

1 A bill to be entitled
2 An act relating to high school athletics; amending s.
3 1002.20, F.S.; conforming provisions; amending s.
4 1006.20, F.S.; authorizing high schools, including
5 charter schools, virtual schools, and home education
6 cooperatives, to become members of the FHSAA;
7 requiring the FHSAA to adopt bylaws to allow a student
8 who transfers schools to be eligible to participate in
9 athletics if certain conditions are met; authorizing
10 certain penalties for a recruiting violation;
11 requiring the FHSAA to adopt bylaws to regulate
12 investigators and sanction coaches who commit major
13 violations; specifying sanctions and procedures;
14 requiring the FHSAA to adopt bylaws establishing the
15 process and standards by which determinations of
16 eligibility are made; authorizing the FHSAA to adopt
17 bylaws providing certain procedural safeguards;
18 prohibiting FHSAA bylaws from prospectively limiting
19 the competition of certain student athletes and from
20 unfairly punishing student athletes for violations
21 perpetrated by a teammate, coach, or administrator;
22 providing requirements for the forfeiture of contests
23 under certain conditions; requiring an expedited
24 appeals process on determinations of ineligibility;
25 authorizing a school or student athlete filing an
26 appeal to present information and evidence; providing
27 requirements for de novo decisions on appeal; deleting
28 provisions relating to rule adoption; amending s.

29 1012.468, F.S.; providing background screening
 30 exceptions for certain investigators for the FHSAA;
 31 providing an effective date.

32
 33 Be It Enacted by the Legislature of the State of Florida:

34
 35 Section 1. Paragraph (a) of subsection (17) of section
 36 1002.20, Florida Statutes, is amended to read:

37 1002.20 K-12 student and parent rights.—Parents of public
 38 school students must receive accurate and timely information
 39 regarding their child's academic progress and must be informed
 40 of ways they can help their child to succeed in school. K-12
 41 students and their parents are afforded numerous statutory
 42 rights including, but not limited to, the following:

43 (17) ATHLETICS; PUBLIC HIGH SCHOOL.—

44 (a) Eligibility.—Eligibility requirements for all students
 45 participating in high school athletic competition must allow a
 46 student to be eligible in the school in which he or she first
 47 enrolls each school year, the school in which the student ~~or~~
 48 makes himself or herself a candidate for an athletic team by
 49 engaging in practice before enrolling, or the school to which
 50 the student has transferred with approval of the district school
 51 board, in accordance with the provisions of s. 1006.20(2)(a).

52 Section 2. Section 1006.20, Florida Statutes, is amended
 53 to read:

54 1006.20 Athletics in public K-12 schools.—

55 (1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High
 56 School Athletic Association (FHSAA) is designated as the

57 governing nonprofit organization of athletics in Florida public
 58 schools. If the FHSAA ~~Florida High School Athletic Association~~
 59 fails to meet the provisions of this section, the commissioner
 60 shall designate a nonprofit organization to govern athletics
 61 with the approval of the State Board of Education. The FHSAA
 62 ~~organization~~ is not ~~to be~~ a state agency as defined in s.
 63 120.52. The FHSAA ~~organization~~ shall be subject to the
 64 provisions of s. 1006.19. A private school that wishes to engage
 65 in high school athletic competition with a public high school
 66 may become a member of the FHSAA ~~organization~~. Any high school
 67 in the state, including charter schools, virtual schools, and
 68 home education cooperatives, may become a member of the FHSAA
 69 and participate in the activities of the FHSAA. However,
 70 membership in the FHSAA is not mandatory for any school. The
 71 bylaws of the FHSAA ~~organization~~ are ~~to be~~ the rules by which
 72 high school athletic programs in its member schools, and the
 73 students who participate in them, are governed, unless otherwise
 74 specifically provided by statute. For the purposes of this
 75 section, "high school" includes grades 6 through 12.

76 (2) ADOPTION OF BYLAWS.—

77 (a) The FHSAA ~~organization~~ shall adopt bylaws that, unless
 78 specifically provided by statute, establish eligibility
 79 requirements for all students who participate in high school
 80 athletic competition in its member schools. The bylaws governing
 81 residence and transfer shall allow the student to be eligible in
 82 the school in which he or she first enrolls each school year, ~~or~~
 83 the school in which the student makes himself or herself a
 84 candidate for an athletic team by engaging in a practice prior

85 to enrolling in the any member school. The bylaws shall also
86 allow the student to be eligible in the school to which the
87 student has transferred during the school year if the transfer
88 is made by a deadline established by the FHSAA, which may not be
89 prior to the date authorized for the beginning of practice for
90 the sport. These transfers shall be allowed pursuant to the
91 district school board policies in the case of transfer to a
92 public school or pursuant to the private school policies in the
93 case of transfer to a private school. The student shall be
94 eligible in that school so long as he or she remains enrolled in
95 that school. Subsequent eligibility shall be determined and
96 enforced through the FHSAA's organization's bylaws. Requirements
97 governing eligibility and transfer between member schools shall
98 be applied similarly to public school students and private
99 school students.

100 (b) The FHSAA organization shall adopt bylaws that
101 specifically prohibit the recruiting of students for athletic
102 purposes. The bylaws shall prescribe penalties and an appeals
103 process for athletic recruiting violations. If it is determined
104 that a school has recruited a student in violation of FHSAA
105 bylaws, the FHSAA may require the school to participate in a
106 higher classification for the sport in which the recruited
107 student competes for a minimum of one classification cycle, in
108 addition to any other appropriate fine and sanction imposed on
109 the school, its coaches, or adult representatives who violate
110 recruiting rules. A student may not be declared ineligible based
111 on violation of recruiting rules unless the student or parent
112 has falsified any enrollment or eligibility document or accepted

113 any benefit or any promise of benefit if such benefit is not
114 generally available to the school's students or family members
115 or is based in any way on athletic interest, potential, or
116 performance.

117 (c) The FHSAA ~~organization~~ shall adopt bylaws that require
118 all students participating in interscholastic athletic
119 competition or who are candidates for an interscholastic
120 athletic team to satisfactorily pass a medical evaluation each
121 year prior to participating in interscholastic athletic
122 competition or engaging in any practice, tryout, workout, or
123 other physical activity associated with the student's candidacy
124 for an interscholastic athletic team. Such medical evaluation
125 may ~~can only~~ be administered only by a practitioner licensed
126 ~~under the provisions of~~ chapter 458, chapter 459, chapter 460,
127 or s. 464.012, and in good standing with the practitioner's
128 regulatory board. The bylaws shall establish requirements for
129 eliciting a student's medical history and performing the medical
130 evaluation required under this paragraph, which shall include a
131 physical assessment of the student's physical capabilities to
132 participate in interscholastic athletic competition as contained
133 in a uniform preparticipation physical evaluation and history
134 form. The evaluation form shall incorporate the recommendations
135 of the American Heart Association for participation
136 cardiovascular screening and shall provide a place for the
137 signature of the practitioner performing the evaluation with an
138 attestation that each examination procedure listed on the form
139 was performed by the practitioner or by someone under the direct
140 supervision of the practitioner. The form shall also contain a

141 place for the practitioner to indicate if a referral to another
142 practitioner was made in lieu of completion of a certain
143 examination procedure. The form shall provide a place for the
144 practitioner to whom the student was referred to complete the
145 remaining sections and attest to that portion of the
146 examination. The preparticipation physical evaluation form shall
147 advise students to complete a cardiovascular assessment and
148 shall include information concerning alternative cardiovascular
149 evaluation and diagnostic tests. Results of such medical
150 evaluation must be provided to the school. No student shall be
151 eligible to participate in any interscholastic athletic
152 competition or engage in any practice, tryout, workout, or other
153 physical activity associated with the student's candidacy for an
154 interscholastic athletic team until the results of the medical
155 evaluation have been received and approved by the school.

156 (d) Notwithstanding the provisions of paragraph (c), a
157 student may participate in interscholastic athletic competition
158 or be a candidate for an interscholastic athletic team if the
159 parent of the student objects in writing to the student
160 undergoing a medical evaluation because such evaluation is
161 contrary to his or her religious tenets or practices. However,
162 in such case, there shall be no liability on the part of any
163 person or entity in a position to otherwise rely on the results
164 of such medical evaluation for any damages resulting from the
165 student's injury or death arising directly from the student's
166 participation in interscholastic athletics where an undisclosed
167 medical condition that would have been revealed in the medical
168 evaluation is a proximate cause of the injury or death.

169 (e) The FHSAA shall adopt bylaws that regulate persons who
170 conduct investigations on behalf of the FHSAA. The bylaws shall
171 include provisions that require an investigator to:

172 1. Undergo level 2 background screening under s. 435.04,
173 establishing that the investigator has not committed any
174 disqualifying offense listed in s. 435.04, unless the
175 investigator can provide proof of compliance with level 2
176 screening standards submitted within the previous 5 years to
177 meet any professional licensure requirements, provided:

178 a. The investigator has not had a break in service from a
179 position that requires level 2 screening for more than 90 days;
180 and

181 b. The investigator submits, under penalty of perjury, an
182 affidavit verifying that the investigator has not committed any
183 disqualifying offense listed in s. 435.04 and is in full
184 compliance with this paragraph.

185 2. Be appointed as an investigator by the executive
186 director.

187 3. Carry a photo identification card that shows the FHSAA
188 name, logo, and the investigator's official title.

189 4. Adhere to the following guidelines:

190 a. Investigate only those alleged violations assigned by
191 the executive director or the board of directors.

192 b. Conduct interviews on Monday through Friday between the
193 hours of 9 a.m. and 7 p.m. only, unless previously agreed to by
194 the interviewee.

195 c. Allow the parent of any student being interviewed to be
196 present during the interview.

197 d. Search residences or other private areas only with the
198 permission of the executive director and the written consent of
199 the student's parent and only with a parent or a representative
200 of the parent present.

201 (f) The FHSAA shall adopt bylaws that establish sanctions
202 for coaches who have committed major violations of the FHSAA's
203 bylaws and policies.

204 1. Major violations include, but are not limited to,
205 knowingly allowing an ineligible student to participate in a
206 contest representing a member school in an interscholastic
207 contest or committing a violation of the FHSAA's recruiting or
208 sportsmanship policies.

209 2. Sanctions placed upon an individual coach may include,
210 but are not limited to, prohibiting or suspending the coach from
211 coaching, participating in, or attending any athletic activity
212 sponsored, recognized, or sanctioned by the FHSAA and the member
213 school for which the coach committed the violation. If a coach
214 is sanctioned by the FHSAA and the coach transfers to another
215 member school, those sanctions remain in full force and effect
216 during the term of the sanction.

217 3. If a member school is assessed a financial penalty as a
218 result of a coach committing a major violation, the coach shall
219 reimburse the member school before being allowed to coach,
220 participate in, or attend any athletic activity sponsored,
221 recognized, or sanctioned by the FHSAA and a member school.

222 4. The FHSAA shall establish a due process procedure for
223 coaches sanctioned under this paragraph, consistent with the
224 appeals procedures set forth in subsection (7).

225 (g) The FHSAA shall adopt bylaws establishing the process
226 and standards by which FHSAA determinations of eligibility are
227 made. Such bylaws shall provide that:

228 1. Ineligibility must be established by clear and
229 convincing evidence;

230 2. Student athletes, parents, and schools must have notice
231 of the initiation of any investigation or other inquiry into
232 eligibility and may present, to the investigator and to the
233 individual making the eligibility determination, any information
234 or evidence that is credible, persuasive, and of a kind
235 reasonably prudent persons rely upon in the conduct of serious
236 affairs;

237 3. An investigator may not determine matters of
238 eligibility but must submit information and evidence to the
239 executive director or a person designated by the executive
240 director or by the board of directors for an unbiased and
241 objective determination of eligibility; and

242 4. A determination of ineligibility must be made in
243 writing, setting forth the findings of fact and specific
244 violation upon which the decision is based.

245 (h) In lieu of bylaws adopted under paragraph (g), the
246 FHSAA may adopt bylaws providing as a minimum the procedural
247 safeguards of ss. 120.569 and 120.57, making appropriate
248 provision for appointment of unbiased and qualified hearing
249 officers.

250 (i) The FHSAA bylaws may not limit the competition of
251 student athletes prospectively for rule violations of their
252 school or its coaches or their adult representatives. The FHSAA

253 bylaws may not unfairly punish student athletes for eligibility
 254 or recruiting violations perpetrated by a teammate, coach, or
 255 administrator. Contests may not be forfeited for inadvertent
 256 eligibility violations unless the coach or a school
 257 administrator should have known of the violation. Contests may
 258 not be forfeited for other eligibility violations or recruiting
 259 violations in excess of the number of contests that the coaches
 260 and adult representatives responsible for the violations are
 261 prospectively suspended.

262 (3) GOVERNING STRUCTURE OF THE ORGANIZATION.—

263 (a) The FHSAA ~~organization~~ shall operate as a
 264 representative democracy in which the sovereign authority is
 265 within its member schools. Except as provided in this section,
 266 the FHSAA ~~organization~~ shall govern its affairs through its
 267 bylaws.

268 (b) Each member school, on its annual application for
 269 membership, shall name its official representative to the FHSAA
 270 ~~organization~~. This representative must be either the school
 271 principal or his or her designee. That designee must either be
 272 an assistant principal or athletic director housed within that
 273 same school.

274 (c) The FHSAA's ~~organization's~~ membership shall be divided
 275 along existing county lines into four contiguous and compact
 276 administrative regions, each containing an equal or nearly equal
 277 number of member schools to ensure equitable representation on
 278 the FHSAA's ~~organization's~~ board of directors, representative
 279 assembly, and appeals committees ~~committee on appeals~~.

280 (4) BOARD OF DIRECTORS.—

281 (a) The executive authority of the FHSAA ~~organization~~
 282 shall be vested in its board of directors. Any entity that
 283 appoints members to the board of directors shall examine the
 284 ethnic and demographic composition of the board when selecting
 285 candidates for appointment and shall, to the greatest extent
 286 possible, make appointments that reflect state demographic and
 287 population trends. The board of directors shall be composed of
 288 16 persons, as follows:

289 1. Four public member school representatives, one elected
 290 from among its public school representative members within each
 291 of the four administrative regions.

292 2. Four nonpublic member school representatives, one
 293 elected from among its nonpublic school representative members
 294 within each of the four administrative regions.

295 3. Three representatives appointed by the commissioner,
 296 one appointed from the two northernmost administrative regions
 297 and one appointed from the two southernmost administrative
 298 regions. The third representative shall be appointed to balance
 299 the board for diversity or state population trends, or both.

300 4. Two district school superintendents, one elected from
 301 the two northernmost administrative regions by the members in
 302 those regions and one elected from the two southernmost
 303 administrative regions by the members in those regions.

304 5. Two district school board members, one elected from the
 305 two northernmost administrative regions by the members in those
 306 regions and one elected from the two southernmost administrative
 307 regions by the members in those regions.

308 6. The commissioner or his or her designee from the

309 department executive staff.

310 (b) A quorum of the board of directors shall consist of
311 nine members.

312 (c) The board of directors shall elect a president and a
313 vice president from among its members. These officers shall also
314 serve as officers of the FHSAA ~~organization~~.

315 (d) Members of the board of directors shall serve terms of
316 3 years and are eligible to succeed themselves only once. A
317 member of the board of directors, other than the commissioner or
318 his or her designee, may serve a maximum of 6 consecutive years.
319 The FHSAA's ~~organization's~~ bylaws shall establish a rotation of
320 terms to ensure that a majority of the members' terms do not
321 expire concurrently.

322 (e) The authority and duties of the board of directors,
323 acting as a body and in accordance with the FHSAA's
324 ~~organization's~~ bylaws, are as follows:

325 1. To act as the incorporated FHSAA's ~~organization's~~ board
326 of directors and to fulfill its obligations as required by the
327 FHSAA's ~~organization's~~ charter and articles of incorporation.

328 2. To establish such guidelines, regulations, policies,
329 and procedures as are authorized by the bylaws.

330 3. To employ ~~provide~~ an FHSAA executive director
331 ~~organization-commissioner~~, who shall have the authority to waive
332 the bylaws of the FHSAA ~~organization~~ in order to comply with
333 statutory changes.

334 4. To levy annual dues and other fees and to set the
335 percentage of contest receipts to be collected by the FHSAA
336 ~~organization~~.

- 337 5. To approve the budget of the FHSAA ~~organization~~.
- 338 6. To organize and conduct statewide interscholastic
- 339 competitions, which may or may not lead to state championships,
- 340 and to establish the terms and conditions for these
- 341 competitions.
- 342 7. To act as an administrative board in the interpretation
- 343 of, and final decision on, all questions and appeals arising
- 344 from the directing of interscholastic athletics of member
- 345 schools.
- 346 (5) REPRESENTATIVE ASSEMBLY.—
- 347 (a) The legislative authority of the FHSAA ~~organization~~ is
- 348 vested in its representative assembly.
- 349 (b) The representative assembly shall be composed of the
- 350 following:
- 351 1. An equal number of member school representatives from
- 352 each of the four administrative regions.
- 353 2. Four district school superintendents, one elected from
- 354 each of the four administrative regions by the district school
- 355 superintendents in their respective administrative regions.
- 356 3. Four district school board members, one elected from
- 357 each of the four administrative regions by the district school
- 358 board members in their respective administrative regions.
- 359 4. The commissioner or his or her designee from the
- 360 department executive staff.
- 361 (c) The FHSAA's ~~organization's~~ bylaws shall establish the
- 362 number of member school representatives to serve in the
- 363 representative assembly from each of the four administrative
- 364 regions and shall establish the method for their selection.

365 (d) No member of the board of directors other than the
 366 commissioner or his or her designee can serve in the
 367 representative assembly.

368 (e) The representative assembly shall elect a chairperson
 369 and a vice chairperson from among its members.

370 (f) Elected members of the representative assembly shall
 371 serve terms of 2 years and are eligible to succeed themselves
 372 for two additional terms. An elected member, other than the
 373 commissioner or his or her designee, may serve a maximum of 6
 374 consecutive years in the representative assembly.

375 (g) A quorum of the representative assembly consists of
 376 one more than half of its members.

377 (h) The authority of the representative assembly is
 378 limited to its sole duty, which is to consider, adopt, or reject
 379 any proposed amendments to the FHSAA's ~~organization's~~ bylaws.

380 (i) The representative assembly shall meet as a body
 381 annually. A two-thirds majority of the votes cast by members
 382 present is required for passage of any proposal.

383 (6) PUBLIC LIAISON ADVISORY COMMITTEE.—

384 (a) The FHSAA ~~organization~~ shall establish, sustain, fund,
 385 and provide staff support to a public liaison advisory committee
 386 composed of the following:

- 387 1. The commissioner or his or her designee.
- 388 2. A member public school principal.
- 389 3. A member private school principal.
- 390 4. A member school principal who is a member of a racial
 391 minority.
- 392 5. An active athletic director.

393 6. An active coach, who is employed full time by a member
394 school.

395 7. A student athlete.

396 8. A district school superintendent.

397 9. A district school board member.

398 10. A member of the Florida House of Representatives.

399 11. A member of the Florida Senate.

400 12. A parent of a high school student.

401 13. A member of a home education association.

402 14. A representative of the business community.

403 15. A representative of the news media.

404 (b) No member of the board of directors, committee on
405 appeals, or representative assembly is eligible to serve on the
406 public liaison advisory committee.

407 (c) The public liaison advisory committee shall elect a
408 chairperson and vice chairperson from among its members.

409 (d) The authority and duties of the public liaison
410 advisory committee are as follows:

411 1. To act as a conduit through which the general public
412 may have input into the decisionmaking process of the FHSAA
413 ~~organization~~ and to assist the FHSAA ~~organization~~ in the
414 development of procedures regarding the receipt of public input
415 and disposition of complaints related to high school athletic
416 and competition programs.

417 2. To conduct public hearings annually in each of the four
418 administrative regions during which interested parties may
419 address issues regarding the effectiveness of the rules,
420 operation, and management of the FHSAA ~~organization~~.

421 3. To conduct an annual evaluation of the FHSAA
422 ~~organization~~ as a whole and present a report of its findings,
423 conclusion, and recommendations to the board of directors, to
424 the commissioner, and to the respective education committees of
425 the Florida Senate and the Florida House of Representatives. The
426 recommendations must delineate policies and procedures that will
427 improve the implementation and oversight of high school athletic
428 programs by the FHSAA ~~organization~~.

429 (e) The public liaison advisory committee shall meet four
430 times annually. Additional meetings may be called by the
431 committee chairperson, the FHSAA ~~organization~~ president, or the
432 FHSAA executive director ~~organization commissioner~~.

433 (7) APPEALS.—

434 (a) The FHSAA ~~organization~~ shall establish a procedure of
435 due process which ensures each student the opportunity to appeal
436 an unfavorable ruling with regard to his or her eligibility to
437 compete. The initial appeal shall be made to a committee on
438 appeals within the administrative region in which the student
439 lives. The FHSAA's ~~organization's~~ bylaws shall establish the
440 number, size, and composition of each ~~the~~ committee on appeals.

441 (b) No member of the board of directors is eligible to
442 serve on a ~~the~~ committee on appeals.

443 (c) Members of a ~~the~~ committee on appeals shall serve
444 terms of 3 years and are eligible to succeed themselves only
445 once. A member of a ~~the~~ committee on appeals may serve a maximum
446 of 6 consecutive years. The FHSAA's ~~organization's~~ bylaws shall
447 establish a rotation of terms to ensure that a majority of the
448 members' terms do not expire concurrently.

449 (d) The authority and duties of a ~~the~~ committee on appeals
450 shall be to consider requests by member schools seeking
451 exceptions to bylaws and regulations, to hear undue hardship
452 eligibility cases filed by member schools on behalf of student
453 athletes, and to hear appeals filed by member schools or student
454 athletes.

455 (e) A student athlete or member school that receives an
456 unfavorable ruling from a committee on appeals shall be entitled
457 to appeal that decision to the board of directors at its next
458 regularly scheduled meeting or called meeting. The board of
459 directors shall have the authority to uphold, reverse, or amend
460 the decision of the committee on appeals. In all such cases, the
461 decision of the board of directors shall be final.

462 (f) The FHSAA shall expedite the appeals process on
463 determinations of ineligibility so that disposition of the
464 appeal can be made before the end of the applicable sports
465 season, if possible.

466 (g) In any appeal from a decision on eligibility made by
467 the executive director or a designee, a school or student
468 athlete filing the appeal must be permitted to present
469 information and evidence that was not available at the time of
470 the initial determination or if the determination was not made
471 by an unbiased, objective individual using a process allowing
472 full due process rights to be heard and to present evidence. If
473 evidence is presented on appeal, a de novo decision must be made
474 by the committee or board hearing the appeal, or the
475 determination may be suspended and the matter remanded for a new
476 determination based on all the evidence. If a de novo decision

477 is made on appeal, the decision must be made in writing, setting
478 forth the findings of fact and specific violation upon which the
479 decision is based. If a de novo decision is not required, the
480 decision appealed must be set aside if the decision on
481 ineligibility was not based on clear and convincing evidence.
482 Any further appeal shall be considered on a record that includes
483 all evidence presented.

484 (8) AMENDMENT OF BYLAWS.—Each member school
485 representative, the board of directors acting as a whole or as
486 members acting individually, any advisory committee acting as a
487 whole to be established by the FHSAA organization, and the
488 FHSAA's executive director organization's commissioner are
489 empowered to propose amendments to the bylaws. Any other
490 individual may propose an amendment by securing the sponsorship
491 of any of the aforementioned individuals or bodies. All proposed
492 amendments must be submitted directly to the representative
493 assembly for its consideration. The representative assembly,
494 while empowered to adopt, reject, or revise proposed amendments,
495 may not, in and of itself, as a body be allowed to propose any
496 amendment for its own consideration.

497 ~~(9) RULES ADOPTION.—The bylaws of the organization shall~~
498 ~~require member schools to adopt rules for sports, which have~~
499 ~~been established by a nationally recognized sanctioning body,~~
500 ~~unless waived by at least a two-thirds vote of the board of~~
501 ~~directors.~~

502 Section 3. Paragraph (g) is added to subsection (2) of
503 section 1012.468, Florida Statutes, to read:

504 1012.468 Exceptions to certain fingerprinting and criminal

CS/CS/CS/HB 1403

2012

505 history checks.—

506 (2) A district school board shall exempt from the
507 screening requirements set forth in ss. 1012.465 and 1012.467
508 the following noninstructional contractors:

509 (g) An investigator for the Florida High School Athletic
510 Association (FHSAA) who meets the requirements under s.
511 1006.20(2)(e).

512 Section 4. This act shall take effect July 1, 2012.