

Senate Amendments to House Bill No. 1068

TO THE CLERK OF THE HOUSE:

THIS IS TO INFORM YOU THAT THE SENATE 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:

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

25 37-97-101. This article shall be known and may be cited as
26 the "Mississippi Intercollegiate Athletics Compensation Rights
27 Act."

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

30 37-97-103. (1) As used in this article, the following terms
31 shall have the following meanings unless the context clearly
32 indicates otherwise:

33 (a) "Compensation" means anything of value, monetary or
34 otherwise, including, but not limited to, cash, gifts, in-kind
35 items of value, social media compensation, payments for licensing
36 or use of publicity rights, payments for other intellectual or
37 intangible property rights under federal or state law, and any
38 other form of payment or remuneration, except as excluded under
39 this article.

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

42 (i) Tuition, room, board, books, fees and personal
43 expenses that a postsecondary educational institution provides a
44 student-athlete in accordance with the rules of the athletic
45 association or conference of which the postsecondary educational
46 institution is a member;

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

51 (iii) Any other financial aid, benefits or awards
52 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; or

56 (iv) The payment of wages and benefits to a
57 student-athlete for work actually performed * * * for services
58 unrelated to a student-athlete's publicity rights or other
59 intellectual or intangible property rights of a student-athlete
60 under federal or state law.

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

62 (c) "Intercollegiate athletics program" means an
63 intercollegiate athletics program played at the collegiate level
64 for which eligibility requirements for participation by a

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

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

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

72 (f) "Name, Image and Likeness Agreement" means a
73 contract or * * * other arrangement between a student-athlete and
74 a third-party * * * regarding the * * * use of the * * * publicity
75 rights of the student-athlete.

76 (g) "Publicity right" means any right * * *:

77 (i) * * * Associated with the name, image, * * *
78 likeness * * *, publicity, reputation, fame or personal following
79 of a student-athlete; or

80 (ii) Recognized under a federal or state law * * *
81 as permitting an individual to control and profit from the * * *
82 use of the name, image * * *, likeness, publicity, reputation,
83 fame or personal following of the individual.

84 (h) "Postsecondary educational institution" means a
85 public university or community college or private university or
86 college.

87 (i) "Social media compensation" means all forms of
88 payment for engagement on social media received by a
89 student-athlete as a result of the use of that
90 student-athlete's * * * publicity rights.

91 (j) "Student-athlete" means an individual who engages
92 in, is eligible to engage in, or may be eligible in the future to
93 engage in, intercollegiate athletics program at a postsecondary
94 educational institution, including without limitation, prospective
95 student-athletes of an intercollegiate athletics program. If an
96 individual is permanently ineligible to participate in a
97 particular intercollegiate sport, the individual is not a
98 student-athlete for purposes of that sport.

99 (k) "Third-party * * *" means any individual or entity
100 or group of the same, acting independently or collectively,
101 that * * * enters into an agreement for the publicity rights * * *
102 of student-athlete or group of student-athletes. The term
103 "third-party * * *" shall not include any national association for
104 the promotion or regulation of collegiate athletics, athletics
105 conference, or postsecondary educational institution.

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

108 37-97-105. (1) Except as provided in Section 37-97-107, a
109 student-athlete may:

110 (a) Earn compensation * * * for the use of the * * *
111 publicity rights of the student-athlete * * *; and

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

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

117 (3) Notwithstanding any other provision of applicable law or
118 agreement to the contrary, a student-athlete shall not be deemed
119 an employee or independent contractor of an association, a
120 conference, or a postsecondary educational institution based on
121 the student-athlete's participation in an intercollegiate
122 athletics program.

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

125 37-97-107. (1) Except as provided for under this article, a
126 postsecondary educational institution shall not uphold any
127 contract, rule, regulation, standard or other requirement that
128 prevents a student-athlete of that institution from earning
129 compensation * * * for the use of the student's * * * publicity
130 rights. Any such contract, rule, regulation standard or other
131 requirement shall be void and unenforceable against the
132 postsecondary educational institution or the student-athlete.
133 Compensation from the use of a student-athlete's * * * publicity
134 rights may not affect the student-athlete's scholarship
135 eligibility, grant-in-aid or other financial aid, awards or
136 benefits, or the student-athlete's intercollegiate athletic
137 eligibility. Nothing in this article is intended to alter any
138 state and federal laws or regulations regarding the award of
139 financial aid at postsecondary educational institutions.

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

143 not limited to, the National Collegiate Athletic Association
144 (NCAA) and the National Junior College Athletic Association
145 (NJCAA), shall not prevent, or otherwise enforce a contract, rule,
146 regulation, standard or other requirement that prevents, a
147 student-athlete of a postsecondary educational institution from
148 earning compensation as a result of the use of the
149 student-athlete's * * * publicity rights.

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

169 parties, may be compensated for the use in a manner consistent
170 with market rates. A postsecondary educational institution may
171 also prohibit a student-athlete from wearing any item of clothing,
172 shoes, or other gear or wearables with the name, logo or insignia
173 of any entity during an intercollegiate athletics competition or
174 institution-sponsored event.

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

187 (5) A postsecondary educational institution may facilitate
188 opportunities for student-athletes to engage with third-parties
189 interested in entering into name, image, and likeness agreements,
190 and may communicate with third-parties interested in providing
191 name, image, and likeness agreements to student-athletes. A
192 postsecondary educational institution, athletic association,
193 conference or other group or organization with authority over
194 intercollegiate athletics programs, including, but not limited to,

195 the National Collegiate Athletic Association and the National
196 Junior College Athletic Association, shall not * * *:

197 (a) Enter into, or offer to enter into, a name, image
198 and likeness agreement with a * * * student-athlete; or

199 (b) Provide a * * * student-athlete or the
200 student-athlete's family compensation in relation to the use of
201 the student-athlete's * * * publicity rights.

202 (6) A postsecondary educational institution, athletic
203 association, conference or other group or organization with
204 authority over intercollegiate athletics programs, including, but
205 not limited to, the National Collegiate Athletic Association and
206 the National Junior College Athletic Association shall not prevent
207 a student-athlete from obtaining professional representation in
208 relation to * * * publicity rights, or to secure a name, image and
209 likeness agreement, including, but not limited to, representation
210 provided by athlete agents or legal representation provided by
211 attorneys. A student-athlete shall provide the postsecondary
212 educational institution with written notice at least seven (7)
213 days prior to entering into a representation agreement with any
214 individual for the purpose of exploring or securing compensation
215 for use of the student-athlete's * * * publicity rights.

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

219 Attorneys who provide legal representation to student-athletes

220 must be licensed to practice law in the State of Mississippi and
221 in good standing with The Mississippi Bar.

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

227 (9) A grant-in-aid, including cost of attendance, and other
228 permissible financial aid, awards or benefits from the
229 postsecondary educational institution in which a student-athlete
230 is enrolled shall not be revoked, reduced, nor the terms and
231 conditions altered, as a result of a student-athlete earning
232 compensation or obtaining professional or legal representation
233 pursuant to this article.

234 (10) Before any * * * agreement for compensation for the use
235 of a student-athlete's * * * publicity rights is * * * entered
236 into, and before any compensation is provided to the
237 student-athlete in advance of * * * an agreement, the
238 student-athlete shall disclose the * * * agreement to a designated
239 official of the postsecondary educational institution in which the
240 student-athlete is enrolled in a manner prescribed by the
241 institution.

242 (11) A third-party * * * may not enter into, or offer to
243 enter into, a name, image and likeness agreement with a
244 student-athlete or otherwise compensate a student-athlete for the
245 use of the student-athlete's * * * publicity rights if a provision

246 of the name, image and likeness agreement or the use of the
247 student-athlete's * * * publicity rights conflicts with a
248 provision of a contract, rule, regulation, standard or other
249 requirement of the postsecondary educational institution unless
250 such contract or use is expressly approved in writing by the
251 postsecondary educational institution.

252 (12) No postsecondary educational institution, booster * * *
253 or third-party * * * shall provide a * * * student-athlete
254 compensation or enter into a name, image and likeness agreement as
255 an inducement for the student-athlete to attend or enroll in a
256 specific institution or group of institutions. Compensation for a
257 student-athlete's * * * publicity rights may not be conditioned on
258 athletic performance * * *.

259 * * *

260 (* * * 13) No student-athlete shall enter into a name,
261 image, and likeness agreement or receive compensation from a
262 third-party licensee for the endorsement or promotion of gambling,
263 sports betting, controlled substances, marijuana, tobacco or
264 alcohol * * * brand or products, alternative or electronic
265 nicotine product or delivery system, performance-enhancing
266 supplements, adult entertainment or any other product or service
267 that is reasonably considered to be inconsistent with the values
268 or mission of a postsecondary educational institution or that
269 negatively impacts or reflects adversely on a postsecondary
270 education institution or its athletic programs, including, without
271 limitation, bringing about public disrepute, embarrassment,

272 scandal, ridicule or otherwise negatively impacting the reputation
273 or the moral or ethical standards of the postsecondary educational
274 institution.

275 (15) A contract for the use of * * * a
276 student-athlete's * * * publicity rights which is formed while the
277 student-athlete is participating in an intercollegiate sport at a
278 postsecondary educational institution may not extend beyond the
279 student-athlete's participation in the sport at the institution.

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

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

285 37-97-109. No postsecondary educational institution shall be
286 subject to a claim for damages of any kind under this article,
287 including, without limitation, a claim for unfair trade or
288 competition or tortious interference. No postsecondary
289 educational institution shall be subject to a claim for damages
290 related to its adoption, implementation or enforcement of any
291 contract, rule, regulation, standard or other requirement in
292 compliance with this article. This article is not intended to and
293 shall not waive or diminish any applicable defenses and
294 immunities, including, without limitation, sovereign immunity
295 applicable to postsecondary educational institutions.

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

298 73-42-1. This chapter may be cited as the "Uniform Athlete
299 Agents Act."

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

302 73-42-3. In this chapter:

303 (a) "Agency contract" means an agreement in which a
304 student-athlete authorizes a person to negotiate or solicit on
305 behalf of the student-athlete a professional-sports-services
306 contract, an endorsement contract, compensation for the use of the
307 student-athlete's name, image or likeness, or enrollment at any
308 educational institution that offers an athletic scholarship to the
309 student-athlete.

310 (b) "Athlete agent" means an individual who enters into
311 an agency contract with a student-athlete or, directly or
312 indirectly, recruits, induces or solicits a student-athlete to
313 enter into an agency contract. The term does not include a
314 spouse, parent, sibling, grandparent or guardian of the
315 student-athlete or an individual acting solely on behalf of a
316 professional sports team or professional sports organization. The
317 term includes an individual who represents to the public that the
318 individual is an athlete agent.

319 (c) "Athletic director" means an individual responsible
320 for administering the overall athletic program of an educational
321 institution or, if an educational institution has separately
322 administered athletic programs for male students and female

323 students, the athletic program for males or the athletic program
324 for females, as appropriate.

325 (d) "Contact" means a communication, direct or
326 indirect, written or oral, between an athlete agent and a
327 student-athlete, to recruit, induce or solicit the student-athlete
328 to enter into an agency contract.

329 (e) "Endorsement contract" means:

330 (i) An agreement under which a student-athlete is
331 employed or receives consideration or anything of value for the
332 student-athlete's publicity, reputation, following, or fame
333 obtained because of the student-athlete's athletic ability or
334 performance; and

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

338 (f) "Intercollegiate sport" means a sport played at the
339 collegiate level for which eligibility requirements for
340 participation by a student-athlete are established by a national
341 association for the promotion or regulation of collegiate
342 athletics.

343 (g) "Person" means an individual, corporation, business
344 trust, estate, trust, partnership, limited liability company,
345 association, joint venture, government; governmental subdivision,
346 agency or instrumentality; public corporation, or any other legal
347 or commercial entity.

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

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

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

357 (k) "State" means a state of the United States, the
358 District of Columbia, Puerto Rico, the United States Virgin
359 Islands, or any territory or insular possession subject to the
360 jurisdiction of the United States.

361 (l) "Student-athlete" means an individual who engages
362 in, is eligible to engage in, or may be eligible in the future to
363 engage in, a sport for a professional sports team or in any
364 intercollegiate sport at any educational institution. If an
365 individual is permanently ineligible to participate in a
366 particular intercollegiate sport, the individual is not a
367 student-athlete for purposes of that sport.

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

370 73-42-5. (1) The Secretary of State shall administer this
371 chapter.

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

374 the individual's agent to accept service of process in any civil
375 action related to the individual's business as an athlete agent in
376 this state.

377 (3) The Secretary of State may:

378 (a) Conduct public or private investigations within or
379 outside of this state which he considers necessary or appropriate
380 to determine whether a person has violated, is violating, or is
381 about to violate any provision of this chapter or a rule adopted
382 under this chapter, or to aid in the enforcement of this chapter
383 or in the adoption of rules and forms under this chapter;

384 (b) Require or permit a person to testify, file a
385 statement, or produce a record, under oath or otherwise as he may
386 determine, as to all facts and circumstances concerning a matter
387 to be investigated or about which an action or proceeding is to be
388 instituted; and

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

393 (4) For the purpose of an investigation under this chapter,
394 the Secretary of State or his designated officer may administer
395 oaths and affirmations, subpoena witnesses, seek compulsion of
396 attendance, take evidence, require the filing of statements, and
397 require the production of any records that the Secretary of State
398 considers relevant or material to the investigation.

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

401 73-42-7. (1) Except as otherwise provided in subsection
402 (2), an individual may not act as an athlete agent in this state
403 before being issued a certificate of registration under Section
404 73-42-11 or 73-42-15.

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

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

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

416 73-42-9. (1) An applicant for registration shall submit an
417 application for registration to the Secretary of State in a form
418 prescribed by the Secretary of State. An application filed under
419 this section is a public record. Except as otherwise provided in
420 subsection (2), the application must be in the name of an
421 individual, signed by the applicant under penalty of perjury and
422 must state or contain:

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

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

427 (c) Any business or occupation engaged in by the
428 applicant for the five (5) years next preceding the date of
429 submission of the application;

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

431 (i) Formal training as an athlete agent;

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

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

435 (e) The names and addresses of three (3) individuals
436 not related to the applicant who are willing to serve as
437 references;

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

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

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

446 (ii) With respect to a company or corporation
447 employing the athlete agent, the officers, directors and any
448 shareholder of the corporation or member with a five percent (5%)
449 or greater interest;

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

454 (i) Whether there has been any administrative or
455 judicial determination that the applicant or any other person
456 named pursuant to paragraph (g) has made a false, misleading,
457 deceptive or fraudulent representation;

458 (j) Any instance in which the conduct of the applicant
459 or any other person named pursuant to paragraph (g) resulted in
460 the imposition of a sanction, suspension or declaration of
461 ineligibility to participate in an interscholastic or
462 intercollegiate athletic event on a student-athlete or educational
463 institution;

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

467 (l) Whether there has been any denial of an application
468 for, suspension or revocation of, or refusal to renew, the
469 certification, registration or licensure of the applicant or any
470 other person named pursuant to paragraph (g) as an athlete agent
471 in any state;

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

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

477 (o) Consent to submit to a criminal background check
478 before being issued a certificate of registration. Any fees
479 connected with the background check shall be assessed to the
480 applicant.

481 (2) An individual who has submitted an application for, and
482 received a certificate of, registration or licensure as an athlete
483 agent in another state, may submit a copy of the application and a
484 valid certificate of registration or licensure from the other
485 state in lieu of submitting an application in the form prescribed
486 pursuant to subsection (1), along with the information requested
487 in paragraphs (l), (m), (n) and (o) of subsection (1). The
488 Secretary of State shall accept the application and the
489 certificate from the other state as an application for
490 registration in this state if the application to the other state:

491 (a) Was submitted in the other state within the six (6)
492 months next preceding the submission of the application in this
493 state and the applicant certifies the information contained in the
494 application is current;

495 (b) Contains information substantially similar to or
496 more comprehensive than that required in an application submitted
497 in this state; and

498 (c) Was signed by the applicant under penalty of
499 perjury.

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

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

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

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

513 (d) Sanction, suspension or other disciplinary action
514 taken against the athlete agent arising out of occupational or
515 professional conduct.

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

518 73-42-11. (1) Except as otherwise provided in subsection
519 (3), the Secretary of State shall issue a certificate of
520 registration to an individual who complies with Section
521 73-42-9(1).

522 (2) Except as otherwise provided in subsection (3), the
523 Secretary of State shall issue a certificate of registration to an
524 individual whose application has been accepted under Section
525 73-42-9(2).

526 (3) The Secretary of State may refuse to issue a certificate
527 of registration if he determines that the applicant has engaged in
528 conduct that has a significant adverse effect on the applicant's
529 fitness to serve as an athlete agent. In making the
530 determination, the Secretary of State may consider whether the
531 applicant has:

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

535 (b) Made a materially false, misleading, deceptive or
536 fraudulent representation as an athlete agent or in the
537 application;

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

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

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

544 (f) Engaged in conduct or failed to engage in conduct
545 the consequence of which was that a sanction, suspension or
546 declaration of ineligibility to participate in an interscholastic
547 or intercollegiate athletic event was imposed on a student-athlete
548 or educational institution; or

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

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

553 (a) How recently the conduct occurred;

554 (b) The nature of the conduct and the context in which
555 it occurred; and

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

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

563 (6) An individual who has submitted an application for
564 renewal of registration or licensure in another state, in lieu of
565 submitting an application for renewal in the form prescribed
566 pursuant to subsection (5), may file a copy of the application for
567 renewal and a valid certificate of registration from the other
568 state. The Secretary of State shall accept the application for
569 renewal from the other state as an application for renewal in this
570 state if the application to the other state:

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

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

577 (c) Was signed by the applicant under penalty of
578 perjury.

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

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

584 73-42-13. (1) After proper notice and an opportunity for a
585 hearing, the Secretary of State may deny, suspend, revoke or
586 refuse to renew a registration for conduct that would have
587 justified denial of registration under Section 73-42-11(3) or for
588 a violation of any provision of this chapter.

589 (2) (a) The Secretary of State shall appoint at least one
590 (1) hearing officer for the purpose of holding hearings, compiling
591 evidence and rendering decisions under this section and Section
592 73-42-11. The hearing officer shall fix the date for an
593 adjudicatory hearing and notify the athlete agent involved. The
594 hearing shall be held at a location to be designated by the
595 hearing officer. Unless the time period is extended by the
596 hearing officer, the hearing shall be held not less than fifteen
597 (15) nor more than thirty (30) days after the mailing of notice to
598 the athlete agent involved. At the conclusion of the hearing, the
599 hearing officer shall make a recommendation regarding the
600 registration of the athlete agent involved. The Secretary of
601 State shall then take appropriate action by final order.

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

617 (3) In addition to the reasons specified in subsection (1)
618 of this section, the secretary shall be authorized to suspend the
619 registration of any person for being out of compliance with an
620 order for support, as defined in Section 93-11-153. The procedure
621 for suspension of a registration for being out of compliance with
622 an order for support, and the procedure for the reissuance or
623 reinstatement of a registration suspended for that purpose, and
624 the payment of any fees for the reissuance or reinstatement of a
625 registration suspended for that purpose, shall be governed by
626 Section 93-11-157 or 93-11-163, as the case may be. Actions taken
627 by the secretary in suspending the registration of a person when

628 required by Section 93-11-157 are not actions from which an appeal
629 may be taken under this section. Any appeal of a registration
630 suspension that is required by Section 93-11-157 or 93-11-163
631 shall be taken in accordance with the appeal procedure specified
632 in Section 93-11-157 or 93-11-163, as the case may be, rather than
633 the procedure specified in this section. If there is any conflict
634 between any provision of Section 93-11-157 or 93-11-163 and any
635 provision of this chapter, the provisions of Section 93-11-157 or
636 93-11-163, as the case may be, shall control.

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

639 73-42-15. The Secretary of State may issue a temporary
640 certificate of registration while an application for registration
641 or renewal is pending.

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

644 73-42-17. (1) An application for registration or renewal of
645 registration must be accompanied by a fee in the following amount:

646 (a) Two Hundred Dollars (\$200.00) for an initial
647 application for registration.

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

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

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

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

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

662 73-42-19. (1) An agency contract must be in a record,
663 signed by the parties.

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

665 (a) The amount and method of calculating the
666 consideration to be paid by the student-athlete for services to be
667 provided by the athlete agent under the contract and any other
668 consideration or anything of value that the athlete agent has
669 received or will receive from any other source for entering into
670 the contract or for providing the services;

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

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

676 (d) A description of the services to be provided to the
677 student-athlete;

678 (e) The duration of the contract; and

679 (f) The date of execution.

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

683 **WARNING TO STUDENT-ATHLETE**

684 **IF YOU SIGN THIS CONTRACT:**

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

687 (2) **BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL**
688 **YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN**
689 **72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND**

690 (3) **YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**
691 **SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR**
692 **ELIGIBILITY.**

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

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

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

699 73-42-21. (1) Before an athlete agent, or his or her
700 employee or representative, may initiate a first contact, direct
701 or indirect, with any of the individuals listed below, with the
702 intent or for the purpose of soliciting the student-athlete or of
703 procuring employment from the student-athlete, the athlete agent,
704 or his or her employee or representative, must provide the

705 educational institution at which the student-athlete is enrolled
706 with written notification of the planned contact with these
707 individuals:

708 (a) The student-athlete;

709 (b) The student-athlete's spouse, parent, foster
710 parent, guardian, sibling, aunt, uncle, grandparent, child or
711 first cousin; or the parent, foster parent, sibling, aunt, uncle,
712 grandparent, child or first cousin of the student-athlete's
713 spouse; or

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

716 (2) Within seventy-two (72) hours after entering into an
717 agency contract or before the next scheduled athletic event in
718 which the student-athlete may participate, whichever occurs first,
719 the athlete agent shall give notice of the existence of the agency
720 contract to the athletic director of the educational institution
721 at which the student-athlete is enrolled or at which the athlete
722 agent has reasonable grounds to believe the student-athlete
723 intends to enroll.

724 (3) Within seventy-two (72) hours after entering into an
725 agency contract or before the next athletic event in which the
726 student-athlete may participate, whichever occurs first, the
727 student-athlete shall inform the athletic director of the
728 educational institution at which the student-athlete is enrolled
729 that he or she has entered into an agency contract.

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

732 73-42-23. (1) A student-athlete may cancel an agency
733 contract by giving notice to the athlete agent of the cancellation
734 within fourteen (14) days after the date the contract is signed.

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

737 (3) If a student-athlete cancels an agency contract, the
738 student-athlete is not required to pay any consideration under the
739 contract or to return any consideration received from the athlete
740 agent to induce the student-athlete to enter into the contract.

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

743 73-42-25. (1) An athlete agent shall retain the following
744 records for a period of five (5) years:

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

747 (b) Any agency contract entered into by the athlete
748 agent; and

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

751 (2) Records required by subsection (1) to be retained are
752 open to inspection by the Secretary of State during normal
753 business hours.

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

756 73-42-27. (1) An athlete agent may not engage in any of the
757 following activities, within this state or otherwise, with the
758 intent to induce a student-athlete to enter into an agency
759 contract:

760 (a) Give any materially false or misleading information
761 or make a materially false promise or representation;

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

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

766 (2) An athlete agent may not intentionally:

767 (a) Initiate contact with a student-athlete unless
768 registered under this chapter;

769 (b) Refuse or willfully fail to retain or permit
770 inspection of the records required by Section 73-42-25 or fail to
771 provide the Secretary of State with any statements, documents,
772 records or testimony required by the secretary under Section
773 73-42-5(3) and (4);

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

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

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

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

781 student-athlete ineligible to participate as a student-athlete in
782 that sport.

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

785 73-42-29. The commission of any act prohibited by Section
786 73-42-27 by an athlete agent is a felony punishable by a fine of
787 not more than Ten Thousand Dollars (\$10,000.00) or by
788 imprisonment * * * for not more than two (2) years, or both.

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

791 73-42-31. (1) An educational institution has a right of
792 action against an athlete agent or a former student-athlete for
793 damages caused by a violation of this act. In an action under
794 this section, the court may award to the prevailing party costs
795 and reasonable attorney's fees.

796 (2) Damages of an educational institution under subsection
797 (1) include losses and expenses incurred because, as a result of
798 the activities of an athlete agent or former student-athlete, the
799 educational institution was injured by a violation of this chapter
800 or was penalized, disqualified or suspended from participation in
801 athletics by a national association for the promotion and
802 regulation of athletics, by an athletic conference, or by
803 reasonable self-imposed disciplinary action taken to mitigate
804 sanctions.

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

807 reasonable diligence would have discovered the violation by the
808 athlete agent or former student-athlete.

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

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

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

815 73-42-33. The Secretary of State may assess a civil penalty
816 against an athlete agent not to exceed Twenty-five Thousand
817 Dollars (\$25,000.00) for a violation of this chapter.

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

820 73-42-34. (1) If the Secretary of State determines that a
821 person has engaged in or is engaging in an act, practice, or
822 course of business constituting a violation of this chapter or a
823 rule adopted or order issued under this chapter, or that a person
824 has materially aided or is materially aiding in an act, practice,
825 or course of business constituting a violation of this chapter or
826 a rule adopted or order issued under this chapter, then the
827 secretary may:

828 (a) Issue an order directing the person to cease and
829 desist from engaging in the act, practice, or course of business,
830 or to take other action necessary or appropriate to comply with
831 this chapter or any rule adopted or order issued under this
832 chapter;

833 (b) Issue an order imposing an administrative penalty
834 against an athlete agent who violated any provision of this
835 chapter or any rule adopted or order issued under this chapter;
836 and

837 (c) Take any other action authorized under the
838 provisions of this chapter.

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

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

858 (4) If a petition for judicial review of a final order is
859 not filed in accordance with Section 73-42-37, or the petition is
860 denied by the court, the secretary may file a certified copy of
861 the final order with the clerk of a court in the jurisdiction
862 where enforcement will be sought. The order so filed has the same
863 effect as a judgment of the court and may be recorded, enforced,
864 or satisfied in the same manner as a judgment of the court.

865 (5) If a person does not comply with an order issued under
866 this section, the secretary may petition a court of competent
867 jurisdiction to enforce the order and collect administrative civil
868 penalties and costs imposed under the final order. The court may
869 not require the secretary to post a bond in an action or
870 proceeding under this section. If the court finds, after service
871 and opportunity for hearing, that the person did not comply with
872 the order, the court may adjudge the person in civil contempt of
873 the order. The court may grant any relief the court determines is
874 just and proper in the circumstances.

875 (6) Any person aggrieved by a final order of the secretary
876 may obtain a review of the order in the circuit court of the
877 county of residence of the athlete agent, the student-athlete, or
878 the public or private college, university, community or junior
879 college in the state that issued an athletic scholarship to the
880 student-athlete, by filing within thirty (30) days after the entry
881 of the order, a written petition praying that the order be
882 modified or set aside, in whole or in part. A copy of the
883 petition shall be served upon the secretary, and the secretary

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

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

894 73-42-35. In applying and construing this uniform act,
895 consideration must be given to the need to promote uniformity of
896 the law with respect to its subject matter among states that enact
897 it.

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

900 73-42-37. The provisions of this chapter modify, limit and
901 supersede the federal Electronic Signatures in Global and National
902 Commerce Act, 15 USCS Section 7001, et seq., except that those
903 provisions do not modify, limit, or supersede Section 101(c) of
904 that act, 15 USCS Section 7001(c), and do not authorize electronic
905 delivery of any of the notices described in Section 103(b) of that
906 act, 15 USCS Section 7003(b).

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

909 73-42-39. The Secretary of State may promulgate rules and
910 regulations necessary to administer, carry out and enforce this
911 chapter and to define terms whether or not used in this chapter,
912 but those definitions may not be inconsistent with this chapter.

913 **SECTION 27.** This act shall take effect and be in force from
914 and after July 1, 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 REVISE CERTAIN DEFINITIONS OF THE MISSISSIPPI INTERCOLLEGIATE
3 ATHLETICS COMPENSATION RIGHTS ACT, INCLUDING THE DEFINITIONS OF
4 NAME, IMAGE AND LIKENESS AGREEMENTS, PUBLICITY RIGHTS AND
5 STUDENT-ATHLETE; TO AMEND SECTION 37-97-105, MISSISSIPPI CODE OF
6 1972, TO REVISE A PROVISION THAT ALLOWS STUDENT ATHLETES TO EARN
7 COMPENSATION FOR THE USE OF THEIR PUBLICITY RIGHTS; TO AMEND
8 SECTION 37-97-107, MISSISSIPPI CODE OF 1972, TO PROVIDE THAT A
9 POSTSECONDARY EDUCATIONAL INSTITUTION MAY FACILITATE OPPORTUNITIES
10 FOR STUDENT-ATHLETES TO ENGAGE WITH THIRD PARTIES INTERESTED IN
11 ENTERING INTO NAME, IMAGE AND LIKENESS AGREEMENTS; TO FURTHER
12 CONFORM TO THE PROVISIONS OF THE ACT; TO BRING FORWARD SECTIONS
13 37-97-101 AND 37-97-103, MISSISSIPPI CODE OF 1972, WHICH ARE
14 PROVISIONS OF THE MISSISSIPPI INTERCOLLEGIATE ATHLETICS
15 COMPENSATION RIGHTS ACT, FOR THE PURPOSES OF POSSIBLE AMENDMENT;
16 TO BRING FORWARD SECTIONS 73-42-1, 73-42-3, 73-42-5, 73-42-7,
17 73-42-9, 73-42-11, 73-42-13, 73-42-15, 73-42-17, 73-42-19,
18 73-42-21, 73-42-23, 73-42-25, 73-42-27, 73-42-29, 73-42-31,
19 73-42-33, 73-42-34, 73-42-35, 73-42-37 AND 73-42-39, MISSISSIPPI
20 CODE OF 1972, WHICH IS THE MISSISSIPPI UNIFORM AGENTS ACT, FOR THE
21 PURPOSES OF POSSIBLE AMENDMENT; AND FOR RELATED PURPOSES.

SS26\HB1068A.J

Eugene S. Clarke
Secretary of the Senate