

## House Amendments to Senate Bill No. 2690

TO THE SECRETARY OF THE SENATE:

THIS IS TO INFORM YOU THAT THE HOUSE HAS ADOPTED THE AMENDMENTS SET OUT BELOW:

### AMENDMENT NO. 1

Amend by striking all after the enacting clause and inserting in lieu thereof the following:

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

34           37-97-101. This article shall be known and may be cited as  
35 the "Mississippi Intercollegiate Athletics Compensation Rights  
36 Act."

37           **SECTION 2.** Section 37-97-103, Mississippi Code of 1972, is  
38 amended as follows:

39           37-97-103. (1) As used in this article, the following terms  
40 shall have the following meanings unless the context clearly  
41 indicates otherwise:

42           (a) "Compensation" means anything of value, monetary or  
43 otherwise, including, but not limited to, cash, gifts, in-kind  
44 items of value, social media compensation, payments for licensing  
45 or use of publicity rights, payments for other intellectual or  
46 intangible property rights under federal or state law, and any  
47 other form of payment or remuneration, except as excluded under  
48 this article.

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

51 (i) Tuition, room, board, books, fees and personal  
52 expenses that a postsecondary educational institution provides a  
53 student-athlete in accordance with the rules of the athletic  
54 association or conference of which the postsecondary educational  
55 institution is a member;

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

60 (iii) Any other financial aid, benefits or awards  
61 that a postsecondary educational institution provides a  
62 student-athlete in accordance with the rules of the athletic  
63 association or conference of which the postsecondary educational  
64 institution is a member; or

65 (iv) The payment of wages and benefits to a  
66 student-athlete for work actually performed \* \* \* for services  
67 unrelated to a student-athlete's publicity rights or other  
68 intellectual or intangible property rights of a student-athlete  
69 under federal or state law.

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

71 (c) "Intercollegiate athletics program" means an  
72 intercollegiate athletics program played at the collegiate level  
73 for which eligibility requirements for participation by a

74 student-athlete are established by a national association for the  
75 promotion or regulation of collegiate athletics.

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

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

81 (f) "Name, Image and Likeness Agreement" means a  
82 contract or \* \* \* other arrangement between a student-athlete and  
83 a third-party \* \* \* regarding the \* \* \* use of the \* \* \* publicity  
84 of the student-athlete.

85 (g) "Publicity right" means any right \* \* \*:

86 (i) \* \* \* Associated with the name, image, \* \* \*  
87 likeness \* \* \*, publicity, reputation, fame or personal following  
88 of a student-athlete; or

89 (ii) Recognized under a federal or state law \* \* \*  
90 as permitting an individual to control and profit from the \* \* \*  
91 use of the name, image, \* \* \* likeness, publicity, reputation,  
92 fame or personal following of the individual.

93 (h) "Postsecondary educational institution" means a  
94 public university or community college or private university or  
95 college.

96 (i) "Social media compensation" means all forms of  
97 payment for engagement on social media received by a  
98 student-athlete as a result of the use of that  
99 student-athlete's \* \* \* publicity rights.

100 (j) "Student-athlete" means an individual who engages  
101 in, is eligible to engage in, or may be eligible in the future to  
102 engage in, intercollegiate athletics program at a postsecondary  
103 educational institution, including, without limitation,  
104 prospective student-athletes of an intercollegiate athletics  
105 program. If an individual is permanently ineligible to  
106 participate in a particular intercollegiate sport, the individual  
107 is not a student-athlete for purposes of that sport.

108 (k) "Third-party \* \* \*" means any individual or entity  
109 or group of the same, acting independently or collectively,  
110 that \* \* \* enters into an agreement for the publicity rights \* \* \*  
111 of a student-athlete or group of student-athletes. The term  
112 "third-party \* \* \*" shall not include any national association for  
113 the promotion or regulation of collegiate athletics, athletics  
114 conference, or postsecondary educational institution.

115 **SECTION 3.** Section 37-97-105, Mississippi Code of 1972, is  
116 amended as follows:

117 37-97-105. (1) Except as provided in Section 37-97-107, a  
118 student-athlete may:

119 (a) Earn compensation, \* \* \* for the use of \* \* \*  
120 publicity rights of the student-athlete \* \* \*; and

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

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

126 (3) Notwithstanding any other provision of applicable law or  
127 agreement to the contrary, a student-athlete shall not be deemed  
128 an employee or independent contractor of an association, a  
129 conference, or a postsecondary educational institution based on  
130 the student-athlete's participation in an intercollegiate  
131 athletics program.

132 **SECTION 4.** Section 37-97-107, Mississippi Code of 1972, is  
133 amended as follows:

134 37-97-107. (1) Except as provided for under this article, a  
135 postsecondary educational institution shall not uphold any  
136 contract, rule, regulation, standard or other requirement that  
137 prevents a student-athlete of that institution from earning  
138 compensation \* \* \* for the use of the student's \* \* \* publicity  
139 rights. Any such contract, rule, regulation standard or other  
140 requirement shall be void and unenforceable against the  
141 postsecondary educational institution or the student-athlete.  
142 Compensation from the use of a student-athlete's \* \* \* publicity  
143 rights may not affect the student-athlete's scholarship  
144 eligibility, grant-in-aid or other financial aid, awards or  
145 benefits, or the student-athlete's intercollegiate athletic  
146 eligibility. Nothing in this article is intended to alter any  
147 state and federal laws or regulations regarding the award of  
148 financial aid at postsecondary educational institutions.

149 (2) Except as provided for in this article, an athletic  
150 association, conference or other group or organization with  
151 authority over intercollegiate athletic programs, including, but

152 not limited to, the National Collegiate Athletic Association  
153 (NCAA) and the National Junior College Athletic Association  
154 (NJCAA), shall not prevent, or otherwise enforce a contract, rule,  
155 regulation, standard or other requirement that prevents, a  
156 student-athlete of a postsecondary educational institution from  
157 earning compensation as a result of the use of the  
158 student-athlete's \* \* \* publicity rights.

159 (3) To protect the integrity of its educational mission and  
160 intercollegiate athletics program, a postsecondary educational  
161 institution may impose reasonable limitations on the dates and  
162 time that a student-athlete may participate in endorsement,  
163 promotional, social media or other activities related to the  
164 license or use of the student-athlete's \* \* \* publicity rights.  
165 Nothing in this article shall restrict a postsecondary educational  
166 institution from exercising its sole discretion to control the  
167 authorized use of its marks or logos or to determine a  
168 student-athlete's apparel, gear or other wearables during an  
169 intercollegiate athletics competition or institution-sponsored  
170 event. A student-athlete may not receive or enter into a contract  
171 for compensation for the use of his or her \* \* \* publicity rights  
172 in a way that also uses any registered or licensed marks, logos,  
173 verbiage or designs of a postsecondary institution, unless the  
174 institution has provided the student-athlete with written  
175 permission to do so prior to \* \* \* entering into the agreement or  
176 receipt of compensation. If permission is granted, the  
177 postsecondary educational institution, by agreement of all

178 parties, may be compensated for the use in a manner consistent  
179 with market rates. A postsecondary educational institution may  
180 also prohibit a student-athlete from wearing any item of clothing,  
181 shoes, or other gear or wearables with the name, logo or insignia  
182 of any entity during an intercollegiate athletics competition or  
183 institution-sponsored event.

184 (4) An athletic association, conference or other group or  
185 organization with authority over intercollegiate athletics  
186 programs, including, but not limited to, the National Collegiate  
187 Athletic Association and the National Junior College Athletic  
188 Association, shall not enforce a contract, rule, regulation,  
189 standard or other requirement that prevents a postsecondary  
190 educational institution from participating in an intercollegiate  
191 athletics program, or otherwise penalize the postsecondary  
192 educational institution or its intercollegiate athletic program,  
193 as a result of activities permitted by this article, including,  
194 without limitation, the compensation of a student-athlete for the  
195 use of the student-athlete's \* \* \* publicity rights.

196 (5) (a) A postsecondary educational institution, athletic  
197 association, conference or other group or organization with  
198 authority over intercollegiate athletics programs, including, but  
199 not limited to, the National Collegiate Athletic Association and  
200 the National Junior College Athletic Association, shall not \* \* \*:

201 ( \* \* \*i) Enter into, or offer to enter into, a  
202 name, image and likeness agreement with a \* \* \* student-athlete;  
203 or

204 ( \* \* \* ii) Provide a \* \* \* student-athlete or the  
205 student-athlete's family compensation in relation to the use of  
206 the student-athlete's \* \* \* publicity rights.

207 (b) A postsecondary educational institution may  
208 facilitate opportunities for student-athletes to engage with  
209 third-parties interested in entering into name, image, and  
210 likeness agreements, and may communicate with third-parties  
211 interested in providing name, image, and likeness agreements to  
212 student-athletes.

213 (6) A postsecondary educational institution, athletic  
214 association, conference or other group or organization with  
215 authority over intercollegiate athletics programs, including, but  
216 not limited to, the National Collegiate Athletic Association and  
217 the National Junior College Athletic Association shall not prevent  
218 a student-athlete from obtaining professional representation in  
219 relation to \* \* \* publicity rights, or to secure a name, image and  
220 likeness agreement, including, but not limited to, representation  
221 provided by athlete agents or legal representation provided by  
222 attorneys. A student-athlete shall provide the postsecondary  
223 educational institution with written notice at least seven (7)  
224 days prior to entering into a representation agreement with any  
225 individual for the purpose of exploring or securing compensation  
226 for use of the student-athlete's \* \* \* publicity rights.

227 (7) Professional representation obtained by student-athletes  
228 must be from persons registered as athlete agents as provided in  
229 Section 73-42-1 et seq. of the Uniform Athlete Agent Act.



230 Attorneys who provide legal representation to student-athletes  
231 must be licensed to practice law in the State of Mississippi and  
232 in good standing with The Mississippi Bar.

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

238 (9) A grant-in-aid, including cost of attendance, and other  
239 permissible financial aid, awards or benefits from the  
240 postsecondary educational institution in which a student-athlete  
241 is enrolled shall not be revoked, reduced, nor the terms and  
242 conditions altered, as a result of a student-athlete earning  
243 compensation or obtaining professional or legal representation  
244 pursuant to this article.

245 (10) Before any \* \* \* agreement for compensation for the use  
246 of a student-athlete's \* \* \* publicity rights is \* \* \* entered  
247 into, and before any compensation is provided to the  
248 student-athlete in advance of \* \* \* an agreement, the  
249 student-athlete shall disclose the \* \* \* agreement to a designated  
250 official of the postsecondary educational institution in which the  
251 student-athlete is enrolled in a manner prescribed by the  
252 institution.

253 (11) A third-party \* \* \* may not enter into, or offer to  
254 enter into, a name, image and likeness agreement with a  
255 student-athlete or otherwise compensate a student-athlete for the

256 use of the student-athlete's \* \* \* publicity rights if a provision  
257 of the name, image and likeness agreement or the use of the  
258 student-athlete's \* \* \* publicity rights conflicts with a  
259 provision of a contract, rule, regulation, standard or other  
260 requirement of the postsecondary educational institution unless  
261 such contract or use is expressly approved in writing by the  
262 postsecondary educational institution.

263 (12) No postsecondary educational institution, booster \* \* \*  
264 or third-party \* \* \* shall provide a \* \* \* student-athlete  
265 compensation or enter into a name, image and likeness agreement as  
266 an inducement for the student-athlete to attend or enroll in a  
267 specific institution or group of institutions. Compensation for a  
268 student-athlete's \* \* \* publicity rights may not be conditioned on  
269 athletic performance \* \* \* \* \*.

270 \* \* \*

271 ( \* \* \* 13) No student-athlete shall enter into a name,  
272 image, and likeness agreement or receive compensation from a  
273 third-party licensee for the endorsement or promotion of gambling,  
274 sports betting, controlled substances, marijuana, tobacco or  
275 alcohol \* \* \*, brand or products, alternative or electronic  
276 nicotine product or delivery system, performance-enhancing  
277 supplements, adult entertainment or any other product or service  
278 that is reasonably considered to be inconsistent with the values  
279 or mission of a postsecondary educational institution or that  
280 negatively impacts or reflects adversely on a postsecondary  
281 education institution or its athletic programs, including, without

282 limitation, bringing about public disrepute, embarrassment,  
283 scandal, ridicule or otherwise negatively impacting the reputation  
284 or the moral or ethical standards of the postsecondary educational  
285 institution.

286 ( \* \* \*14) \* \* \* An agreement for the use of \* \* \* a  
287 student-athlete's \* \* \* publicity rights which is formed while the  
288 student-athlete is participating in an intercollegiate sport at a  
289 postsecondary educational institution may not extend beyond the  
290 student-athlete's participation in the sport at the institution.

291 ( \* \* \*15) Nothing in this article shall be interpreted to  
292 modify any requirements or obligations imposed under Title IX of  
293 the Education Amendments of 1972 (20 USC 1681 et seq.).

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

296 37-97-109. No postsecondary educational institution shall be  
297 subject to a claim for damages of any kind under this article,  
298 including, without limitation, a claim for unfair trade or  
299 competition or tortious interference. No postsecondary  
300 educational institution shall be subject to a claim for damages  
301 related to its adoption, implementation or enforcement of any  
302 contract, rule, regulation, standard or other requirement in  
303 compliance with this article. This article is not intended to and  
304 shall not waive or diminish any applicable defenses and  
305 immunities, including, without limitation, sovereign immunity  
306 applicable to postsecondary educational institutions.

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

309           73-42-1. This chapter may be cited as the "Uniform Athlete  
310 Agents Act."

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

313           73-42-3. In this chapter:

314           (a) "Agency contract" means an agreement in which a  
315 student-athlete authorizes a person to negotiate or solicit on  
316 behalf of the student-athlete a professional-sports-services  
317 contract, an endorsement contract, compensation for the use of the  
318 student-athlete's name, image or likeness, or enrollment at any  
319 educational institution that offers an athletic scholarship to the  
320 student-athlete.

321           (b) "Athlete agent" means an individual who enters into  
322 an agency contract with a student-athlete or, directly or  
323 indirectly, recruits, induces or solicits a student-athlete to  
324 enter into an agency contract. The term does not include a  
325 spouse, parent, sibling, grandparent or guardian of the  
326 student-athlete or an individual acting solely on behalf of a  
327 professional sports team or professional sports organization. The  
328 term includes an individual who represents to the public that the  
329 individual is an athlete agent.

330           (c) "Athletic director" means an individual responsible  
331 for administering the overall athletic program of an educational  
332 institution or, if an educational institution has separately

333 administered athletic programs for male students and female  
334 students, the athletic program for males or the athletic program  
335 for females, as appropriate.

336 (d) "Contact" means a communication, direct or  
337 indirect, written or oral, between an athlete agent and a  
338 student-athlete, to recruit, induce or solicit the student-athlete  
339 to enter into an agency contract.

340 (e) "Endorsement contract" means:

341 (i) An agreement under which a student-athlete is  
342 employed or receives consideration or anything of value for the  
343 student-athlete's publicity, reputation, following, or fame  
344 obtained because of the student-athlete's athletic ability or  
345 performance; and

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

349 (f) "Intercollegiate sport" means a sport played at the  
350 collegiate level for which eligibility requirements for  
351 participation by a student-athlete are established by a national  
352 association for the promotion or regulation of collegiate  
353 athletics.

354 (g) "Person" means an individual, corporation, business  
355 trust, estate, trust, partnership, limited liability company,  
356 association, joint venture, government; governmental subdivision,  
357 agency or instrumentality; public corporation, or any other legal  
358 or commercial entity.

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

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

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

368 (k) "State" means a state of the United States, the  
369 District of Columbia, Puerto Rico, the United States Virgin  
370 Islands, or any territory or insular possession subject to the  
371 jurisdiction of the United States.

372 (l) "Student-athlete" means an individual who engages  
373 in, is eligible to engage in, or may be eligible in the future to  
374 engage in, a sport for a professional sports team or in any  
375 intercollegiate sport at any educational institution. If an  
376 individual is permanently ineligible to participate in a  
377 particular intercollegiate sport, the individual is not a  
378 student-athlete for purposes of that sport.

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

381 73-42-5. (1) The Secretary of State shall administer this  
382 chapter.

383 (2) By engaging in the business of an athlete agent in this  
384 state, a nonresident individual appoints the Secretary of State as

385 the individual's agent to accept service of process in any civil  
386 action related to the individual's business as an athlete agent in  
387 this state.

388 (3) The Secretary of State may:

389 (a) Conduct public or private investigations within or  
390 outside of this state which he considers necessary or appropriate  
391 to determine whether a person has violated, is violating, or is  
392 about to violate any provision of this chapter or a rule adopted  
393 under this chapter, or to aid in the enforcement of this chapter  
394 or in the adoption of rules and forms under this chapter;

395 (b) Require or permit a person to testify, file a  
396 statement, or produce a record, under oath or otherwise as he may  
397 determine, as to all facts and circumstances concerning a matter  
398 to be investigated or about which an action or proceeding is to be  
399 instituted; and

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

404 (4) For the purpose of an investigation under this chapter,  
405 the Secretary of State or his designated officer may administer  
406 oaths and affirmations, subpoena witnesses, seek compulsion of  
407 attendance, take evidence, require the filing of statements, and  
408 require the production of any records that the Secretary of State  
409 considers relevant or material to the investigation.

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

412           73-42-7. (1) Except as otherwise provided in subsection  
413 (2), an individual may not act as an athlete agent in this state  
414 before being issued a certificate of registration under Section  
415 73-42-11 or 73-42-15.

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

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

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

427           73-42-9. (1) An applicant for registration shall submit an  
428 application for registration to the Secretary of State in a form  
429 prescribed by the Secretary of State. An application filed under  
430 this section is a public record. Except as otherwise provided in  
431 subsection (2), the application must be in the name of an  
432 individual, signed by the applicant under penalty of perjury and  
433 must state or contain:

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



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

438 (c) Any business or occupation engaged in by the  
439 applicant for the five (5) years next preceding the date of  
440 submission of the application;

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

442 (i) Formal training as an athlete agent;

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

444 (iii) Educational background relating to the  
445 applicant's activities as an athlete agent;

446 (e) The names and addresses of three (3) individuals  
447 not related to the applicant who are willing to serve as  
448 references;

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

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

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

457 (ii) With respect to a company or corporation  
458 employing the athlete agent, the officers, directors and any  
459 shareholder of the corporation or member with a five percent (5%)  
460 or greater interest;

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

465           (i) Whether there has been any administrative or  
466 judicial determination that the applicant or any other person  
467 named pursuant to paragraph (g) has made a false, misleading,  
468 deceptive or fraudulent representation;

469           (j) Any instance in which the conduct of the applicant  
470 or any other person named pursuant to paragraph (g) resulted in  
471 the imposition of a sanction, suspension or declaration of  
472 ineligibility to participate in an interscholastic or  
473 intercollegiate athletic event on a student-athlete or educational  
474 institution;

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

478           (l) Whether there has been any denial of an application  
479 for, suspension or revocation of, or refusal to renew, the  
480 certification, registration or licensure of the applicant or any  
481 other person named pursuant to paragraph (g) as an athlete agent  
482 in any state;

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

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

488           (o) Consent to submit to a criminal background check  
489 before being issued a certificate of registration. Any fees  
490 connected with the background check shall be assessed to the  
491 applicant.

492           (2) An individual who has submitted an application for, and  
493 received a certificate of, registration or licensure as an athlete  
494 agent in another state, may submit a copy of the application and a  
495 valid certificate of registration or licensure from the other  
496 state in lieu of submitting an application in the form prescribed  
497 pursuant to subsection (1), along with the information requested  
498 in paragraphs (l), (m), (n) and (o) of subsection (1). The  
499 Secretary of State shall accept the application and the  
500 certificate from the other state as an application for  
501 registration in this state if the application to the other state:

502           (a) Was submitted in the other state within the six (6)  
503 months next preceding the submission of the application in this  
504 state and the applicant certifies the information contained in the  
505 application is current;

506           (b) Contains information substantially similar to or  
507 more comprehensive than that required in an application submitted  
508 in this state; and

509           (c) Was signed by the applicant under penalty of  
510 perjury.

511 (3) An athlete agent must notify the Secretary of State  
512 within thirty (30) days whenever the information contained in any  
513 application for registration as an athlete agent in this state  
514 changes in a material way or is, or becomes, inaccurate or  
515 incomplete in any respect. Events requiring notice shall include,  
516 but are not limited to, the following:

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

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

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

524 (d) Sanction, suspension or other disciplinary action  
525 taken against the athlete agent arising out of occupational or  
526 professional conduct.

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

529 73-42-11. (1) Except as otherwise provided in subsection  
530 (3), the Secretary of State shall issue a certificate of  
531 registration to an individual who complies with Section  
532 73-42-9(1).

533 (2) Except as otherwise provided in subsection (3), the  
534 Secretary of State shall issue a certificate of registration to an  
535 individual whose application has been accepted under Section  
536 73-42-9(2).

537           (3) The Secretary of State may refuse to issue a certificate  
538 of registration if he determines that the applicant has engaged in  
539 conduct that has a significant adverse effect on the applicant's  
540 fitness to serve as an athlete agent. In making the  
541 determination, the Secretary of State may consider whether the  
542 applicant has:

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

546                   (b) Made a materially false, misleading, deceptive or  
547 fraudulent representation as an athlete agent or in the  
548 application;

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

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

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

555                   (f) Engaged in conduct or failed to engage in conduct  
556 the consequence of which was that a sanction, suspension or  
557 declaration of ineligibility to participate in an interscholastic  
558 or intercollegiate athletic event was imposed on a student-athlete  
559 or educational institution; or

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

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

564 (a) How recently the conduct occurred;

565 (b) The nature of the conduct and the context in which  
566 it occurred; and

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

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

574 (6) An individual who has submitted an application for  
575 renewal of registration or licensure in another state, in lieu of  
576 submitting an application for renewal in the form prescribed  
577 pursuant to subsection (5), may file a copy of the application for  
578 renewal and a valid certificate of registration from the other  
579 state. The Secretary of State shall accept the application for  
580 renewal from the other state as an application for renewal in this  
581 state if the application to the other state:

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

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

588 (c) Was signed by the applicant under penalty of  
589 perjury.

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

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

595 73-42-13. (1) After proper notice and an opportunity for a  
596 hearing, the Secretary of State may deny, suspend, revoke or  
597 refuse to renew a registration for conduct that would have  
598 justified denial of registration under Section 73-42-11(3) or for  
599 a violation of any provision of this chapter.

600 (2) (a) The Secretary of State shall appoint at least one  
601 (1) hearing officer for the purpose of holding hearings, compiling  
602 evidence and rendering decisions under this section and Section  
603 73-42-11. The hearing officer shall fix the date for an  
604 adjudicatory hearing and notify the athlete agent involved. The  
605 hearing shall be held at a location to be designated by the  
606 hearing officer. Unless the time period is extended by the  
607 hearing officer, the hearing shall be held not less than fifteen  
608 (15) nor more than thirty (30) days after the mailing of notice to  
609 the athlete agent involved. At the conclusion of the hearing, the  
610 hearing officer shall make a recommendation regarding the  
611 registration of the athlete agent involved. The Secretary of  
612 State shall then take appropriate action by final order.

613           (b) Any athlete agent whose application for  
614 registration has been denied or not renewed, or whose registration  
615 has been revoked or suspended by the Secretary of State, within  
616 thirty (30) days after the date of such final order, shall have  
617 the right of a trial de novo on appeal to the circuit court of the  
618 county of residence of the athlete agent, the student-athlete, or  
619 the educational institution that issued an athletic scholarship to  
620 the student-athlete. If the secretary's final order is supported  
621 by substantial evidence and does not violate a state or federal  
622 law, then it shall be affirmed by the circuit court. Either party  
623 shall have the right of appeal to the Supreme Court as provided by  
624 law from any decision of the circuit court. No athlete agent  
625 shall be allowed to deliver services to a student-athlete  
626 domiciled or residing in Mississippi while any such appeal is  
627 pending.

628           (3) In addition to the reasons specified in subsection (1)  
629 of this section, the secretary shall be authorized to suspend the  
630 registration of any person for being out of compliance with an  
631 order for support, as defined in Section 93-11-153. The procedure  
632 for suspension of a registration for being out of compliance with  
633 an order for support, and the procedure for the reissuance or  
634 reinstatement of a registration suspended for that purpose, and  
635 the payment of any fees for the reissuance or reinstatement of a  
636 registration suspended for that purpose, shall be governed by  
637 Section 93-11-157 or 93-11-163, as the case may be. Actions taken  
638 by the secretary in suspending the registration of a person when



639 required by Section 93-11-157 are not actions from which an appeal  
640 may be taken under this section. Any appeal of a registration  
641 suspension that is required by Section 93-11-157 or 93-11-163  
642 shall be taken in accordance with the appeal procedure specified  
643 in Section 93-11-157 or 93-11-163, as the case may be, rather than  
644 the procedure specified in this section. If there is any conflict  
645 between any provision of Section 93-11-157 or 93-11-163 and any  
646 provision of this chapter, the provisions of Section 93-11-157 or  
647 93-11-163, as the case may be, shall control.

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

650           73-42-15. The Secretary of State may issue a temporary  
651 certificate of registration while an application for registration  
652 or renewal is pending.

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

655           73-42-17. (1) An application for registration or renewal of  
656 registration must be accompanied by a fee in the following amount:

657                   (a) Two Hundred Dollars (\$200.00) for an initial  
658 application for registration.

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

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

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

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

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

673 73-42-19. (1) An agency contract must be in a record,  
674 signed by the parties.

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

676 (a) The amount and method of calculating the  
677 consideration to be paid by the student-athlete for services to be  
678 provided by the athlete agent under the contract and any other  
679 consideration or anything of value that the athlete agent has  
680 received or will receive from any other source for entering into  
681 the contract or for providing the services;

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

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

687 (d) A description of the services to be provided to the  
688 student-athlete;

689 (e) The duration of the contract; and

690 (f) The date of execution.

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

694 **WARNING TO STUDENT-ATHLETE**

695 **IF YOU SIGN THIS CONTRACT:**

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

698 (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL**  
699 **YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN**  
700 **72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

701 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**  
702 **SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR**  
703 **ELIGIBILITY.**

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

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

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

710 73-42-21. (1) Before an athlete agent, or his or her  
711 employee or representative, may initiate a first contact, direct  
712 or indirect, with any of the individuals listed below, with the  
713 intent or for the purpose of soliciting the student-athlete or of  
714 procuring employment from the student-athlete, the athlete agent,  
715 or his or her employee or representative, must provide the

716 educational institution at which the student-athlete is enrolled  
717 with written notification of the planned contact with these  
718 individuals:

719 (a) The student-athlete;

720 (b) The student-athlete's spouse, parent, foster  
721 parent, guardian, sibling, aunt, uncle, grandparent, child or  
722 first cousin; or the parent, foster parent, sibling, aunt, uncle,  
723 grandparent, child or first cousin of the student-athlete's  
724 spouse; or

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

727 (2) Within seventy-two (72) hours after entering into an  
728 agency contract or before the next scheduled athletic event in  
729 which the student-athlete may participate, whichever occurs first,  
730 the athlete agent shall give notice of the existence of the agency  
731 contract to the athletic director of the educational institution  
732 at which the student-athlete is enrolled or at which the athlete  
733 agent has reasonable grounds to believe the student-athlete  
734 intends to enroll.

735 (3) Within seventy-two (72) hours after entering into an  
736 agency contract or before the next athletic event in which the  
737 student-athlete may participate, whichever occurs first, the  
738 student-athlete shall inform the athletic director of the  
739 educational institution at which the student-athlete is enrolled  
740 that he or she has entered into an agency contract.

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

743           73-42-23. (1) A student-athlete may cancel an agency  
744 contract by giving notice to the athlete agent of the cancellation  
745 within fourteen (14) days after the date the contract is signed.

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

748           (3) If a student-athlete cancels an agency contract, the  
749 student-athlete is not required to pay any consideration under the  
750 contract or to return any consideration received from the athlete  
751 agent to induce the student-athlete to enter into the contract.

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

754           73-42-25. (1) An athlete agent shall retain the following  
755 records for a period of five (5) years:

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

758           (b) Any agency contract entered into by the athlete  
759 agent; and

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

762           (2) Records required by subsection (1) to be retained are  
763 open to inspection by the Secretary of State during normal  
764 business hours.

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

767           73-42-27. (1) An athlete agent may not engage in any of the  
768 following activities, within this state or otherwise, with the  
769 intent to induce a student-athlete to enter into an agency  
770 contract:

771           (a) Give any materially false or misleading information  
772 or make a materially false promise or representation;

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

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

777           (2) An athlete agent may not intentionally:

778           (a) Initiate contact with a student-athlete unless  
779 registered under this chapter;

780           (b) Refuse or willfully fail to retain or permit  
781 inspection of the records required by Section 73-42-25 or fail to  
782 provide the Secretary of State with any statements, documents,  
783 records or testimony required by the secretary under Section  
784 73-42-5(3) and (4);

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

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

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

789           (f) Fail to notify a student-athlete prior to the  
790 student-athlete's signing an agency contract for a particular  
791 sport that the signing by the student-athlete may make the

792 student-athlete ineligible to participate as a student-athlete in  
793 that sport.

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

796 73-42-29. The commission of any act prohibited by Section  
797 73-42-27 by an athlete agent is a felony punishable by a fine of  
798 not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment  
799 of not more than two (2) years, or both.

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

802 73-42-31. (1) An educational institution has a right of  
803 action against an athlete agent or a former student-athlete for  
804 damages caused by a violation of this act. In an action under  
805 this section, the court may award to the prevailing party costs  
806 and reasonable attorney's fees.

807 (2) Damages of an educational institution under subsection  
808 (1) include losses and expenses incurred because, as a result of  
809 the activities of an athlete agent or former student-athlete, the  
810 educational institution was injured by a violation of this chapter  
811 or was penalized, disqualified or suspended from participation in  
812 athletics by a national association for the promotion and  
813 regulation of athletics, by an athletic conference, or by  
814 reasonable self-imposed disciplinary action taken to mitigate  
815 sanctions.

816 (3) A right of action under this section does not accrue  
817 until the educational institution discovers or by the exercise of

818 reasonable diligence would have discovered the violation by the  
819 athlete agent or former student-athlete.

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

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

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

826 73-42-33. The Secretary of State may assess a civil penalty  
827 against an athlete agent not to exceed Twenty-five Thousand  
828 Dollars (\$25,000.00) for a violation of this chapter.

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

831 73-42-34. (1) If the Secretary of State determines that a  
832 person has engaged in or is engaging in an act, practice, or  
833 course of business constituting a violation of this chapter or a  
834 rule adopted or order issued under this chapter, or that a person  
835 has materially aided or is materially aiding in an act, practice,  
836 or course of business constituting a violation of this chapter or  
837 a rule adopted or order issued under this chapter, then the  
838 secretary may:

839 (a) Issue an order directing the person to cease and  
840 desist from engaging in the act, practice, or course of business,  
841 or to take other action necessary or appropriate to comply with  
842 this chapter or any rule adopted or order issued under this  
843 chapter;



844           (b) Issue an order imposing an administrative penalty  
845 against an athlete agent who violated any provision of this  
846 chapter or any rule adopted or order issued under this chapter;  
847 and

848           (c) Take any other action authorized under the  
849 provisions of this chapter.

850           (2) An order issued under subsection (1) of this section is  
851 effective on the date of its issuance. Upon the order's issuance,  
852 the Secretary of State shall promptly serve each person subject to  
853 the order with a copy of the order and a notice that the order has  
854 been entered. The order must include a statement of any civil  
855 penalty or other administrative remedy to be imposed under  
856 subsection (1) of this section, a statement of the costs of  
857 investigation that the secretary will seek to recover, a statement  
858 of the reasons for the order, and a statement notifying the person  
859 of his or her right to a hearing under Section 73-42-13. If a  
860 person subject to the order does not request a hearing in writing  
861 within thirty (30) days of the date of the order and none is  
862 ordered by the hearing officer, then the order, including the  
863 imposition of a civil penalty or requirement for payment of the  
864 costs of investigation, shall become final as to that person by  
865 operation of law.

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

869 (4) If a petition for judicial review of a final order is  
870 not filed in accordance with Section 73-42-37, or the petition is  
871 denied by the court, the secretary may file a certified copy of  
872 the final order with the clerk of a court in the jurisdiction  
873 where enforcement will be sought. The order so filed has the same  
874 effect as a judgment of the court and may be recorded, enforced,  
875 or satisfied in the same manner as a judgment of the court.

876 (5) If a person does not comply with an order issued under  
877 this section, the secretary may petition a court of competent  
878 jurisdiction to enforce the order and collect administrative civil  
879 penalties and costs imposed under the final order. The court may  
880 not require the secretary to post a bond in an action or  
881 proceeding under this section. If the court finds, after service  
882 and opportunity for hearing, that the person did not comply with  
883 the order, the court may adjudge the person in civil contempt of  
884 the order. The court may grant any relief the court determines is  
885 just and proper in the circumstances.

886 (6) Any person aggrieved by a final order of the secretary  
887 may obtain a review of the order in the circuit court of the  
888 county of residence of the athlete agent, the student-athlete, or  
889 the public or private college, university, community or junior  
890 college in the state that issued an athletic scholarship to the  
891 student-athlete, by filing within thirty (30) days after the entry  
892 of the order, a written petition praying that the order be  
893 modified or set aside, in whole or in part. A copy of the  
894 petition shall be served upon the secretary, and the secretary

895 shall certify and file with the court a copy of the record and  
896 evidence upon which the order was entered. When these have been  
897 filed, the court has exclusive jurisdiction to affirm, modify,  
898 enforce or set aside the order, in whole or in part. The findings  
899 of the secretary as to the facts, if supported by competent  
900 material and substantial evidence, are conclusive. The beginning  
901 of proceedings under this subsection does not operate as a stay of  
902 the secretary's order, unless specifically ordered by the court.

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

905 73-42-35. In applying and construing this uniform act,  
906 consideration must be given to the need to promote uniformity of  
907 the law with respect to its subject matter among states that enact  
908 it.

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

911 73-42-37. The provisions of this chapter modify, limit and  
912 supersede the federal Electronic Signatures in Global and National  
913 Commerce Act, 15 USCS Section 7001, et seq., except that those  
914 provisions do not modify, limit, or supersede Section 101(c) of  
915 that act, 15 USCS Section 7001(c), and do not authorize electronic  
916 delivery of any of the notices described in Section 103(b) of that  
917 act, 15 USCS Section 7003(b).

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

920           73-42-39. The Secretary of State may promulgate rules and  
921 regulations necessary to administer, carry out and enforce this  
922 chapter and to define terms whether or not used in this chapter,  
923 but those definitions may not be inconsistent with this chapter.

924           **SECTION 27.** This act shall take effect and be in force from  
925 and after July 1, 2022, and shall stand repealed on June 30, 2022.

**Further, amend by striking the title in its entirety and  
inserting in lieu thereof the following:**

1           AN ACT TO AMEND SECTION 37-97-103, MISSISSIPPI CODE OF 1972,  
2 TO CLARIFY THE DEFINITIONS OF CERTAIN TERMINOLOGY RELATED TO NAME,  
3 IMAGE AND LIKENESS AGREEMENTS FOR STUDENT-ATHLETES; TO AMEND  
4 SECTION 37-97-105, MISSISSIPPI CODE OF 1972, TO CLARIFY THE  
5 ABILITY OF A STUDENT-ATHLETE TO EARN COMPENSATION FOR THE USE OF  
6 HIS OR HER PUBLICITY RIGHTS; TO AMEND SECTION 37-97-107,  
7 MISSISSIPPI CODE OF 1972, TO CLARIFY THE AUTHORITY OF  
8 POSTSECONDARY EDUCATIONAL INSTITUTIONS REGARDING RESTRICTIONS ON  
9 COMPENSATION FOR THE USE OF A STUDENT-ATHLETE'S PUBLICITY RIGHTS;  
10 TO FURTHER RESTRICT ASSOCIATIONS OR ORGANIZATIONS WITH AUTHORITY  
11 OVER INTERCOLLEGIATE ATHLETIC PROGRAMS FROM PENALIZING A  
12 POSTSECONDARY EDUCATIONAL INSTITUTION OR ITS INTERCOLLEGIATE  
13 ATHLETIC PROGRAM FOR COMPLIANCE WITH PROVISIONS OF THE MISSISSIPPI  
14 INTERCOLLEGIATE ATHLETICS COMPENSATION RIGHTS ACT; TO PERMIT  
15 POSTSECONDARY EDUCATIONAL INSTITUTIONS TO FACILITATE OPPORTUNITIES  
16 FOR STUDENT-ATHLETES TO ENGAGE THIRD-PARTIES INTERESTED IN  
17 ENTERING INTO NAME, IMAGE AND LIKENESS AGREEMENTS; TO REMOVE THE  
18 PROHIBITION ON A STUDENT-ATHLETE ENTERING INTO A NAME, IMAGE AND  
19 LIKENESS AGREEMENT BEFORE ENROLLING AT A POSTSECONDARY EDUCATIONAL  
20 INSTITUTION; TO BRING FORWARD SECTIONS 37-97-101 AND 37-97-109,  
21 MISSISSIPPI CODE OF 1972, WHICH ARE THE SHORT TITLE AND THE  
22 POSTSECONDARY EDUCATIONAL INSTITUTION LIMITATION OF LIABILITY  
23 PROVISIONS OF THE MISSISSIPPI INTERCOLLEGIATE ATHLETICS  
24 COMPENSATION RIGHTS ACT, FOR THE PURPOSES OF POSSIBLE AMENDMENT;  
25 TO BRING FORWARD SECTIONS 73-42-1, 73-42-3, 73-42-5, 73-42-7,  
26 73-42-9, 73-42-11, 73-42-13, 73-42-15, 73-42-17, 73-42-19,  
27 73-42-21, 73-42-23, 73-42-25, 73-42-27, 73-42-29, 73-42-31,  
28 73-42-33, 73-42-34, 73-42-35, 73-42-37 AND 73-42-39, MISSISSIPPI  
29 CODE OF 1972, WHICH IS THE MISSISSIPPI UNIFORM AGENTS ACT, FOR THE  
30 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

HR12\SB2690PH.J

Andrew Ketchings  
Clerk of the House of Representatives