



# Senate

General Assembly

**File No. 204**

*February Session, 2004*

Substitute Senate Bill No. 487

*Senate, March 23, 2004*

The Committee on Judiciary reported through SEN. MCDONALD of the 27th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

## **AN ACT ADOPTING THE UNIFORM ATHLETE AGENTS ACT.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective January 1, 2005*) Sections 1 to 20,  
2 inclusive, of this act may be cited as the "Uniform Athlete Agents Act".

3 Sec. 2. (NEW) (*Effective January 1, 2005*) As used in sections 1 to 20,  
4 inclusive, of this act:

5 (1) "Agency contract" means an agreement in which a student-  
6 athlete authorizes a person to negotiate or solicit on behalf of the  
7 student-athlete a professional-sports-services contract or an  
8 endorsement contract.

9 (2) "Athlete agent" means an individual who enters into an agency  
10 contract with a student-athlete or, directly or indirectly, recruits or  
11 solicits a student-athlete to enter into an agency contract. The term  
12 includes an individual who represents to the public that the individual  
13 is an athlete agent. The term does not include a spouse, parent, sibling,

14 grandparent or guardian of the student-athlete or an individual acting  
15 solely on behalf of a professional sports team or professional sports  
16 organization.

17 (3) "Athletic director" means an individual responsible for  
18 administering the overall athletic program of an educational  
19 institution or, if an educational institution has separately administered  
20 athletic programs for male students and female students, the athletic  
21 program for males or the athletic program for females, as appropriate.

22 (4) "Contact" means a communication, direct or indirect, between an  
23 athlete agent and a student-athlete, to recruit or solicit the student-  
24 athlete to enter into an agency contract.

25 (5) "Endorsement contract" means an agreement under which a  
26 student-athlete is employed or receives consideration to use on behalf  
27 of the other party any value that the student-athlete may have because  
28 of publicity, reputation, following or fame obtained because of athletic  
29 ability or performance.

30 (6) "Intercollegiate sport" means a sport played at the collegiate level  
31 for which eligibility requirements for participation by a student-athlete  
32 are established by a national association for the promotion or  
33 regulation of collegiate athletics.

34 (7) "Person" means an individual, corporation, business trust, estate,  
35 trust, partnership, limited liability company, association, joint venture,  
36 government or governmental subdivision, agency or instrumentality,  
37 public corporation or any other legal or commercial entity.

38 (8) "Professional-sports-services contract" means an agreement  
39 under which an individual is employed, or agrees to render services,  
40 as a player on a professional sports team, with a professional sports  
41 organization or as a professional athlete.

42 (9) "Record" means information that is inscribed on a tangible  
43 medium or that is stored in an electronic or other medium and is  
44 retrievable in perceivable form.

45 (10) "Registration" means registration as an athlete agent pursuant  
46 to sections 1 to 20, inclusive, of this act.

47 (11) "State" means a state of the United States, the District of  
48 Columbia, Puerto Rico, the United States Virgin Islands, or any  
49 territory or insular possession subject to the jurisdiction of the United  
50 States.

51 (12) "Student-athlete" means an individual who engages in, is  
52 eligible to engage in, or may be eligible in the future to engage in, any  
53 intercollegiate sport. If an individual is permanently ineligible to  
54 participate in a particular intercollegiate sport, the individual is not a  
55 student-athlete for purposes of that sport.

56 Sec. 3. (NEW) (*Effective January 1, 2005*) By acting as an athlete agent  
57 in this state, a nonresident individual appoints the Secretary of the  
58 State as the individual's agent for service of process in any civil action  
59 in this state related to the individual's acting as an athlete agent in this  
60 state.

61 Sec. 4. (NEW) (*Effective January 1, 2005*) (a) Except as otherwise  
62 provided in subsection (b) of this section, an individual may not act as  
63 an athlete agent in this state without holding a certificate of  
64 registration under section 6 or 8 of this act.

65 (b) Before being issued a certificate of registration, an individual  
66 may act as an athlete agent in this state for all purposes except signing  
67 an agency contract, if:

68 (1) A student-athlete or another person acting on behalf of the  
69 student-athlete initiates communication with the individual; and

70 (2) Within seven days after an initial act as an athlete agent, the  
71 individual submits an application for registration as an athlete agent in  
72 this state.

73 (c) An agency contract resulting from conduct in violation of this  
74 section is void and the athlete agent shall return any consideration

75 received under the contract.

76 Sec. 5. (NEW) (*Effective January 1, 2005*) (a) An applicant for  
77 registration shall submit an application for registration to the  
78 Commissioner of Consumer Protection in a form prescribed by the  
79 commissioner. The application shall be in the name of an individual  
80 and, except as provided in subsection (b) of this section, signed or  
81 otherwise authenticated by the applicant under penalty of perjury and  
82 state or contain:

83 (1) The name of the applicant and the address of the applicant's  
84 principal place of business;

85 (2) The name of the applicant's business or employer, if applicable;

86 (3) Any business or occupation engaged in by the applicant for the  
87 five years next preceding the date of submission of the application;

88 (4) A description of the applicant's:

89 (A) Formal training as an athlete agent;

90 (B) Practical experience as an athlete agent; and

91 (C) Educational background relating to the applicant's activities as  
92 an athlete agent;

93 (5) The names and addresses of three individuals not related to the  
94 applicant who are willing to serve as references;

95 (6) The name, sport and last-known team of each individual for  
96 whom the applicant acted as an athlete agent during the five years  
97 next preceding the date of submission of the application;

98 (7) The names and addresses of all persons who are:

99 (A) With respect to the athlete agent's business if it is not a  
100 corporation, the partners, members, officers, managers, associates or  
101 profit-sharers of the business; and

102 (B) With respect to a corporation employing the athlete agent, the  
103 officers, directors and any shareholder of the corporation having an  
104 interest of five per cent or greater;

105 (8) Whether the applicant or any person named pursuant to  
106 subdivision (7) of this subsection has been convicted of a crime that, if  
107 committed in this state, would be a felony, and identify the crime;

108 (9) Whether there has been any administrative or judicial  
109 determination that the applicant or any person named pursuant to  
110 subdivision (7) of this subsection has made a false, misleading,  
111 deceptive or fraudulent representation;

112 (10) Any instance in which the conduct of the applicant or any  
113 person named pursuant to subdivision (7) of this subsection resulted in  
114 the imposition of a sanction, suspension or declaration of ineligibility  
115 to participate in an interscholastic or intercollegiate athletic event on a  
116 student-athlete or educational institution;

117 (11) Any sanction, suspension or disciplinary action taken against  
118 the applicant or any person named pursuant to subdivision (7) of this  
119 subsection arising out of occupational or professional conduct; and

120 (12) Whether there has been any denial of an application for,  
121 suspension or revocation of, or refusal to renew, the registration or  
122 licensure of the applicant or any person named pursuant to  
123 subdivision (7) of this subsection as an athlete agent in any state.

124 (b) An individual who has submitted an application for, and holds a  
125 certificate of, registration or licensure as an athlete agent in another  
126 state, may submit a copy of the application and certificate in lieu of  
127 submitting an application in the form prescribed pursuant to  
128 subsection (a) of this section. The Commissioner of Consumer  
129 Protection shall accept the application and the certificate from the  
130 other state as an application for registration in this state if the  
131 application to the other state:

132 (1) Was submitted in the other state within six months next

133 preceding the submission of the application in this state and the  
134 applicant certifies that the information contained in the application is  
135 current;

136 (2) Contains information substantially similar to or more  
137 comprehensive than that required in an application submitted in this  
138 state; and

139 (3) Was signed by the applicant under penalty of perjury.

140 Sec. 6. (NEW) (*Effective January 1, 2005*) (a) Except as provided in  
141 subsection (b) of this section, the Commissioner of Consumer  
142 Protection shall issue a certificate of registration to an individual who  
143 complies with subsection (a) of section 5 of this act or whose  
144 application has been accepted under subsection (b) of section 5 of this  
145 act.

146 (b) The Commissioner of Consumer Protection may refuse to issue a  
147 certificate of registration if the commissioner determines that the  
148 applicant has engaged in conduct that has a significant adverse effect  
149 on the applicant's fitness to act as an athlete agent. In making the  
150 determination, the commissioner may consider whether the applicant  
151 has:

152 (1) Been convicted of a crime that, if committed in this state, would  
153 be a felony;

154 (2) Made a materially false, misleading, deceptive or fraudulent  
155 representation in the application or as an athlete agent;

156 (3) Engaged in conduct that would disqualify the applicant from  
157 serving in a fiduciary capacity;

158 (4) Engaged in conduct prohibited by section 14 of this act;

159 (5) Had a registration or licensure as an athlete agent suspended,  
160 revoked or denied or been refused renewal of registration or licensure  
161 as an athlete agent in any state;

162 (6) Engaged in conduct the consequence of which was that a  
163 sanction, suspension or declaration of ineligibility to participate in an  
164 interscholastic or intercollegiate athletic event was imposed on a  
165 student-athlete or educational institution; or

166 (7) Engaged in conduct that significantly adversely reflects on the  
167 applicant's credibility, honesty or integrity.

168 (c) In making a determination under subsection (b) of this section,  
169 the Commissioner of Consumer Protection shall consider:

170 (1) How recently the conduct occurred;

171 (2) The nature of the conduct and the context in which it occurred;  
172 and

173 (3) Any other relevant conduct of the applicant.

174 (d) An athlete agent may apply to renew a registration by filing an  
175 application for renewal in a form prescribed by the Commissioner of  
176 Consumer Protection. The application for renewal shall be signed by  
177 the applicant under penalty of perjury and shall contain current  
178 information on all matters required in an original registration.

179 (e) An individual who has filed an application for renewal of  
180 registration or licensure in another state, in lieu of submitting an  
181 application for renewal in the form prescribed pursuant to subsection  
182 (d) of this section, may file a copy of the application for renewal and a  
183 valid certificate of registration or licensure from the other state. The  
184 Commissioner of Consumer Protection shall accept the application for  
185 renewal from the other state as an application for renewal in this state  
186 if the application to the other state:

187 (1) Was submitted in the other state within six months next  
188 preceding the filing in this state and the applicant certifies the  
189 information contained in the application for renewal is current;

190 (2) Contains information substantially similar to or more

191 comprehensive than that required in an application for renewal  
192 submitted in this state; and

193 (3) Was signed by the applicant under penalty of perjury.

194 (f) A certificate of registration or a renewal of a registration is valid  
195 for two years.

196 Sec. 7. (NEW) (*Effective January 1, 2005*) (a) The Commissioner of  
197 Consumer Protection may suspend, revoke or refuse to renew a  
198 registration for conduct that would have justified denial of registration  
199 under subsection (b) of section 6 of this act.

200 (b) The Commissioner of Consumer Protection may deny, suspend,  
201 revoke or refuse to renew a certificate of registration only after proper  
202 notice and an opportunity for a hearing in accordance with chapter 54  
203 of the general statutes.

204 Sec. 8. (NEW) (*Effective January 1, 2005*) The Commissioner of  
205 Consumer Protection may issue a temporary certificate of registration  
206 while an application for registration or renewal of registration is  
207 pending.

208 Sec. 9. (NEW) (*Effective January 1, 2005*) An application for  
209 registration or renewal of registration shall be accompanied by a fee in  
210 the following amount:

211 (1) Two hundred dollars for an initial application for registration;

212 (2) Two hundred dollars for an application for registration based  
213 upon a certificate of registration or licensure issued by another state;

214 (3) Two hundred dollars for an application for renewal of  
215 registration; or

216 (4) Two hundred dollars for an application for renewal of  
217 registration based upon an application for renewal of registration or  
218 licensure submitted in another state.

219 Sec. 10. (NEW) (*Effective January 1, 2005*) (a) An agency contract shall  
220 be in a record, signed or otherwise authenticated by the parties.

221 (b) An agency contract shall state or contain:

222 (1) The amount and method of calculating the consideration to be  
223 paid by the student-athlete for services to be provided by the athlete  
224 agent under the contract and any other consideration the athlete agent  
225 has received or will receive from any other source for entering into the  
226 contract or for providing the services;

227 (2) The name of any person not listed in the application for  
228 registration or renewal of registration who will be compensated  
229 because the student-athlete signed the agency contract;

230 (3) A description of any expenses that the student-athlete agrees to  
231 reimburse;

232 (4) A description of the services to be provided to the student-  
233 athlete;

234 (5) The duration of the contract; and

235 (6) The date of execution.

236 (c) An agency contract shall contain, in close proximity to the  
237 signature of the student-athlete, a conspicuous notice in boldface type  
238 in capital letters stating:

239 WARNING TO STUDENT-ATHLETE

240 IF YOU SIGN THIS CONTRACT:

241 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A  
242 STUDENT-ATHLETE IN YOUR SPORT;

243 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS  
244 AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND  
245 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC

246 DIRECTOR; AND

247 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS  
248 AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY  
249 NOT REINSTATE YOUR ELIGIBILITY.

250 (d) An agency contract that does not conform to this section is  
251 voidable by the student-athlete. If a student-athlete voids an agency  
252 contract, the student-athlete is not required to pay any consideration  
253 under the contract or to return any consideration received from the  
254 athlete agent to induce the student-athlete to enter into the contract.

255 (e) The athlete agent shall give a record of the signed or otherwise  
256 authenticated agency contract to the student-athlete at the time of  
257 execution.

258 Sec. 11. (NEW) (*Effective January 1, 2005*) (a) Within seventy-two  
259 hours after entering into an agency contract or before the next  
260 scheduled athletic event in which the student-athlete may participate,  
261 whichever occurs first, the athlete agent shall give notice in a record of  
262 the existence of the contract to the athletic director of the educational  
263 institution at which the student-athlete is enrolled or the athlete agent  
264 has reasonable grounds to believe the student-athlete intends to enroll.

265 (b) Within seventy-two hours after entering into an agency contract  
266 or before the next athletic event in which the student-athlete may  
267 participate, whichever occurs first, the student-athlete shall inform the  
268 athletic director of the educational institution at which the student-  
269 athlete is enrolled that he or she has entered into an agency contract.

270 Sec. 12. (NEW) (*Effective January 1, 2005*) (a) A student-athlete may  
271 cancel an agency contract by giving notice of the cancellation to the  
272 athlete agent in a record within fourteen days after the contract is  
273 signed.

274 (b) A student-athlete may not waive the right to cancel an agency  
275 contract.

276 (c) If a student-athlete cancels an agency contract, the student-  
277 athlete is not required to pay any consideration under the contract or  
278 to return any consideration received from the athlete agent to induce  
279 the student-athlete to enter into the contract.

280 Sec. 13. (NEW) (*Effective January 1, 2005*) (a) An athlete agent shall  
281 retain the following records for a period of five years:

282 (1) The name and address of each individual represented by the  
283 athlete agent;

284 (2) Any agency contract entered into by the athlete agent; and

285 (3) Any direct costs incurred by the athlete agent in the recruitment  
286 or solicitation of a student-athlete to enter into an agency contract.

287 (b) Records required by subsection (a) of this section to be retained  
288 shall be open to inspection by the Commissioner of Consumer  
289 Protection during normal business hours.

290 Sec. 14. (NEW) (*Effective January 1, 2005*) (a) An athlete agent, with  
291 the intent to induce a student-athlete to enter into an agency contract,  
292 may not:

293 (1) Give any materially false or misleading information or make a  
294 materially false promise or representation;

295 (2) Furnish anything of value to a student-athlete before the student-  
296 athlete enters into the agency contract; or

297 (3) Furnish anything of value to any individual other than the  
298 student-athlete or another registered athlete agent.

299 (b) An athlete agent may not intentionally:

300 (1) Initiate contact with a student-athlete unless registered under  
301 section 6 or 8 of this act;

302 (2) Refuse or fail to retain or permit inspection of the records

303 required to be retained by section 13 of this act;

304 (3) Fail to register when required by section 4 of this act;

305 (4) Provide materially false or misleading information in an  
306 application for registration or renewal of registration;

307 (5) Predate or postdate an agency contract; or

308 (6) Fail to notify a student-athlete before the student-athlete signs or  
309 otherwise authenticates an agency contract for a particular sport that  
310 the signing or authentication may make the student-athlete ineligible  
311 to participate as a student-athlete in that sport.

312 Sec. 15. (NEW) (*Effective January 1, 2005*) An athlete agent who  
313 violates section 14 of this act is guilty of a class B misdemeanor.

314 Sec. 16. (NEW) (*Effective January 1, 2005*) (a) An educational  
315 institution has a right of action against an athlete agent or a former  
316 student-athlete for damages caused by a violation of sections 1 to 20,  
317 inclusive, of this act. In an action under this section, the court may  
318 award to the prevailing party costs and reasonable attorney's fees.

319 (b) Damages of an educational institution under subsection (a) of  
320 this section include losses and expenses incurred because, as a result of  
321 the conduct of an athlete agent or former student-athlete, the  
322 educational institution was injured by a violation of sections 1 to 20,  
323 inclusive, of this act or was penalized, disqualified or suspended from  
324 participation in athletics by a national association for the promotion  
325 and regulation of athletics, by an athletic conference or by reasonable  
326 self-imposed disciplinary action taken to mitigate sanctions likely to be  
327 imposed by such an organization.

328 (c) A right of action under this section does not accrue until the  
329 educational institution discovers or by the exercise of reasonable  
330 diligence should have discovered the violation by the athlete agent or  
331 former student-athlete.

332 (d) Any liability of the athlete agent or the former student-athlete  
333 under this section is several and not joint.

334 (e) Sections 1 to 20, inclusive, of this act do not restrict rights,  
335 remedies or defenses of any person under law or equity.

336 Sec. 17. (NEW) (*Effective January 1, 2005*) The Commissioner of  
337 Consumer Protection, after notice and conducting a hearing in  
338 accordance with chapter 54 of the general statutes, may assess a civil  
339 penalty against an athlete agent not to exceed twenty-five thousand  
340 dollars for a violation of sections 1 to 20, inclusive, of this act.

341 Sec. 18. (NEW) (*Effective January 1, 2005*) In applying and construing  
342 the uniform provisions of sections 1 to 20, inclusive, of this act,  
343 consideration must be given to the need to promote uniformity of the  
344 law with respect to its subject matter among states that enact such  
345 uniform provisions.

346 Sec. 19. (NEW) (*Effective January 1, 2005*) The provisions of sections 1  
347 to 20, inclusive, of this act governing the legal effect, validity or  
348 enforceability of electronic records or signatures, and of contracts  
349 formed or performed with the use of such records or signatures  
350 conform to the requirements of the Electronic Signatures in Global and  
351 National Commerce Act, 15 USC 7002, and supersede, modify and  
352 limit said federal act as provided in 15 USC 7002.

353 Sec. 20. (NEW) (*Effective January 1, 2005*) If any provision of sections  
354 1 to 20, inclusive, of this act or its application to any person or  
355 circumstance is held invalid, the invalidity does not affect other  
356 provisions or applications of sections 1 to 20, inclusive, of this act  
357 which can be given effect without the invalid provision or application,  
358 and to this end the provisions of sections 1 to 20, inclusive, of this act  
359 are severable.

360 Sec. 21. (*Effective January 1, 2005*) Sections 20-553 to 20-558, inclusive,  
361 of the general statutes, as amended by section 146 of public act 03-6 of  
362 the June 30 special session, are repealed.

This act shall take effect as follows:	
Section 1	<i>January 1, 2005</i>
Sec. 2	<i>January 1, 2005</i>
Sec. 3	<i>January 1, 2005</i>
Sec. 4	<i>January 1, 2005</i>
Sec. 5	<i>January 1, 2005</i>
Sec. 6	<i>January 1, 2005</i>
Sec. 7	<i>January 1, 2005</i>
Sec. 8	<i>January 1, 2005</i>
Sec. 9	<i>January 1, 2005</i>
Sec. 10	<i>January 1, 2005</i>
Sec. 11	<i>January 1, 2005</i>
Sec. 12	<i>January 1, 2005</i>
Sec. 13	<i>January 1, 2005</i>
Sec. 14	<i>January 1, 2005</i>
Sec. 15	<i>January 1, 2005</i>
Sec. 16	<i>January 1, 2005</i>
Sec. 17	<i>January 1, 2005</i>
Sec. 18	<i>January 1, 2005</i>
Sec. 19	<i>January 1, 2005</i>
Sec. 20	<i>January 1, 2005</i>
Sec. 21	<i>January 1, 2005</i>

**JUD**      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 05 \$	FY 06 \$
Consumer Protection, Dept.	GF - Revenue Gain	Potential	Potential

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill changes the civil penalty fine from \$1,000 plus profit derived from the violation minus restitution, to a maximum of \$25,000. This is a potential revenue gain for the Department of Consumer Protection.

The bill extends the registration period from 1 year to 2 years while increasing the application and renewal fee from \$100 to \$200. The bill makes other various changes to the athlete-agent law; none of which have a fiscal impact.

**OLR Bill Analysis**

sSB 487

***AN ACT ADOPTING THE UNIFORM ATHLETE AGENTS ACT*****SUMMARY:**

This bill make significant changes to current law on athlete agents. Among other things, it:

1. expands the types of agency contracts that are subject to the law's provisions by including agreements authorizing a person to negotiate endorsement contracts;
2. makes a number of changes to the reasons the Department of Consumer Protection (DCP) can refuse to issue or renew a registration or suspend or revoke one;
3. eliminates the requirement that the agent post a \$100,000 surety bond as a condition of registration;
4. extends the registration period from one to two years;
5. adds a safe harbor provision when an athlete initiates contact with an agent who is not registered (the agent must register within seven days after the initial contact);
6. alters the registration application requirements and adds provisions on registration and renewal for agents who are registered in other states;
7. alters the contract requirements but applies these requirements only to agency contracts (unlike current law, the bill does not address financial services contracts which are agreements where an athlete authorizes an athlete agent to provide financial services including making and carrying out investment and other financial decisions);

8. increases from six to 14 days the time an athlete has to cancel an agency contract;
9. alters the provisions on prohibited conduct and no longer prohibits athlete agents from entering agency contracts with student athletes before their collegiate eligibility expires;
10. creates a cause of action by an educational institution against an agent or former student-athlete for damages caused by violations of the bill;
11. does not specifically allow restitution or make violations an unfair trade practice, as under current law;
12. alters the record-keeping requirements imposed on agents and reduces, from seven to five years, the time the agent must keep records;
13. eliminates certain rules and prohibitions regarding interviewing athletes; and
14. eliminates DCP's authority to adopt regulations regarding athlete agents.

EFFECTIVE DATE: January 1, 2005

### **ATHLETE**

Similar to current law, the bill defines "student-athlete" as someone who engages in, is eligible to engage in, or may be eligible to engage in, an intercollegiate sport. But unlike current law, the bill does not limit its scope to athletes who have not signed a contract with a professional sports team for employment or for future athletic services.

The bill defines "intercollegiate sport" as a sport played at the collegiate level for which eligibility requirements are set by a national association for the promotion of athletics, such as the National Collegiate Athletic Association (NCAA).

### **AGENT**

Under current law, an "athlete agent" is a person who (1) for

compensation, recruits or solicits athletes to sign an agent, financial services, or professional sports services contract or (2) for a fee, procures or offers, promises, or attempts to obtain employment for an athlete with a professional sports team or as a professional athlete. The bill instead defines “athlete agent” as an individual who (1) enters an agency contract with a student-athlete and (2) solicits a student athlete to enter such a contract. Unlike current law, the bill includes someone who represents to the public that he is an agent.

Under current law, the term does not include the athlete’s spouse, parent, or sibling. The bill also excludes an athlete’s grandparents and guardians and someone acting on behalf of a sports team.

The bill allows only individuals to register as agents, thereby disqualifying corporations and other legal entities from registering.

### **AGENCY CONTRACT**

The bill defines “agency contract,” similar to current law, as an agreement in which a student-athlete authorizes a person to negotiate or solicit a professional sports services contract or an endorsement contract. But the bill makes endorsement contracts (defined as agreements under which a student-athlete receives consideration to use his publicity value on behalf of someone else) a type of agency contract subject to its provisions.

As under current law, a “professional services contract” is an agreement under which an athlete is employed by, or agrees to give services as a player on, a team or as a professional athlete.

### **REGISTRATION**

Both the bill and current law require athlete-agents to register. The bill extends the registration period from one to two years. The bill sets the fee for an application or renewal at \$200 for the two-year period instead of the \$100 annual fee under current law. The bill also sets a \$200 fee for applications or renewals based on registration in another state.

### ***Safe Harbor Provision***

The bill adds a provision that allows an individual to act as an agent

before registration for all purposes except signing an agency contract if (1) the student-athlete or someone on his behalf contacts the agent and (2) the individual files an agent registration application within seven days of the initial act taken as an agent. A contract signed in violation of this provision is void. The bill requires the athlete agent to return any consideration received under such a contract.

The bill defines “contact” as a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter an agency contract.

### ***Application Requirements***

The bill requires an applicant to provide most of the same information as required currently under regulations but it adds some requirements and eliminates others. As under current law, the application must provide: (1) the applicant’s name and address; (2) his business or employer, if applicable; (3) occupations engaged in for the past five years; and (4) a description of formal training, practical experience, and education.

Current regulations require applicants to provide the names and addresses of all who have a financial interest in the agent’s business. If the applicant is a corporation, education and experience information must be provided about all who act on the corporation’s behalf as an athlete agent. Instead, the bill specifies that the applicant must provide the names and addresses of anyone who is (1) a partner, member, officer, manager, associate, or profit-sharer in the agent’s business or (2) an officer, director, or shareholder with at least 5% of the shares in a corporation employing the agent. An applicant must also state whether he, or anyone named under this requirement (1) was convicted of a crime that would be, in this state, a felony and identify the crime; (2) was found to have made a false, misleading, deceptive, or fraudulent representation in an administrative or judicial proceeding; (3) did something that resulted in an athlete’s sanction, suspension, or declaration of ineligibility for intercollegiate sports; (4) was the subject of a sanction, suspension, or disciplinary action arising out of their professional conduct; or (5) was denied an application.

The bill adds requirements that the applicant provide the (1) names and addresses of three references unrelated to the applicant and (2) the name, sport, and last-known team of each individual for whom the

applicant acted as an agent in the past five years.

The bill eliminates a requirement that DCP adopt regulations to establish bond requirements for athlete agents (the regulations require a \$100,000 surety bond).

Regulations also allow DCP to reserve the right, as a condition of registration, to approve the form of an agency, financial services, or professional services contract. The bill eliminates this explicit authority.

The bill requires the applicant to sign or otherwise authenticate the application under penalty of perjury (a class D felony punishable by one to five years in prison, a fine of up to \$5,000, or both).

### ***Registration Renewal***

As under current law, the athlete agent must submit a written renewal application on a form provided by DCP with the same information required for the original application. The bill specifies that the athlete agent signs the form under penalty of perjury (a class D felony).

### ***Registered in Other States***

The bill allows an applicant who is already registered in another state to submit a copy of his application to, and the certificate issued by, the other state instead of completing the Connecticut application. The bill requires the DCP commissioner to accept the application if (1) it was submitted to the other state within the last six months, (2) the applicant certifies that the information in it is correct, (3) the information is substantially similar or more comprehensive than what this state requires, and (4) it was signed by the applicant under penalty of perjury.

The bill also includes a similar provision on registration renewal based on a valid registration in another state.

### ***Temporary Registration***

The bill allows the commissioner to issue a temporary registration while an application for registration or renewal is pending.

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**REFUSAL TO ISSUE OR RENEW REGISTRATION, SUSPENSION,  
AND REVOCATION**

The bill makes a number of changes to the reasons DCP can refuse to issue or renew a registration or suspend or revoke one. The bill uses a broad standard about conduct that has a significant adverse effect on the fitness for the job and then includes a list of considerations (some of which are similar to the criteria in the regulations).

The bill allows the commissioner to refuse to issue or renew a registration or suspend or revoke one if he finds the applicant engaged in conduct that has a significant adverse effect on his fitness to act as an athlete agent. The commissioner can consider whether the applicant:

1. was convicted of a crime that, if committed in this state, would be a felony;
2. made a materially false, misleading, deceptive, or fraudulent representation as an athlete agent or in his application;
3. engaged in conduct that would disqualify him from being a fiduciary;
4. engaged in conduct the bill prohibits to induce an athlete to enter an agency contract;
5. had an athlete agent registration suspended, revoked, denied, or renewal refused in any state;
6. engaged in conduct that resulted in a student athlete's or educational institution's sanction, suspension, or declaration of ineligibility for participation in interscholastic or intercollegiate athletic events; or
7. engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

The commissioner must consider (1) how recently the conduct occurred, (2) the nature of the conduct and its context, and (3) any other relevant conduct.

Unlike current law, the bill requires notice and hearing under the administrative procedure act before suspending, revoking, or refusing to renew a registration. But the bill eliminates explicit authority for revoking a registration for conviction of a violation of the athlete agent laws, summary suspension after a criminal violation, and a one-year waiting period before reapplying for a registration after a revocation or judgment affirming it.

Under current law, the commissioner can refuse to issue or renew, suspend, or revoke a registration for violating any of the statutory provisions or the regulations. DCP can take one of these actions if the agent, its employees, agents, or officers:

1. is not lawfully engaged in business in the state;
2. engaged in conduct likely to mislead, deceive, or defraud the public or the commissioner;
3. engaged in untruthful or misleading advertising;
4. made a material misrepresentation;
5. made a false promise of a type likely to influence, persuade, or induce an athlete to enter a contract;
6. failed to account within a reasonable time for or remit funds that belong to client athletes;
7. was convicted of forgery, embezzlement, obtaining money under false pretenses, larceny, extortion, conspiracy to defraud, or similar offenses in this state or elsewhere;
8. engaged in dishonest, fraudulent, or improper dealings;
9. violated or failed to comply with the regulations;
10. acted as agent after his bond was cancelled;
11. commingled funds of others in an escrow or trustee account;
12. contacted an athlete directly or indirectly before being registered;

13. entered an agreement that offered something of value to an employee of a higher education institution in this state where the athlete is enrolled or a member of his family or a friend likely to influence the athlete's decisions, in return for referring a client;
14. divided fees or received compensation from a potential employer of an athlete that he has a contract with;
15. committed an unfair trade practice;
16. collected a fee over 10% of the direct and indirect compensation an athlete receives under a contract in a calendar year; or
17. sold or transferred an interest in or a right to profits from working as an agent in this state to someone who is not registered in this state.

The regulations also allow DCP to refuse to issue or renew a registration if the applicant lacks formal training or practical experience in (1) contracts and their negotiation, (2) complaint resolution, (3) arbitration, or (4) civil resolution of contract disputes. For business entities, DCP must review their employees and agents. DCP can consider other relevant training, education, and experience for these requirements.

## **CONTRACTS**

### ***Form***

The bill allows agency contracts to be in records (inscribed on a tangible medium or stored in an electronic or other medium that is retrievable in perceivable form), while current law requires them to be written. The bill does not require the use of plain language which current regulations do.

The bill only applies to agency contracts, unlike current law which also applies to financial services contracts and professional services contracts.

### ***Contents***

As under current law, an agency contract must contain (1) information

on amounts the student athlete pays the athlete agent for services, (2) a description of services provided, and (3) the date of execution.

The bill adds that the contract must disclose (1) anything else the agent has or will receive from other sources for entering the contract or providing services, (2) unregistered individuals who will receive compensation, (3) expenses the athlete must pay, and (4) the contract's duration.

The bill requires the agent to give a record of the agency contract to the student-athlete at the time of execution.

The bill eliminates the requirement that the agent impose fees only according to the schedule in the contract and a provision allowing changes to the schedule effective seven days after he files with DCP a copy of the contract with the changes.

### ***Contract Warning/Disclaimer***

The bill does not apply its requirements to financial services contracts, as current law does. As under current regulations, the bill requires an agency contract to contain a conspicuous notice in boldface capital letters about (1) the possibility of losing eligibility as a student-athlete and (2) the right to cancel the contract. The bill adds that the notice must state that canceling might not reinstate eligibility.

The bill adds that the notice must include the requirement to notify an athletic director (described below). It eliminates the requirement that the notice state that (1) registration does not imply approval of the agent or contract and (2) the athlete should read the contract.

The bill specifies that the notice must be placed near the student-athlete's signature.

### ***Non-Conforming Agency Contracts***

The bill allows an athlete to void an agency contract that does not satisfy the rules described above. In those circumstances, he is not required to pay anything under the contract or return anything the agent gave him to induce him to agree to the contract.

### ***Notification to Athletic Director***

Current regulations require the agent to give a copy of an agent contract, financial services contract, or professional services contract to the athletic director of a higher education institution in this state where the athlete is enrolled within three business days of signing. The bill instead:

1. applies only to agency contracts;
2. requires the agent to give notice in a record and the athlete to inform his athletic director;
3. requires the agent to give a record to an athletic director of an educational institution where he has reasonable grounds to believe the athlete intends to enroll, as well as an athletic director where the athlete is enrolled; and
4. requires notice within 72 hours or before the athlete participates in an athletic event, whichever is less, which will be less than the three business days required under the regulations in some circumstances.

The bill defines “athletic director” as someone responsible for administering the overall athletic program, whether the responsibilities are for both sexes or for a single sex.

### ***Right to Cancel Agency Contract***

The bill increases, from six to 14 days, the time an athlete has to cancel an agency contract and requires the student-athlete to cancel by giving notice in a record. The bill also provides that (1) the student-athlete cannot waive this right and (2) if he cancels the contract, he is not required to pay anything under the contract or return anything received from the athlete agent to induce the contract.

### **RECORD RETENTION**

The bill reduces, from seven to five years, the time that an agent must keep records. As under current law, the agent must keep (1) the name and address of individuals represented and (2) agency contracts entered into. The bill also requires the agent to keep records of costs in recruiting or soliciting athletes instead of information on fees received,

services provided, and travel and entertainment expenses. The bill makes these records open to inspection by DCP, while current law requires the agent to provide DCP with the information in the records on written request.

## **PROHIBITED CONDUCT**

The bill makes a number of changes to the types of conduct that athlete agents are prohibited from engaging in.

The bill eliminates a prohibition against (1) entering oral or written agency contracts or professional sport services contracts with an athlete before his collegiate eligibility expires and (2) dividing fees with or receiving compensation from a professional sports league or franchise or its representatives or employees.

Current law prohibits (1) entering an oral or written agreement offering anything of value to an employee of an institution of higher education in the state for referring an athlete and (2) giving, offering, or promising anything of value to an athlete, his guardian, or member of his immediate family before his college eligibility expires. The bill instead prohibits an athlete agent from furnishing anything of value to an individual other than the student-athlete or another registered athlete-agent, with intent to induce the student-athlete to enter a contract.

Both the bill and current law prohibit an agent from giving materially false or misleading information or making materially false promises or representations. The bill specifies that the athlete agent must not do so intending to induce a student-athlete to enter a contract.

The bill adds provisions prohibiting an athlete agent from intentionally (1) initiating contact with a student-athlete unless he is registered, (2) refusing or failing to retain or permit inspection of records that he must keep, (3) failing to register, (4) providing materially false or misleading information in an application for registration or renewal, (5) pre- or post-dating an agency contract, and (6) failing to notify a student-athlete before he signs or authenticates an agency contract for a particular sport that it may make him ineligible to participate as a student-athlete in that sport.

## **PENALTIES**

As under current law, a violation of the athlete-agent laws is a class B misdemeanor, punishable by up to six months in prison, a fine of up to \$1,000, or both.

As under current law, the bill allows the commissioner to assess a civil penalty against an athlete agent after notice and a hearing under the administrative procedures act. The bill changes the penalty from up to \$1,000 plus profits derived from the violation minus restitution paid, to a maximum of \$25,000.

The bill eliminates provisions allowing restitution and making violations an unfair trade practice, as current law provides.

### **CAUSE OF ACTION BY EDUCATIONAL INSTITUTION**

The bill gives an educational institution the right to sue an athlete agent or former student-athlete for damages caused by violations of the bill. It allows the court to award costs and reasonable attorney's fees to the prevailing party. Damages include losses and expenses incurred because of (1) injuries from the violation or (2) penalties, disqualification, or suspension from participation in athletics by (a) a national association for promoting and regulating athletics, (b) an athletic conference, or (c) a reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by an organization. The right to sue arises when the educational institution discovers, or by reasonable diligence should have discovered, the violation (but the bill does not set a limitation on the time to bring a suit). The liability of the athlete agent and student-athlete is several and not joint. The bill does not restrict rights, remedies, or defenses.

### **SERVICE OF PROCESS**

Under the bill, a nonresident acting as an athlete agent in this state appoints the secretary of the state as his agent for service of process in a civil action in this state related to his actions as an athlete agent here.

### **INTERVIEWS**

The bill eliminates the requirements relating to interviews between athletes and agents. Under current law, the time, place, and duration of an interview between an athlete and agent must follow any policy

that the school where the athlete is enrolled adopts or follows. An interview is a face-to-face meeting to recruit or solicit the athlete for (1) an agent contract, financial services contract, or professional services contract or (2) employment with a professional sports team or as a professional athlete.

## **REGULATIONS**

The bill eliminates DCP's explicit authority to adopt regulations to set requirements for registration and regulating athletes including (1) agent qualifications and registration procedures, (2) bond requirements, (3) requirements for contracts including fee schedules, (4) limits and conditions on communicating with athletes such as advertising and interviewing, (5) guidelines for registration suspension and revocation, (6) limits on fees and compensation such as the transfer of interests or rights to participate in profits made by agents, and (7) other reasonable regulations the commissioner finds necessary or desirable.

## **E-SIGN**

The bill specifies that the legal effect, validity, or enforceability of electronic records or signatures and of contracts formed or performed with records and signatures conforms to the requirements of the federal Electronic Signatures in Global and National Commerce Act (E-SIGN) (15 U.S.C. § 7001 et seq.) but it supercedes, modifies, and limits E-SIGN as allowed by that act.

This federal act applies to transactions in interstate and foreign commerce. The act validates the use of electronic records and electronic signatures in transactions but does not require anyone to agree to use or accept electronic records or signatures. Where E-SIGN conflicts with a state law, the federal law preempts state law. A state provision can modify, limit, or supercede E-SIGN's electronic contracting provisions if it provides alternative procedures or requirements for the use or acceptance of electronic records or signatures, is consistent with the federal law, does not require or accord greater legal status or effect to a specific technology, and specifically references the federal act.

## **OTHER PROVISIONS**

The bill specifies that in applying and construing its provisions,

consideration must be given to the need to promote uniformity.

The bill states that if any provision or its application to a person or circumstance is invalid, it does not affect other provisions or applications of the bill that can have effect without the invalid provision or application. It also states that its provisions are severable.

The bill also deletes provisions (1) in regulations that a business entity that acts as an athlete agent is not relieved of responsibility for the conduct of its agents, employees, or officers and the agents, employees, and officers are not relieved of responsibility by reason of their relationship with the business and (2) in statute that nothing requires an athlete to use an agent or limits his ability to contract for services outside the state.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute  
Yea 40    Nay 0