

House Amendments to Senate Bill No. 2417

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:

61 **SECTION 1.** Section 37-97-101, Mississippi Code of 1972, is
62 amended as follows:

63 37-97-101. This article shall be known and may be cited as
64 the "Mississippi Intercollegiate Athletics Compensation and
65 Publicity Rights Act."

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

68 37-97-103. As used in this article, the following terms
69 shall have the following meanings unless the context clearly
70 indicates otherwise:

71 (a) "Compensation" means * * * any remuneration, in
72 cash or in kind, whether provided at the time or at any subsequent
73 date, to a student-athlete.

74 For the purposes of this article, "compensation" shall not
75 mean * * * any grant, scholarship, fellowship, tuition assistance,
76 or other form of financial aid provided to a student for pursuing
77 a post-secondary education.

78 * * *

79 (* * *b) "Intercollegiate athletics program" means an
80 intercollegiate athletics * * * sport played at the collegiate
81 level for which eligibility requirements for participation by a
82 student-athlete are established by a national association * * *,
83 conference or any other group or organization with authority over
84 the sport, that promotes or regulates collegiate athletics.

85 * * *

86 (* * *c) " * * *Publicity Rights" means * * * any
87 right associated with the name, image, likeness, publicity,
88 reputation, fame, or personal following of a student recognized
89 under federal or state law as permitting an individual to control
90 or profit from the use of the same.

91 * * *

92 (* * *d) "Postsecondary educational institution" means
93 a public university or community college or private university or
94 college.

95 * * *

96 (* * *e) "Student-athlete" means an * * * individual
97 who is enrolled in or has signed a National Letter of Intent or
98 other written agreement to enroll in a postsecondary educational
99 institution or is being recruited by a postsecondary educational
100 institution to participate in an intercollegiate athletics
101 program. If an individual is permanently ineligible to
102 participate in a particular intercollegiate sport, the individual
103 is not a student-athlete for purposes of that sport.

104 (* * *f) "Third party" means * * * any individual or
105 entity or group of the same other than a postsecondary educational
106 institution, including a charitable organization that qualifies as
107 an exempt organization under 26 USC Section 501(c)(3), as
108 amended. * * *

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

111 37-97-105. (1) * * * A postsecondary educational
112 institution or any officer, trustee, or employee, of a
113 postsecondary educational institution, shall have the right to,
114 directly or through an agreement with a third party, identify,
115 create, solicit, facilitate, negotiate, support, assist and
116 otherwise enable opportunities for a student-athlete to earn or
117 attempt to earn compensation for the use of the student-athlete's
118 publicity rights. Such right shall include, without limitation,
119 the right to discuss with a student-athlete the potential to earn
120 compensation for their publicity rights if they attend the
121 postsecondary educational institution. Provided that a
122 postsecondary educational institution or any officer, trustee, or
123 employee, of a postsecondary educational institution does not:

124 (a) * * * Receive compensation from the student-athlete
125 for facilitating, enabling, or assisting with such opportunities;

126 (b) * * * Attempt to influence a student-athlete's
127 choice of professional representation related to such
128 opportunities; or

129 (c) Attempt in bad faith to reduce such
130 student-athlete's opportunities from competing third parties.

131 (2) * * * A third party shall have the right to compensate a
132 student-athlete for the use of the student-athlete's publicity
133 rights. This shall include the right to compensate the
134 student-athlete for the use of the student-athlete's publicity
135 rights in connection with the promotion of an athletic event in
136 which the student-athlete may participate, the promotion of the
137 postsecondary educational institution the student-athlete attends,
138 and the promotion of the postsecondary educational institution's
139 intercollegiate athletics programs.

140 (3) * * * A postsecondary educational institution or
141 officer, trustee, or employee of a postsecondary institution shall
142 have the right to compensate a student-athlete for the use of the
143 student-athlete's publicity rights to the extent consistent with
144 any legally enforceable rules of a national association, a
145 conference or any other group or organization with authority over
146 the sport, that promotes or regulates collegiate athletics
147 applicable to that institution. Before any agreement for
148 compensation for the use of a student-athlete's publicity rights
149 is entered into, and before any compensation is provided to the
150 student-athlete, a postsecondary educational institution may
151 require a student-athlete enrolled at that institution or who has
152 announced an intention to attend that institution, to disclose the
153 agreement or the terms thereof to a designated official of the
154 postsecondary educational institution in which the student-athlete

155 is enrolled or intends to enroll in a manner prescribed by the
156 institution.

157 Student-athlete agreements, proposed agreements and any
158 documents that compile, summarize or disclose any of the terms of
159 such agreements shall be exempt from the Mississippi Public
160 Records Act of 1983. Postsecondary educational institutions and
161 student-athletes shall not be compelled to disclose
162 student-athlete agreements, proposed agreements and any documents
163 that compile, summarize or disclose any of the terms of such
164 agreements to a national association, a conference or any other
165 group or organization with authority over the sport, that promotes
166 or regulates collegiate athletics.

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

169 37-97-107. (1) * * * An agreement for the use of a
170 student-athlete's publicity rights which is formed after the
171 student-athlete has announced an intention to attend a
172 postsecondary educational institution or while the student-athlete
173 is participating in an intercollegiate sport at a postsecondary
174 educational institution may be terminated either by the
175 student-athlete or any other party to the agreement when the
176 student-athlete's participation in the sport at the institution
177 ends.

178 (2) * * * A postsecondary educational institution may impose
179 reasonable limitations on the dates and time that a
180 student-athlete may participate in publicity rights activities.

181 (3) * * * Nothing in this chapter shall restrict a
182 postsecondary educational institution from exercising its sole
183 discretion to control the authorized use of its marks or logos or
184 to determine a student-athlete's apparel, gear or other wearables
185 while participating in an intercollegiate athletics program
186 activity.

187 (4) * * * A student-athlete may not receive or enter into a
188 contract for compensation for the use of his or her publicity
189 rights in a way that also uses any registered or licensed marks,
190 logos, verbiage or designs of a postsecondary educational
191 institution, unless the institution has provided the
192 student-athlete with written permission to do so prior to entering
193 into the agreement or receipt of compensation.

194 (5) * * * If a student-athlete is granted permission to use
195 the marks or logos, independently or through a third-party, the
196 postsecondary educational institution may be compensated for the
197 use. A postsecondary educational institution may prohibit a
198 student-athlete from wearing any item of clothing, shoes, or other
199 gear or wearables with the name, logo or insignia of any third
200 party while participating in an intercollegiate athletics program
201 activity.

202 (6) * * * A third party may not enter into, or offer to
203 enter into, a publicity rights agreement with a student-athlete or
204 otherwise compensate a student-athlete for the use of the
205 student-athlete's publicity rights if a provision of the agreement
206 or the use of the student-athlete's publicity rights conflicts

207 with a provision of a contract, rule, regulation, standard or
208 other requirement of the postsecondary educational institution
209 where the student-athlete is enrolled or intends to enroll unless
210 such contract or use is expressly approved in writing by the
211 postsecondary educational institution.

212 (7) * * * No student-athlete who is enrolled in a
213 postsecondary educational institution shall enter into a publicity
214 rights agreement or receive compensation from a third party for
215 the endorsement or promotion of brands, products, or services
216 involving gambling, sports betting, controlled substances,
217 marijuana, tobacco, alternative or electronic nicotine product or
218 delivery system, alcohol, adult entertainment or any other brand,
219 product or service that is reasonably considered to be
220 inconsistent with the values or mission of a postsecondary
221 educational institution or that, in the institution's sole
222 judgment, negatively impacts or reflects adversely on a
223 postsecondary education institution or its athletic programs,
224 including, without limitation, bringing about public disrepute,
225 embarrassment, scandal, ridicule or otherwise negatively impacting
226 the reputation or the moral or ethical standards of the
227 postsecondary educational institution.

228 (8) * * * Nothing in this chapter shall be construed to
229 qualify a student-athlete as an employee of a postsecondary
230 educational institution.

231 (9) * * * No postsecondary educational institution may use
232 funds appropriated from the State General Fund to compensate a
233 student-athlete for their publicity rights.

234 * * *

235 **SECTION 5.** Section 37-97-109, Mississippi Code of 1972, is
236 amended as follows:

237 37-97-109. * * * (1) No postsecondary educational
238 institution or any officer, trustee, or employee of a
239 postsecondary educational institution shall be subject to a claim
240 for damages related to their adoption, implementation, or
241 enforcement of any contract, rule, regulation, standard or other
242 requirement in compliance with this chapter. This chapter is not
243 intended to and shall not waive or diminish any applicable
244 defenses and immunities, including, without limitation, sovereign
245 immunity applicable to public postsecondary educational
246 institutions.

247 (2) A national association, a conference or any other group
248 or organization with authority over the sport, that promotes or
249 regulates collegiate athletics at a postsecondary educational
250 institution to which this chapter applies shall not:

251 (a) Enforce a contract term, a rule, a regulation, a
252 standard, a bylaw, guidance, or any other requirement that
253 penalizes the institution, the institution's intercollegiate
254 athletics program, or student-athlete for performing,
255 participating in, or allowing an activity required or authorized
256 by this chapter;

257 (b) Prevent a postsecondary educational institution
258 from or penalize it for establishing agreements with a third-party
259 entity to act on the institution's behalf to identify, create,
260 solicit, facilitate, negotiate, support, assist, and otherwise
261 enable opportunities for a student-athlete to earn compensation
262 from their publicity rights; or

263 (c) Penalize a postsecondary educational institution
264 because an individual or entity whose purpose includes supporting
265 and benefiting the postsecondary institution or its
266 intercollegiate athletic programs violates any contract term, a
267 rule, a regulation, a standard, a bylaw, guidance, or any other
268 requirement that is in conflict with actions required or
269 authorized by this chapter.

270 (3) A person or entity, regardless of residence, shall not
271 give or promise compensation for the use of publicity rights of a
272 student-athlete that is currently enrolled in or has signed a
273 National Letter of Intent or other written agreement to enroll in
274 a postsecondary educational institution within the State of
275 Mississippi with the purpose of recruiting or inducing the
276 student-athlete to enroll at another postsecondary educational
277 institution.

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

280 73-42-1. This chapter may be cited as the "Uniform Athlete
281 Agents Act."

282 **SECTION 7.** Section 73-42-3, Mississippi Code of 1972, is
283 amended as follows:

284 73-42-3. In this chapter:

285 (a) "Agency contract" means an agreement in which a
286 student-athlete authorizes a person to negotiate or solicit on
287 behalf of the student-athlete a professional-sports-services
288 contract, an endorsement contract, or compensation for the use of
289 the student-athlete's * * * publicity rights, provided, however,
290 that an agency contract shall not provide for athlete agent
291 compensation that exceeds twenty percent (20%) of the agency
292 contract.

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

302 (c) "Athletic director" means an individual responsible
303 for administering the overall athletic program of an educational
304 institution or, if an educational institution has separately
305 administered athletic programs for male students and female
306 students, the athletic program for males or the athletic program
307 for females, as appropriate.

308 (d) "Contact" means a communication, direct or
309 indirect, written or oral, between an athlete agent and a
310 student-athlete, to recruit, induce or solicit the student-athlete
311 to enter into an agency contract.

312 (e) "Endorsement contract" means * * * an agreement
313 under which a student-athlete * * * receives * * * compensation or
314 anything of value for the student-athlete's publicity * * *
315 rights; and

316 * * *

317 (f) "Intercollegiate * * * athletics program" means an
318 intercollegiate athletics sport played at the collegiate level for
319 which eligibility requirements for participation by a
320 student-athlete are established by a national association * * *,
321 conference or any other group or organization with authority over
322 the sport, that promotes or regulates collegiate athletics.

323 (g) "Person" means an individual, corporation, business
324 trust, estate, trust, partnership, limited liability company,
325 association, joint venture, government; governmental subdivision,
326 agency or instrumentality; public corporation, or any other legal
327 or commercial entity.

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

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

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

337 (k) "State" means a state of the United States, the
338 District of Columbia, Puerto Rico, the United States Virgin
339 Islands, or any territory or insular possession subject to the
340 jurisdiction of the United States.

341 (l) "Student-athlete" means an individual who * * * is
342 enrolled in or has signed a National Letter of Intent or other
343 written agreement to enroll in a postsecondary educational
344 institution or is being recruited by a postsecondary educational
345 institution to participate in an intercollegiate athletics
346 program. If an individual is permanently ineligible to
347 participate in a particular intercollegiate sport, the individual
348 is not a student-athlete for purposes of that sport.

349 **SECTION 8.** Section 73-42-5, Mississippi Code of 1972, is
350 amended as follows:

351 73-42-5. (1) The Secretary of State shall administer this
352 chapter.

353 (2) By engaging in the business of an athlete agent in this
354 state, a nonresident individual appoints the Secretary of State as
355 the individual's agent to accept service of process in any civil
356 action related to the individual's business as an athlete agent in
357 this state.

358 (3) The Secretary of State may:

359 (a) Conduct public or private investigations within or
360 outside of this state which * * * they consider necessary or
361 appropriate to determine whether a person has violated, is
362 violating, or is about to violate any provision of this chapter or
363 a rule adopted under this chapter, or to aid in the enforcement of
364 this chapter or in the adoption of rules and forms under this
365 chapter;

366 (b) Require or permit a person to testify, file a
367 statement, or produce a record, under oath or otherwise as * * *
368 they may determine, as to all facts and circumstances concerning a
369 matter to be investigated or about which an action or proceeding
370 is to be instituted; and

371 (c) Publish a record concerning an action, proceeding,
372 or an investigation under, or a violation of, this chapter or a
373 rule adopted under this chapter if * * * they determine it is
374 necessary or appropriate in the public interest.

375 (4) For the purpose of an investigation under this chapter,
376 the Secretary of State or * * * their designated officer may
377 administer oaths and affirmations, subpoena witnesses, seek
378 compulsion of attendance, take evidence, require the filing of
379 statements, and require the production of any records that the
380 Secretary of State considers relevant or material to the
381 investigation.

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

384 73-42-7. (1) Except as otherwise provided in subsection
385 (2), an individual may not act as an athlete agent in this state
386 before being issued a certificate of registration under Section
387 73-42-11 or 73-42-15.

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

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

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

399 73-42-9. (1) An applicant for registration shall submit an
400 application for registration to the Secretary of State in a form
401 prescribed by the Secretary of State. An application filed under
402 this section is a public record. Except as otherwise provided in
403 subsection (2), the application must be in the name of an
404 individual, signed by the applicant under penalty of perjury and
405 must state or contain:

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

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

410 (c) Any business or occupation engaged in by the
411 applicant for the five (5) years next preceding the date of
412 submission of the application;

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

414 (i) Formal training as an athlete agent;

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

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

418 (e) The names and addresses of three (3) individuals
419 not related to the applicant who are willing to serve as
420 references;

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

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

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

429 (ii) With respect to a company or corporation
430 employing the athlete agent, the officers, directors and any
431 shareholder of the corporation or member with a five percent (5%)
432 or greater interest;

433 (h) Whether the applicant or any other person named
434 pursuant to paragraph (g) has been convicted of a crime that, if

435 committed in this state, would be a felony or other crime
436 involving moral turpitude, and identify the crime;

437 (i) Whether there has been any administrative or
438 judicial determination that the applicant or any other person
439 named pursuant to paragraph (g) has made a false, misleading,
440 deceptive or fraudulent representation;

441 (j) Any instance in which the conduct of the applicant
442 or any other person named pursuant to paragraph (g) resulted in
443 the imposition of a sanction, suspension or declaration of
444 ineligibility to participate in an interscholastic or
445 intercollegiate athletic event on a student-athlete or educational
446 institution;

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

450 (l) Whether there has been any denial of an application
451 for, suspension or revocation of, or refusal to renew, the
452 certification, registration or licensure of the applicant or any
453 other person named pursuant to paragraph (g) as an athlete agent
454 in any state;

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

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

460 (o) Consent to submit to a criminal background check
461 before being issued a certificate of registration. Any fees
462 connected with the background check shall be assessed to the
463 applicant.

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

474 (a) Was submitted in the other state within the six (6)
475 months next preceding the submission of the application in this
476 state and the applicant certifies the information contained in the
477 application is current;

478 (b) Contains information substantially similar to or
479 more comprehensive than that required in an application submitted
480 in this state; and

481 (c) Was signed by the applicant under penalty of
482 perjury.

483 (3) An athlete agent must notify the Secretary of State
484 within thirty (30) days whenever the information contained in any
485 application for registration as an athlete agent in this state

486 changes in a material way or is, or becomes, inaccurate or
487 incomplete in any respect. Events requiring notice shall include,
488 but are not limited to, the following:

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

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

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

496 (d) Sanction, suspension or other disciplinary action
497 taken against the athlete agent arising out of occupational or
498 professional conduct.

499 **SECTION 11.** Section 73-42-11, Mississippi Code of 1972, is
500 amended as follows:

501 73-42-11. (1) Except as otherwise provided in subsection
502 (3), the Secretary of State shall issue a certificate of
503 registration to an individual who complies with Section
504 73-42-9(1).

505 (2) Except as otherwise provided in subsection (3), the
506 Secretary of State shall issue a certificate of registration to an
507 individual whose application has been accepted under Section
508 73-42-9(2).

509 (3) The Secretary of State may refuse to issue a certificate
510 of registration if * * * they determine that the applicant has
511 engaged in conduct that has a significant adverse effect on the

512 applicant's fitness to serve as an athlete agent. In making the
513 determination, the Secretary of State may consider whether the
514 applicant has:

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

518 (b) Made a materially false, misleading, deceptive or
519 fraudulent representation as an athlete agent or in the
520 application;

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

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

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

527 (f) Engaged in conduct or failed to engage in conduct
528 the consequence of which was that a sanction, suspension or
529 declaration of ineligibility to participate in an interscholastic
530 or intercollegiate athletic event was imposed on a student-athlete
531 or educational institution; or

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

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

536 (a) How recently the conduct occurred;

537 (b) The nature of the conduct and the context in which
538 it occurred; and

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

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

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

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

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

560 (c) Was signed by the applicant under penalty of
561 perjury.

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

565 **SECTION 12.** Section 73-42-13, Mississippi Code of 1972, is
566 amended as follows:

567 73-42-13. (1) After proper notice and an opportunity for a
568 hearing, the Secretary of State may deny, suspend, revoke or
569 refuse to renew a registration for conduct that would have
570 justified denial of registration under Section 73-42-11(3) or for
571 a violation of any provision of this chapter.

572 (2) (a) The Secretary of State shall appoint at least one
573 (1) hearing officer for the purpose of holding hearings, compiling
574 evidence and rendering decisions under this section and Section
575 73-42-11. The hearing officer shall fix the date for an
576 adjudicatory hearing and notify the athlete agent involved. The
577 hearing shall be held at a location to be designated by the
578 hearing officer. Unless the time period is extended by the
579 hearing officer, the hearing shall be held not less than fifteen
580 (15) nor more than thirty (30) days after the mailing of notice to
581 the athlete agent involved. At the conclusion of the hearing, the
582 hearing officer shall make a recommendation regarding the
583 registration of the athlete agent involved. The Secretary of
584 State shall then take appropriate action by final order.

585 (b) Any athlete agent whose application for
586 registration has been denied or not renewed, or whose registration
587 has been revoked or suspended by the Secretary of State, within

588 thirty (30) days after the date of such final order, shall have
589 the right of a trial de novo on appeal to the circuit court * * *
590 in Mississippi in the county of residence of the athlete agent,
591 the student-athlete, or the educational institution * * *. If the
592 secretary's final order is supported by substantial evidence and
593 does not violate a state or federal law, then it shall be affirmed
594 by the circuit court. Either party shall have the right of appeal
595 to the Supreme Court as provided by law from any decision of the
596 circuit court. No athlete agent shall be allowed to deliver
597 services to a student-athlete domiciled or residing in Mississippi
598 while any such appeal is pending.

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

614 in Section 93-11-157 or 93-11-163, as the case may be, rather than
615 the procedure specified in this section. If there is any conflict
616 between any provision of Section 93-11-157 or 93-11-163 and any
617 provision of this chapter, the provisions of Section 93-11-157 or
618 93-11-163, as the case may be, shall control.

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

621 73-42-15. The Secretary of State may issue a temporary
622 certificate of registration while an application for registration
623 or renewal is pending.

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

626 73-42-17. (1) An application for registration or renewal of
627 registration must be accompanied by a fee in the following amount:

628 (a) Two Hundred Dollars (\$200.00) for an initial
629 application for registration.

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

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

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

638 (2) In addition, the Secretary of State may impose a fee for
639 the actual costs incurred by the Secretary of State's office for

640 processing and administering one or more criminal history
641 background checks.

642 **SECTION 15.** Section 73-42-19, Mississippi Code of 1972, is
643 amended as follows:

644 73-42-19. (1) An agency contract must be in a record,
645 signed by the parties.

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

647 (a) The amount and method of calculating the
648 consideration to be paid by the student-athlete for services to be
649 provided by the athlete agent under the contract and any other
650 consideration or anything of value that the athlete agent has
651 received or will receive from any other source for entering into
652 the contract or for providing the services;

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

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

658 (d) A description of the services to be provided to the
659 student-athlete;

660 (e) The duration of the contract; and

661 (f) The date of execution.

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

665 **WARNING TO STUDENT-ATHLETE**

666 IF YOU SIGN THIS CONTRACT:

667 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A
668 STUDENT-ATHLETE IN YOUR SPORT * * * UNLESS THIS CONTRACT IS
669 SERVING AS A PUBLICITY RIGHTS AGREEMENT PURSUANT TO SECTION
670 37-97-103;

671 (2) BOTH YOU AND YOUR ATHLETE AGENT ARE REQUIRED TO TELL
672 YOUR ATHLETIC DIRECTOR, IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN
673 72 HOURS AFTER ENTERING INTO AN AGENCY CONTRACT; AND

674 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
675 SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR
676 ELIGIBILITY.

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

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

681 **SECTION 16.** Section 73-42-21, Mississippi Code of 1972, is
682 amended as follows:

683 73-42-21. (1) Before an athlete agent, or his or her
684 employee or representative, may initiate a first contact, direct
685 or indirect, with any of the individuals listed below, with the
686 intent or for the purpose of soliciting the student-athlete or of
687 procuring * * * an agency contract from the student-athlete, the
688 athlete agent, or his or her employee or representative, must
689 provide the educational institution at which the student-athlete
690 is enrolled with written notification of the planned contact with
691 these individuals:

692 (a) The student-athlete;

693 (b) The student-athlete's spouse, parent, foster
694 parent, guardian, sibling, aunt, uncle, grandparent, child or
695 first cousin; or the parent, foster parent, sibling, aunt, uncle,
696 grandparent, child or first cousin of the student-athlete's
697 spouse; or

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

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

708 (3) Within seventy-two (72) hours after entering into an
709 agency contract or before the next athletic event in which the
710 student-athlete may participate, whichever occurs first, the
711 student-athlete shall inform the athletic director of the
712 educational institution at which the student-athlete is enrolled
713 or intends to enroll that he or she has entered into an agency
714 contract.

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

717 73-42-23. (1) A student-athlete may cancel an agency
718 contract by giving notice to the athlete agent of the cancellation
719 within fourteen (14) days after the date the contract is signed.

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

722 (3) If a student-athlete cancels an agency contract, the
723 student-athlete is not required to pay any consideration under the
724 contract or to return any consideration received from the athlete
725 agent to induce the student-athlete to enter into the contract.

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

728 73-42-25. (1) An athlete agent shall retain the following
729 records for a period of five (5) years:

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

732 (b) Any agency contract entered into by the athlete
733 agent; and

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

736 (2) Records required by subsection (1) to be retained are
737 open to inspection by the Secretary of State during normal
738 business hours.

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

741 73-42-27. (1) An athlete agent may not engage in any of the
742 following activities, within this state or otherwise, with the

743 intent to induce a student-athlete to enter into an agency
744 contract:

745 (a) Give any materially false or misleading information
746 or make a materially false promise or representation;

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

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

751 (2) An athlete agent may not intentionally:

752 (a) Initiate contact with a student-athlete unless
753 registered under this chapter;

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

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

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

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

763 (f) Fail to notify a student-athlete prior to the
764 student-athlete's signing an agency contract for a particular
765 sport that the signing by the student-athlete may make the
766 student-athlete ineligible to participate as a student-athlete in
767 that sport.

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

770 73-42-29. The commission of any act prohibited by Section
771 73-42-27 by an athlete agent is a felony punishable by a fine of
772 not more than Ten Thousand Dollars (\$10,000.00) or by imprisonment
773 of not more than two (2) years, or both.

774 **SECTION 21.** Section 73-42-31, Mississippi Code of 1972, is
775 amended as follows:

776 73-42-31. (1) An educational institution has a right of
777 action against an athlete agent or a former student-athlete for
778 damages caused by a violation of this act. In an action under
779 this section, the court may award to the prevailing party costs
780 and reasonable attorney's fees, except that costs and attorney's
781 fees shall not be levied against a public educational institution.

782 (2) Damages of an educational institution under subsection
783 (1) include losses and expenses incurred because, as a result of
784 the activities of an athlete agent or former student-athlete, the
785 educational institution was injured by a violation of this chapter
786 or was penalized, disqualified or suspended from participation in
787 athletics by a national association * * *, a conference or any
788 other group or organization with authority over the sport, that
789 promotes or regulates collegiate athletics or by reasonable
790 self-imposed disciplinary action taken to mitigate sanctions.

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

793 reasonable diligence would have discovered the violation by the
794 athlete agent or * * * student-athlete.

795 (4) Any liability of the athlete agent or the * * *
796 student-athlete under this section is several and not joint.

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

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

801 73-42-33. The Secretary of State may assess a civil penalty
802 against an athlete agent not to exceed Twenty-five Thousand
803 Dollars (\$25,000.00) for a violation of this chapter.

804 **SECTION 23.** Section 73-42-34, Mississippi Code of 1972, is
805 amended as follows:

806 73-42-34. (1) If the Secretary of State determines that a
807 person has engaged in or is engaging in an act, practice, or
808 course of business constituting a violation of this chapter or a
809 rule adopted or order issued under this chapter, or that a person
810 has materially aided or is materially aiding in an act, practice,
811 or course of business constituting a violation of this chapter or
812 a rule adopted or order issued under this chapter, then the
813 secretary may:

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

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

823 (c) Take any other action authorized under the
824 provisions of this chapter.

825 (2) An order issued under subsection (1) of this section is
826 effective on the date of its issuance. Upon the order's issuance,
827 the Secretary of State shall promptly serve each person subject to
828 the order with a copy of the order and a notice that the order has
829 been entered. The order must include a statement of any civil
830 penalty or other administrative remedy to be imposed under
831 subsection (1) of this section, a statement of the costs of
832 investigation that the secretary will seek to recover, a statement
833 of the reasons for the order, and a statement notifying the person
834 of his or her right to a hearing under Section 73-42-13. If a
835 person subject to the order does not request a hearing in writing
836 within thirty (30) days of the date of the order and none is
837 ordered by the hearing officer, then the order, including the
838 imposition of a civil penalty or requirement for payment of the
839 costs of investigation, shall become final as to that person by
840 operation of law.

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

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

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

861 (6) Any person aggrieved by a final order of the secretary
862 may obtain a review of the order in the circuit court * * * in
863 Mississippi in the county of residence of the athlete agent, the
864 student-athlete, or * * * educational institution by filing within
865 thirty (30) days after the entry of the order, a written petition
866 praying that the order be modified or set aside, in whole or in
867 part. A copy of the petition shall be served upon the secretary,
868 and the secretary shall certify and file with the court a copy of
869 the record and evidence upon which the order was entered. When

870 these have been filed, the court has exclusive jurisdiction to
871 affirm, modify, enforce or set aside the order, in whole or in
872 part. The findings of the secretary as to the facts, if supported
873 by competent material and substantial evidence, are conclusive.
874 The beginning of proceedings under this subsection does not
875 operate as a stay of the secretary's order, unless specifically
876 ordered by the court.

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

879 73-42-35. In applying and construing this uniform act,
880 consideration must be given to the need to promote uniformity of
881 the law with respect to its subject matter among states that enact
882 it.

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

885 73-42-37. The provisions of this chapter modify, limit and
886 supersede the federal Electronic Signatures in Global and National
887 Commerce Act, 15 USCS Section 7001, et seq., except that those
888 provisions do not modify, limit, or supersede Section 101(c) of
889 that act, 15 USCS Section 7001(c), and do not authorize electronic
890 delivery of any of the notices described in Section 103(b) of that
891 act, 15 USCS Section 7003(b).

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

894 73-42-39. The Secretary of State may promulgate rules and
895 regulations necessary to administer, carry out and enforce this

896 chapter and to define terms whether or not used in this chapter,
897 but those definitions may not be inconsistent with this chapter.

898 **SECTION 27.** Section 93-19-17, Mississippi Code of 1972, is
899 amended as follows:

900 93-19-17. (1) All persons eighteen (18) years of age or
901 older, if not otherwise disqualified, or prohibited by law, shall
902 have the capacity to enter into binding contractual relationships
903 affecting the use of their * * * publicity rights while
904 participating in intercollegiate sports as student-athletes in
905 accordance with the Mississippi Intercollegiate Athletics
906 Compensation and Publicity Rights Act. Nothing in this section
907 shall be construed to affect any contracts entered into prior to
908 July 1, 2021.

909 (2) In any legal action founded on a student-athlete * * *
910 publicity rights contract entered into by a person eighteen (18)
911 years of age or older, the person may sue in his or her own name
912 as an adult and be sued in his or her own name as an adult and be
913 served with process as an adult.

914 (3) For purposes of this section:

915 (a) "Intercollegiate * * * athletics program" means an
916 intercollegiate athletics sport played at the collegiate level for
917 which eligibility requirements for participation by a
918 student-athlete are established by a national association * * *,
919 conference or any other group or organization with authority over
920 the sport, that promotes or regulates collegiate athletics; and

921 (b) "Student-athlete" means an individual who * * * is
922 enrolled in or has signed a National Letter of Intent or other
923 written agreement to enroll in a postsecondary educational
924 institution or is being recruited by a postsecondary educational
925 institution to participate in an intercollegiate athletics
926 program. If an individual is permanently ineligible to
927 participate in a particular intercollegiate sport, the individual
928 is not a student-athlete for purposes of that sport.

929 **SECTION 28.** This act shall take effect and be in force from
930 and after its passage.

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

1 AN ACT TO AMEND SECTION 37-97-101, MISSISSIPPI CODE OF 1972,
2 TO PROVIDE THAT THE ACT MAY BE CITED AS THE "MISSISSIPPI
3 INTERCOLLEGIATE ATHLETICS COMPENSATION AND PUBLICITY RIGHTS ACT";
4 TO AMEND SECTION 37-97-103, MISSISSIPPI CODE OF 1972, TO REVISE
5 THE DEFINITION OF "COMPENSATION", "INTERCOLLEGIATE ATHLETICS
6 PROGRAM", "PUBLICITY RIGHTS", "STUDENT-ATHLETE", AND "THIRD
7 PARTY"; TO AMEND SECTION 37-97-105, MISSISSIPPI CODE OF 1972, TO
8 AUTHORIZE CERTAIN ACTIONS TAKEN BY A POSTSECONDARY EDUCATIONAL
9 INSTITUTION OR AN OFFICER OR EMPLOYEE THEREOF RELATED TO
10 STUDENT-ATHLETES AND THEIR PUBLICITY RIGHTS; TO AUTHORIZE A THIRD
11 PARTY TO COMPENSATE A STUDENT-ATHLETE FOR THE USE OF THE
12 STUDENT-ATHLETE'S PUBLICITY RIGHTS; TO AUTHORIZE SUCH INSTITUTION
13 TO REQUIRE STUDENT-ATHLETES TO DISCLOSE PUBLICITY RIGHTS
14 AGREEMENTS; TO AMEND SECTION 37-97-107, MISSISSIPPI CODE OF 1972,
15 TO DELETE VARIOUS PROVISIONS THEREOF; TO PROVIDE THAT A
16 POSTSECONDARY EDUCATIONAL INSTITUTION MAY IMPOSE REASONABLE
17 LIMITATIONS ON THE DATES AND TIME THAT A STUDENT-ATHLETE MAY
18 PARTICIPATE IN PUBLICITY RIGHTS ACTIVITIES; TO PROVIDE THAT
19 NOTHING IN THIS CHAPTER SHALL RESTRICT A POSTSECONDARY EDUCATIONAL
20 INSTITUTION FROM EXERCISING ITS SOLE DISCRETION TO CONTROL THE
21 AUTHORIZED USE OF ITS MARKS OR LOGOS OR TO DETERMINE A
22 STUDENT-ATHLETE'S APPAREL, GEAR OR OTHER WEARABLES WHILE
23 PARTICIPATING IN AN INTERCOLLEGIATE ATHLETICS PROGRAM ACTIVITY; TO
24 PROHIBIT A STUDENT-ATHLETE FROM USING REGISTERED OR LICENSED LOGOS
25 OR MARKS UNLESS THE INSTITUTION HAS PROVIDED WRITTEN PERMISSION TO
26 DO SO; TO PROVIDE THAT NO STUDENT-ATHLETE WHO IS ENROLLED IN A

27 POSTSECONDARY EDUCATIONAL INSTITUTION SHALL ENTER INTO A PUBLICITY
28 RIGHTS AGREEMENT OR RECEIVE COMPENSATION FROM A THIRD PARTY FOR
29 THE ENDORSEMENT OR PROMOTION OF BRANDS, PRODUCTS, OR SERVICES
30 INVOLVING GAMBLING, SPORTS BETTING, CONTROLLED SUBSTANCES,
31 MARIJUANA, TOBACCO, ALTERNATIVE OR ELECTRONIC NICOTINE PRODUCT OR
32 DELIVERY SYSTEM, ALCOHOL, ADULT ENTERTAINMENT OR ANY OTHER BRAND,
33 TO PROVIDE THAT NOTHING IN THIS CHAPTER SHALL BE CONSTRUED TO
34 QUALIFY A STUDENT-ATHLETE AS AN EMPLOYEE OF A POSTSECONDARY
35 EDUCATIONAL INSTITUTION; TO AMEND SECTION 37-97-109, MISSISSIPPI
36 CODE OF 1972, TO SET CERTAIN PROHIBITIONS AGAINST ACTIONS TAKEN BY
37 A NATIONAL ASSOCIATION, A CONFERENCE OR ANY OTHER GROUP OR
38 ORGANIZATION WITH AUTHORITY OVER THE SPORT THAT PROMOTES OR
39 REGULATES COLLEGIATE ATHLETICS AT A POSTSECONDARY EDUCATIONAL
40 INSTITUTION; TO PROVIDE THAT A PERSON OR ENTITY, REGARDLESS OF
41 RESIDENCE, SHALL NOT GIVE OR PROMISE COMPENSATION FOR THE USE OF
42 PUBLICITY RIGHTS OF A STUDENT-ATHLETE WHO IS CURRENTLY ENROLLED IN
43 OR HAS SIGNED A NATIONAL LETTER OF INTENT OR OTHER WRITTEN
44 AGREEMENT TO ENROLL IN A POSTSECONDARY EDUCATIONAL INSTITUTION
45 WITHIN THE STATE OF MISSISSIPPI WITH THE PURPOSE OF RECRUITING OR
46 INDUCING THE STUDENT-ATHLETE TO ENROLL AT ANOTHER POSTSECONDARY
47 EDUCATIONAL INSTITUTION; TO AMEND SECTION 73-42-3, MISSISSIPPI
48 CODE OF 1972, TO PROVIDE THAT AN AGENCY CONTRACT SHALL NOT PROVIDE
49 FOR ATHLETE AGENT COMPENSATION THAT EXCEEDS 20% OF THE AGENCY
50 CONTRACT; TO REVISE THE DEFINITION OF "AGENCY CONTRACT",
51 "ENDORSEMENT CONTRACT" AND "STUDENT-ATHLETE" AND TO DEFINE
52 "INTERCOLLEGIATE ATHLETICS PROGRAM"; TO AMEND SECTIONS 73-42-5,
53 73-42-11, 73-42-13, 73-42-19, 73-42-21, 73-42-31, 73-42-34 AND
54 93-19-17, MISSISSIPPI CODE OF 1972, TO CONFORM TO THE PROVISIONS
55 OF THE ACT; TO BRING FORWARD SECTIONS 73-42-1, 73-42-7, 73-42-9,
56 73-42-15, 73-42-17, 73-42-23, 73-42-25, 73-42-27, 73-42-29,
57 73-42-33, 73-42-35, 73-42-37 AND 73-42-39, MISSISSIPPI CODE OF
58 1972, FOR THE PURPOSE OF POSSIBLE AMENDMENT; AND FOR RELATED
59 PURPOSES.

HR26\SB2417A.1J

Andrew Ketchings
Clerk of the House of Representatives