for hearing, that the person did not comply with
861 the order, the court may adjudge the person in civil contempt of
862 the order. The court may grant any relief the court determines is
863 just and proper in the circumstances.



864 (6) Any person aggrieved by a final order of the secretary
865 may obtain a review of the order in the circuit court of the
866 county of residence of the athlete agent, the student-athlete, or
867 the public or private college, university, community or junior
868 college in the state that issued an athletic scholarship to the
869 student-athlete, by filing within thirty (30) days after the entry
870 of the order, a written petition praying that the order be
871 modified or set aside, in whole or in part. A copy of the
872 petition shall be served upon the secretary, and the secretary
873 shall certify and file with the court a copy of the record and
874 evidence upon which the order was entered. When these have been
875 filed, the court has exclusive jurisdiction to affirm, modify,
876 enforce or set aside the order, in whole or in part. The findings
877 of the secretary as to the facts, if supported by competent
878 material and substantial evidence, are conclusive. The beginning
879 of proceedings under this subsection does not operate as a stay of
880 the secretary's order, unless specifically ordered by the court.

881 **SECTION 24.** Section 73-42-35, Mississippi Code of 1972, is
882 brought forward as follows:

883 73-42-35. In applying and construing this uniform act,
884 consideration must be given to the need to promote uniformity of
885 the law with respect to its subject matter among states that enact
886 it.

887 **SECTION 25.** Section 73-42-37, Mississippi Code of 1972, is
888 brought forward as follows:



889 73-42-37. The provisions of this chapter modify, limit and
890 supersede the federal Electronic Signatures in Global and National
891 Commerce Act, 15 USCS Section 7001, et seq., except that those
892 provisions do not modify, limit, or supersede Section 101(c) of
893 that act, 15 USCS Section 7001(c), and do not authorize electronic
894 delivery of any of the notices described in Section 103(b) of that
895 act, 15 USCS Section 7003(b).

896 **SECTION 26.** Section 73-42-39, Mississippi Code of 1972, is
897 brought forward as follows:

898 73-42-39. The Secretary of State may promulgate rules and
899 regulations necessary to administer, carry out and enforce this
900 chapter and to define terms whether or not used in this chapter,
901 but those definitions may not be inconsistent with this chapter.

902 **SECTION 27.** This act shall take effect and be in force from
903 and after July 1, 2022.

