

By Representative Benson

1 A bill to be entitled
2 An act relating to athlete agents; amending s.
3 468.452, F.S.; revising definitions; amending
4 s. 468.453, F.S.; removing the examination
5 requirement for licensure as an athlete agent;
6 removing an exemption for members of The
7 Florida Bar, to conform; authorizing an
8 unlicensed individual to act as an athlete
9 agent under certain conditions; providing for
10 service of process on nonresident agents;
11 providing for temporary licenses; providing for
12 reciprocity; amending s. 468.454, F.S.;
13 revising agent contract requirements, including
14 notice requirements; providing for cancellation
15 of agent contracts; amending s. 468.456, F.S.;
16 providing for increased administrative fines;
17 amending s. 468.45615, F.S.; providing
18 additional criminal penalties for certain
19 prohibited acts; amending s. 468.4562, F.S.;
20 revising provisions relating to civil remedies
21 available to colleges and universities for
22 violations of athlete agent regulations;
23 specifying when right of action accrues;
24 specifying liability; amending s. 468.4565,
25 F.S.; expanding business records requirements
26 and extending recordkeeping requirements;
27 repealing s. 468.4563, F.S., relating to
28 authority to require continuing education by
29 athlete agents; repealing s. 468.4564, F.S.,
30 relating to license display requirements;
31 providing an effective date.

1 Be It Enacted by the Legislature of the State of Florida:

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3 Section 1. Subsections (2) and (5) of section 468.452,
4 Florida Statutes, are amended to read:

5 468.452 Definitions.--For purposes of this part, the
6 term:

7 (2) "Athlete agent" means a person who, directly or
8 indirectly, recruits or solicits a student athlete to enter
9 into an agent contract, or who, for any type of financial
10 gain, procures, offers, promises, or attempts to obtain
11 employment or promotional fees or benefits for a student
12 athlete with a professional sports team or as a professional
13 athlete, or with any promoter who markets or attempts to
14 market the student athlete's athletic ability or athletic
15 reputation. The term includes all employees and other persons
16 acting on behalf of an athlete agent who participate in the
17 activities included under this subsection. The term does not
18 include a spouse, parent, sibling, grandparent, or guardian of
19 the student athlete or an individual acting solely on behalf
20 of a professional sports team or professional sports
21 organization.

22 (5) "Student athlete" means any student who:

23 (a) Resides in Florida, has informed, in writing, a
24 college or university of the student's intent to participate
25 in that school's intercollegiate athletics, or who does
26 participate in that school's intercollegiate athletics and is
27 eligible to do so; ~~or~~

28 (b) Does not reside in Florida, but has informed, in
29 writing, a college or university in Florida of the student's
30 intent to participate in that school's intercollegiate
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1 athletics, or who does participate in that school's
2 intercollegiate athletics and is eligible to do so; or-

3 (c) Is less than 21 years of age and may be eligible
4 in the future to engage in any intercollegiate athletics.

5 Section 2. Section 468.453, Florida Statutes, is
6 amended to read:

7 468.453 Licensure required; qualifications;
8 ~~examination; bond; exception; license nontransferable; service~~
9 of process on nonresident agents; temporary license;
10 reciprocity.--

11 (1) Any person who practices as an athlete agent in
12 this state must be licensed pursuant to this part.

13 (2) A person shall be licensed as an athlete agent if
14 the applicant:

15 (a) Is at least 18 years of age.

16 (b) Is of good moral character.

17 ~~(c) Passes an examination provided by the department~~
18 ~~which tests the applicant's proficiency to practice as an~~
19 ~~athlete agent, including, but not limited to, knowledge of the~~
20 ~~laws and rules of this state relating to athlete agents, this~~
21 ~~part, and chapter 455.~~

22 (c)(d) Has completed the application form and remitted
23 an application fee not to exceed \$500, ~~an examination fee not~~
24 ~~to exceed the actual cost for the examination plus \$500,~~ an
25 active licensure fee not to exceed \$2,000, and all other
26 applicable fees provided for in this part or in chapter 455.

27 (d)(e) Has submitted to the department a fingerprint
28 card for a criminal history records check. The fingerprint
29 card shall be forwarded to the Division of Criminal Justice
30 Information Systems within the Department of Law Enforcement
31 for purposes of processing the fingerprint card to determine

1 if the applicant has a criminal history record. The
2 fingerprint card shall also be forwarded to the Federal Bureau
3 of Investigation for purposes of processing the fingerprint
4 card to determine if the applicant has a criminal history
5 record. The information obtained by the processing of the
6 fingerprint card by the Florida Department of Law Enforcement
7 and the Federal Bureau of Investigation shall be sent to the
8 department for the purpose of determining if the applicant is
9 statutorily qualified for licensure.

10 (e)~~(f)~~ Has not in any jurisdiction, within the
11 preceding 5 years, been convicted or found guilty of or
12 entered a plea of nolo contendere for, regardless of
13 adjudication, a crime which relates to the applicant's
14 practice or ability to practice as an athlete agent.

15 (f)~~(g)~~ Has posted with the department a \$15,000 surety
16 bond issued by an insurance company authorized to do business
17 in this state. The bond shall be in favor of the State of
18 Florida, Department of Business and Professional Regulation,
19 for the use and benefit of any student athlete or college or
20 university within Florida who or which is injured or damaged,
21 including reasonable costs and attorney's fees, as a result of
22 acts or omissions by the athlete agent pursuant to a license
23 issued under this part. The bond shall be written in the form
24 determined by the department. The bond shall provide that the
25 athlete agent is responsible for the acts or omissions of any
26 representatives acting under the athlete agent's supervision
27 or authority. The bond shall be in effect for and cover all
28 times that the athlete agent has an active license and
29 conducts business pursuant to that license in this or any
30 other state.

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1 (3) An unlicensed individual may act as an athlete
2 agent if:
3 (a) A student athlete or person acting on the
4 athlete's behalf initiates communication with the individual;
5 and
6 (b) Within 7 days after an initial act as an athlete
7 agent, the individual submits an application for licensure.
8 ~~Members of The Florida Bar are exempt from the state laws and~~
9 ~~rules component, and the fee for such, of the examination~~
10 ~~required by this section.~~
11 (4) A license issued to an athlete agent is not
12 transferable.
13 (5) By acting as an athlete agent in this state, a
14 nonresident individual appoints the department as the
15 individual's agent for service of process in any civil action
16 related to the individual's acting as an athlete agent.
17 (6) The department may issue a temporary license while
18 an application for licensure is pending. If the department
19 issues a notice of intent to deny the license application, the
20 initial temporary license expires and may not be extended
21 during any proceeding or administrative or judicial review.
22 (7)(a) An individual who has submitted an application
23 and holds a certificate, registration, or license as an
24 athlete agent in another state may submit a copy of the
25 application and certificate, registration, or license from the
26 other state in lieu of submitting an application in the form
27 prescribed pursuant to this section. The department shall
28 accept the copy of the application and certificate,
29 registration, or license from the other state as an
30 application for licensure in this state if the application in
31 the other state:

1 1. Was submitted in the other state within 6 months
2 next preceding the submission of the application in this state
3 and the applicant certifies that the information contained in
4 the earlier application is current;

5 2. Contains information substantially similar to or
6 more comprehensive than that required in an application
7 submitted in this state; and

8 3. Was signed by the applicant under penalty of
9 perjury.

10 (b) An applicant applying under this subsection must
11 meet all other requirements for licensure as provided by this
12 part.

13 Section 3. Section 468.454, Florida Statutes, is
14 amended to read:

15 468.454 Agent contracts.--

16 (1) An agent contract must be in a record signed or
17 otherwise authenticated by the parties.

18 (2) An agent contract must state:

19 (a) The amount and method of calculating the
20 consideration to be paid by the student athlete for services
21 to be provided by the athlete agent and any other
22 consideration the agent has received or will receive from any
23 other source under the contract.

24 (b) The name of any person not listed in the licensure
25 application who will be compensated because the student
26 athlete signed the contract.

27 (c) A description of any expenses that the student
28 athlete agrees to reimburse.

29 (d) A description of the services to be provided to
30 the student athlete.

31 (e) The duration of the contract.

1 (f) The date of execution of the contract.
2 (3) An agent contract must contain, in close proximity
3 to the signature of the student athlete, a conspicuous notice
4 in boldfaced type in capital letters stating:

5
6 WARNING TO STUDENT ATHLETE

7
8 IF YOU SIGN THE CONTRACT:

- 9 1. YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS
10 A STUDENT ATHLETE IN YOUR SPORT;
11 2. IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72
12 HOURS AFTER ENTERING INTO THE CONTRACT, YOU AND
13 YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC
14 DIRECTOR; AND
15 3. YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS
16 AFTER SIGNING IT. HOWEVER, CANCELLATION OF THIS
17 CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

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19 (4) An agent contract that does not conform to this
20 section is voidable by the student athlete. If a student
21 athlete voids an agent contract, the student athlete is not
22 required to pay any consideration or return any consideration
23 received from the athlete agent to induce the student athlete
24 to enter into the contract.

25 (5) The athlete agent shall give a record of the
26 signed or authenticated agent contract to the student athlete
27 at the time of its execution.

28 (6) Before the next scheduled athletic event in which
29 the student athlete may participate or within 72 hours after
30 entering into an agent contract, whichever occurs first, the
31 athlete agent must give notice in a record of the existence of

1 the contract to the athletic director of the educational
2 institution at which the student athlete is enrolled or the
3 athlete agent has reasonable grounds to believe the student
4 athlete intends to enroll.

5 (7) Before the next athletic event in which the
6 student athlete may participate or within 72 hours after
7 entering into an agent contract, whichever occurs first, the
8 student athlete must inform the athletic director of the
9 educational institution at which the student athlete is
10 enrolled that he or she has entered into an agent contract.

11 (8) A student athlete may cancel an agent contract by
12 giving notice of the cancellation to the athlete agent in a
13 record within 14 days after the contract is signed.

14 (9) A student athlete may not waive the right to
15 cancel an agent contract.

16 (10) If a student athlete cancels an agent contract,
17 the student athlete is not required to pay or return any
18 consideration received from the athlete agent to induce the
19 student athlete to enter into the contract.

20 ~~(1) An athlete agent and a student athlete who enter~~
21 ~~into an agent contract must provide written notice of the~~
22 ~~contract to the athletic director or the president of the~~
23 ~~college or university in which the student athlete is~~
24 ~~enrolled. The athlete agent and the student must give the~~
25 ~~notice before the contracting student athlete practices or~~
26 ~~participates in any intercollegiate athletic event or within~~
27 ~~72 hours after entering into said contract, whichever comes~~
28 ~~first. Failure of the athlete agent to provide this~~
29 ~~notification is a felony of the third degree, punishable as~~
30 ~~provided in ss. 775.082, 775.083, 775.084, 775.089, and~~
31 ~~775.091.~~

1 ~~(2) A written contract between a student athlete and~~
2 ~~an athlete agent must state the fees and percentages to be~~
3 ~~paid by the student athlete to the agent and must have a~~
4 ~~notice printed near the student athlete's signature containing~~
5 ~~the following statement in 10-point boldfaced type:~~

6 ~~"WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS~~
7 ~~CONTRACT, YOU WILL LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO~~
8 ~~COMPETE IN INTERCOLLEGIATE ATHLETICS. TO AVOID CRIMINAL~~
9 ~~PROSECUTION YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED~~
10 ~~INTO THIS CONTRACT TO THE ATHLETIC DIRECTOR OR PRESIDENT OF~~
11 ~~YOUR COLLEGE OR UNIVERSITY WITHIN 72 HOURS AFTER ENTERING INTO~~
12 ~~THIS CONTRACT OR PRIOR TO PARTICIPATING IN INTERCOLLEGIATE~~
13 ~~ATHLETICS, WHICHEVER COMES FIRST. FAILURE TO PROVIDE THIS~~
14 ~~NOTICE IS A CRIMINAL OFFENSE. DO NOT SIGN THIS CONTRACT UNTIL~~
15 ~~YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY~~
16 ~~CANCEL THIS CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING~~
17 ~~OF YOUR DESIRE TO CANCEL NOT LATER THAN THE 15TH DAY AFTER THE~~
18 ~~DATE YOU SIGN THIS CONTRACT. HOWEVER, EVEN IF YOU CANCEL THIS~~
19 ~~CONTRACT, THE INTERCOLLEGIATE ATHLETIC ASSOCIATION OR~~
20 ~~CONFERENCE TO WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT~~
21 ~~RESTORE YOUR ELIGIBILITY TO PARTICIPATE IN INTERCOLLEGIATE~~
22 ~~ATHLETICS."~~

23 ~~(3) An agent contract which does not meet the~~
24 ~~requirements of this section is void and unenforceable.~~

25 ~~(4) Within 15 days after the date the athletic~~
26 ~~director or president of the college or university of the~~
27 ~~student athlete receives the notice required by this section~~
28 ~~that a student athlete has entered into an athlete agent~~
29 ~~contract, the student athlete shall have the right to rescind~~
30 ~~the contract with the athlete agent by giving written notice~~
31 ~~to the athlete agent of the student athlete's rescission of~~

1 ~~the contract. The student athlete may not under any~~
2 ~~circumstances waive the student athlete's right to rescind the~~
3 ~~agent contract.~~

4 ~~(5) A postdated agent contract is void and~~
5 ~~unenforceable.~~

6 (11)~~(6)~~ An athlete agent shall not enter into an agent
7 contract that purports to or takes effect at a future time
8 after the student athlete no longer has remaining eligibility
9 to participate in intercollegiate athletics. Such a contract
10 is void and unenforceable.

11 (12)~~(7)~~ An agent contract between a student athlete
12 and a person not licensed under this part is void and
13 unenforceable.

14 Section 4. Subsection (3) of section 468.456, Florida
15 Statutes, is amended, and paragraphs (f) and (o) of subsection
16 (1) of said section are reenacted, to read:

17 468.456 Prohibited acts.--

18 (1) The following acts shall be grounds for the
19 disciplinary actions provided for in subsection (3):

20 (f) Offering anything of value to any person to induce
21 a student athlete to enter into an agreement by which the
22 agent will represent the student athlete. However,
23 negotiations regarding the agent's fee shall not be considered
24 an inducement.

25 (o) Being employed to illegally recruit or solicit
26 student athletes by being utilized by or otherwise
27 collaborating with a person known to have been convicted or
28 found guilty of, or to have entered a plea of nolo contendere
29 to, a violation of s. 468.45615, regardless of adjudication.

30 (3) When the department finds any person guilty of any
31 of the prohibited acts set forth in subsection (1), the

1 department may enter an order imposing one or more of the
2 penalties provided for in s. 455.227 and an administrative
3 fine not to exceed \$25,000 for each separate offense. In
4 addition to any other penalties or disciplinary actions
5 provided for in this part, the department shall suspend or
6 revoke the license of any athlete agent licensed under this
7 part who violates paragraph (1)(f) or paragraph (1)(o) or s.
8 468.45615.

9 Section 5. Subsection (4) is added to section
10 468.45615, Florida Statutes, to read:

11 468.45615 Provision of illegal inducements to athletes
12 prohibited; penalties; license suspension.--

13 (4)(a) An athlete agent, with the intent to induce a
14 student athlete to enter into an agent contract, may not:

15 1. Give any materially false or misleading information
16 or make a materially false promise or representation;

17 2. Furnish anything of value to a student athlete
18 before the student athlete enters into the agent contract; or

19 3. Furnish anything of value to any individual other
20 than the student athlete or another athlete agent.

21 (b) An athlete agent may not intentionally:

22 1. Initiate contact with a student athlete unless
23 licensed under this part;

24 2. Refuse or fail to retain or permit inspection of
25 the records required to be retained by s. 468.4565;

26 3. Provide materially false or misleading information
27 in an application for licensure;

28 4. Predate or postdate an agent contract;

29 5. Fail to give notice of the existence of an agent
30 contract as required by s. 468.454(6); or

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1 6. Fail to notify a student athlete before the student
2 athlete signs or otherwise authenticates an agent contract for
3 a sport that the signing or authentication may make the
4 student athlete ineligible to participate as a student athlete
5 in that sport.

6 (c) An athlete agent who violates this subsection
7 commits a felony of the second degree, punishable as provided
8 in s. 775.082, s. 775.083, or s. 775.084.

9 Section 6. Section 468.4562, Florida Statutes, is
10 amended to read:

11 468.4562 Civil action by institution.--

12 (1) A college or university may sue for damages, as
13 provided by this section, any person who violates this part.
14 A college or university may seek equitable relief to prevent
15 or minimize harm arising from acts or omissions which are or
16 would be a violation of this part.

17 (2) For purposes of this section, a college or
18 university is damaged if, because of activities of the person,
19 the college or university is penalized or is disqualified or
20 suspended from participation in intercollegiate athletics by a
21 national association for the promotion and regulation of
22 intercollegiate athletics or by an intercollegiate athletic
23 conference, or is otherwise disciplined by reasonable
24 self-imposed action taken to mitigate sanctions likely to be
25 imposed by such association or conference,and, because of
26 that penalty, disqualification, ~~or~~ suspension, or action,the
27 institution:

28 (a) Loses revenue from media coverage of a sports
29 contest;

30 (b) Loses the right to grant an athletic scholarship;

31 (c) Loses the right to recruit an athlete;

- 1 (d) Is prohibited from participating in postseason
2 athletic competition;
- 3 (e) Forfeits an athletic contest; or
4 (f) Otherwise suffers an adverse financial impact.
- 5 (3) An institution that prevails in a suit brought
6 under this section may recover:
- 7 (a) Actual damages;
8 (b) Punitive damages;
9 (c) Treble damages;
10 (d) Court costs; and
11 (e) Reasonable attorney's fees.
- 12 (4) A right of action under this section does not
13 accrue until the educational institution discovers or by the
14 exercise of reasonable diligence would have discovered the
15 violation by the athlete agent or former student athlete.
- 16 (5) Any liability of the athlete agent or the former
17 student athlete under this section is several and not joint.
- 18 (6) This part does not restrict rights, remedies, or
19 defenses of any person under law or equity.
- 20 Section 7. Subsection (1) of section 468.4565, Florida
21 Statutes, is amended to read:
- 22 468.4565 Business records requirement.--
- 23 (1) An athlete agent ~~who holds an active license and~~
24 ~~engages in business as an athlete agent~~ shall establish and
25 maintain complete financial and business records. The athlete
26 agent shall save each entry into a financial or business
27 record for at least 5 ~~4~~ years from the date of entry. These
28 records must include, but shall not be limited to:
- 29 (a) The name and address of each individual
30 represented by the athlete agent.
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