

House Amendments to Senate Bill No. 2486

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:

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

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

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

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

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

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

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

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

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

45 (iv) The payment of wages and benefits to a
46 student-athlete for work actually performed for services unrelated
47 to a student-athlete's publicity rights or other intellectual or
48 intangible property rights of a student-athlete under federal or
49 state law.

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

51 (c) "Intercollegiate athletics program" means an
52 intercollegiate athletics program played at the collegiate level
53 for which eligibility requirements for participation by a

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

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

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

61 (f) "Name, Image and Likeness Agreement" means a
62 contract or other arrangement between a student-athlete and a
63 third-party regarding the use of the publicity of the
64 student-athlete.

65 (g) "Publicity right" means any right:

66 (i) Associated with the name, image, likeness,
67 publicity, reputation, fame or personal following of a
68 student-athlete; or

69 (ii) Recognized under a federal or state law as
70 permitting an individual to control and profit from the use of the
71 name, image, likeness, publicity, reputation, fame or personal
72 following of the individual.

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

76 (i) "Social media compensation" means all forms of
77 payment for engagement on social media received by a
78 student-athlete as a result of the use of that student-athlete's
79 publicity rights.

80 (j) "Student-athlete" means an individual who engages
81 in, is eligible to engage in, or may be eligible in the future to
82 engage in, intercollegiate athletics program at a postsecondary
83 educational institution, including, without limitation,
84 prospective student-athletes of an intercollegiate athletics
85 program. If an individual is permanently ineligible to
86 participate in a particular intercollegiate sport, the individual
87 is not a student-athlete for purposes of that sport.

88 (k) "Third party" means any individual or entity or
89 group of the same, acting independently or collectively, that
90 enters into an agreement for the publicity rights of a
91 student-athlete or group of student-athletes. The term "third
92 party" shall not include any national association for the
93 promotion or regulation of collegiate athletics, athletics
94 conference, or postsecondary educational institution.

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

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

99 (a) Earn compensation, for the use of publicity rights
100 of the student-athlete; and

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

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

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

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

114 37-97-107. (1) Except as provided for under this article, a
115 postsecondary educational institution shall not uphold any
116 contract, rule, regulation, standard or other requirement that
117 prevents a student-athlete of that institution from earning
118 compensation for the use of the student's publicity rights. Any
119 such contract, rule, regulation standard or other requirement
120 shall be void and unenforceable against the postsecondary
121 educational institution or the student-athlete. Compensation from
122 the use of a student-athlete's publicity rights may not affect the
123 student-athlete's scholarship eligibility, grant-in-aid or other
124 financial aid, awards or benefits, or the student-athlete's
125 intercollegiate athletic eligibility. Nothing in this article is
126 intended to alter any state and federal laws or regulations
127 regarding the award of financial aid at postsecondary educational
128 institutions.

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

132 not limited to, the National Collegiate Athletic Association
133 (NCAA) and the National Junior College Athletic Association
134 (NJCAA), shall not prevent, or otherwise enforce a contract, rule,
135 regulation, standard or other requirement that prevents, a
136 student-athlete of a postsecondary educational institution from
137 earning compensation as a result of the use of the
138 student-athlete's publicity rights.

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

158 parties, may be compensated for the use in a manner consistent
159 with market rates. A postsecondary educational institution may
160 also prohibit a student-athlete from wearing any item of clothing,
161 shoes, or other gear or wearables with the name, logo or insignia
162 of any entity during an intercollegiate athletics competition or
163 institution-sponsored event.

164 (4) An athletic association, conference or other group or
165 organization with authority over intercollegiate athletics
166 programs, including, but not limited to, the National Collegiate
167 Athletic Association and the National Junior College Athletic
168 Association, shall not enforce a contract, rule, regulation,
169 standard or other requirement that prevents a postsecondary
170 educational institution from participating in an intercollegiate
171 athletics program, or otherwise penalize the postsecondary
172 educational institution or its intercollegiate athletic program,
173 as a result of activities permitted by this article, including,
174 without limitation, the compensation of a student-athlete for the
175 use of the student-athlete's publicity rights.

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

181 (i) Enter into, or offer to enter into, a name,
182 image and likeness agreement with a student-athlete; or

183 (ii) Provide a student-athlete or the
184 student-athlete's family compensation in relation to the use of
185 the student-athlete's publicity rights.

186 (b) A postsecondary educational institution may
187 facilitate opportunities for student-athletes to engage with third
188 parties interested in entering into name, image, and likeness
189 agreements, and may communicate with third parties interested in
190 providing name, image, and likeness agreements to
191 student-athletes.

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

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

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

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

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

224 (10) Before any agreement for compensation for the use of a
225 student-athlete's publicity rights is entered into, and before any
226 compensation is provided to the student-athlete in advance of an
227 agreement, the student-athlete shall disclose the agreement to a
228 designated official of the postsecondary educational institution
229 in which the student-athlete is enrolled in a manner prescribed by
230 the institution.

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

235 image and likeness agreement or the use of the student-athlete's
236 publicity rights conflicts with a provision of a contract, rule,
237 regulation, standard or other requirement of the postsecondary
238 educational institution unless such contract or use is expressly
239 approved in writing by the postsecondary educational institution.

240 (12) No postsecondary educational institution, booster or
241 third-party shall provide a student-athlete compensation or enter
242 into a name, image and likeness agreement as an inducement for the
243 student-athlete to attend or enroll in a specific institution or
244 group of institutions. Compensation for a student-athlete's
245 publicity rights may not be conditioned on athletic performance or
246 attendance.

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

261 (14) An agreement for the use of a student-athlete's
262 publicity rights which is formed while the student-athlete is
263 participating in an intercollegiate sport at a postsecondary
264 educational institution may not extend beyond the
265 student-athlete's participation in the sport at the institution.

266 (15) Nothing in this article shall be interpreted to modify
267 any requirements or obligations imposed under Title IX of the
268 Education Amendments of 1972 (20 USC 1681 et seq.).

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

271 37-97-109. No postsecondary educational institution shall be
272 subject to a claim for damages of any kind under this article,
273 including, without limitation, a claim for unfair trade or
274 competition or tortious interference. No postsecondary
275 educational institution shall be subject to a claim for damages
276 related to its adoption, implementation or enforcement of any
277 contract, rule, regulation, standard or other requirement in
278 compliance with this article. This article is not intended to and
279 shall not waive or diminish any applicable defenses and
280 immunities, including, without limitation, sovereign immunity
281 applicable to postsecondary educational institutions.

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

284 73-42-1. This chapter may be cited as the "Uniform Athlete
285 Agents Act."

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

288 73-42-3. In this chapter:

289 (a) "Agency contract" means an agreement in which a
290 student-athlete authorizes a person to negotiate or solicit on
291 behalf of the student-athlete a professional-sports-services
292 contract, an endorsement contract, compensation for the use of the
293 student-athlete's name, image or likeness, or enrollment at any
294 educational institution that offers an athletic scholarship to the
295 student-athlete.

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

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

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

315 (e) "Endorsement contract" means:

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

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

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

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

334 (h) "Professional-sports-services contract" means an
335 agreement under which an individual is employed or agrees to

336 render services as a player on a professional sports team, with a
337 professional sports organization, or as a professional athlete.

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

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

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

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

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

356 73-42-5. (1) The Secretary of State shall administer this
357 chapter.

358 (2) By engaging in the business of an athlete agent in this
359 state, a nonresident individual appoints the Secretary of State as
360 the individual's agent to accept service of process in any civil

361 action related to the individual's business as an athlete agent in
362 this state.

363 (3) The Secretary of State may:

364 (a) Conduct public or private investigations within or
365 outside of this state which he considers necessary or appropriate
366 to determine whether a person has violated, is violating, or is
367 about to violate any provision of this chapter or a rule adopted
368 under this chapter, or to aid in the enforcement of this chapter
369 or in the adoption of rules and forms under this chapter;

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

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

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

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

387 73-42-7. (1) Except as otherwise provided in subsection
388 (2), an individual may not act as an athlete agent in this state
389 before being issued a certificate of registration under Section
390 73-42-11 or 73-42-15.

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

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

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

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

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

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

413 (c) Any business or occupation engaged in by the
414 applicant for the five (5) years next preceding the date of
415 submission of the application;

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

417 (i) Formal training as an athlete agent;

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

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

421 (e) The names and addresses of three (3) individuals
422 not related to the applicant who are willing to serve as
423 references;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

481 (b) Contains information substantially similar to or
482 more comprehensive than that required in an application submitted
483 in this state; and

484 (c) Was signed by the applicant under penalty of
485 perjury.

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

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

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

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

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

499 (d) Sanction, suspension or other disciplinary action
500 taken against the athlete agent arising out of occupational or
501 professional conduct.

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

504 73-42-11. (1) Except as otherwise provided in subsection
505 (3), the Secretary of State shall issue a certificate of
506 registration to an individual who complies with Section
507 73-42-9(1).

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

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

515 fitness to serve as an athlete agent. In making the
516 determination, the Secretary of State may consider whether the
517 applicant has:

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

521 (b) Made a materially false, misleading, deceptive or
522 fraudulent representation as an athlete agent or in the
523 application;

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

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

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

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

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

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

539 (a) How recently the conduct occurred;

540 (b) The nature of the conduct and the context in which
541 it occurred; and

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

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

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

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

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

563 (c) Was signed by the applicant under penalty of
564 perjury.

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

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

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

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

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

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

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

617 shall be taken in accordance with the appeal procedure specified
618 in Section 93-11-157 or 93-11-163, as the case may be, rather than
619 the procedure specified in this section. If there is any conflict
620 between any provision of Section 93-11-157 or 93-11-163 and any
621 provision of this chapter, the provisions of Section 93-11-157 or
622 93-11-163, as the case may be, shall control.

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

625 73-42-15. The Secretary of State may issue a temporary
626 certificate of registration while an application for registration
627 or renewal is pending.

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

630 73-42-17. (1) An application for registration or renewal of
631 registration must be accompanied by a fee in the following amount:

632 (a) Two Hundred Dollars (\$200.00) for an initial
633 application for registration.

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

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

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

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

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

648 73-42-19. (1) An agency contract must be in a record,
649 signed by the parties.

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

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

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

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

662 (d) A description of the services to be provided to the
663 student-athlete;

664 (e) The duration of the contract; and

665 (f) The date of execution.

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

669 **WARNING TO STUDENT-ATHLETE**

670 **IF YOU SIGN THIS CONTRACT:**

671 (1) **YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A**
672 **STUDENT-ATHLETE IN YOUR SPORT UNLESS THIS CONTRACT IS SERVING AS A**
673 **NAME, IMAGE AND LIKENESS AGREEMENT PURSUANT TO SECTION 37-97-103;**

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

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

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

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

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

686 73-42-21. (1) Before an athlete agent, or his or her
687 employee or representative, may initiate a first contact, direct
688 or indirect, with any of the individuals listed below, with the
689 intent or for the purpose of soliciting the student-athlete or of
690 procuring employment from the student-athlete, the athlete agent,
691 or his or her employee or representative, must provide the

692 educational institution at which the student-athlete is enrolled
693 with written notification of the planned contact with these
694 individuals:

695 (a) The student-athlete;

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

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

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

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

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

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

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

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

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

730 73-42-25. (1) An athlete agent shall retain the following
731 records for a period of five (5) years:

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

734 (b) Any agency contract entered into by the athlete
735 agent; and

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

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

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

743 73-42-27. (1) An athlete agent may not engage in any of the
744 following activities, within this state or otherwise, with the
745 intent to induce a student-athlete to enter into an agency
746 contract:

747 (a) Give any materially false or misleading information
748 or make a materially false promise or representation;

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

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

753 (2) An athlete agent may not intentionally:

754 (a) Initiate contact with a student-athlete unless
755 registered under this chapter;

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

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

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

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

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

768 student-athlete ineligible to participate as a student-athlete in
769 that sport.

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

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

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

778 73-42-31. (1) An educational institution has a right of
779 action against an athlete agent or a former student-athlete for
780 damages caused by a violation of this act. In an action under
781 this section, the court may award to the prevailing party costs
782 and reasonable attorney's fees.

783 (2) Damages of an educational institution under subsection
784 (1) include losses and expenses incurred because, as a result of
785 the activities of an athlete agent or former student-athlete, the
786 educational institution was injured by a violation of this chapter
787 or was penalized, disqualified or suspended from participation in
788 athletics by a national association for the promotion and
789 regulation of athletics, by an athletic conference, or by
790 reasonable self-imposed disciplinary action taken to mitigate
791 sanctions.

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

794 reasonable diligence would have discovered the violation by the
795 athlete agent or former student-athlete.

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

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

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

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

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

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

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

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

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

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

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

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

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

862 (6) Any person aggrieved by a final order of the secretary
863 may obtain a review of the order in the circuit court of the
864 county of residence of the athlete agent, the student-athlete, or
865 the public or private college, university, community or junior
866 college in the state that issued an athletic scholarship to the
867 student-athlete, by filing within thirty (30) days after the entry
868 of the order, a written petition praying that the order be
869 modified or set aside, in whole or in part. A copy of the
870 petition shall be served upon the secretary, and the secretary

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

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

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

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

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

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

896 73-42-39. The Secretary of State may promulgate rules and
897 regulations necessary to administer, carry out and enforce this
898 chapter and to define terms whether or not used in this chapter,
899 but those definitions may not be inconsistent with this chapter.

900 **SECTION 27.** This act shall take effect and be in force from
901 and after July 1, 2023, and shall stand repealed on June 30, 2023.

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

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

HR26\SB2486A.J

Andrew Ketchings
Clerk of the House of Representatives