

By Senator Norman

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1 A bill to be entitled
2 An act relating to athlete agents; amending s.
3 468.452, F.S.; revising the definition for the term
4 "athlete agent"; defining the term "national
5 professional sports association"; amending s. 468.453,
6 F.S.; requiring that an individual who practices as an
7 athlete agent be licensed as a professional athlete
8 agent or limited athlete agent by the Department of
9 Business and Professional Regulation; prohibiting a
10 person who is not an individual from practicing as an
11 athlete agent; requiring that a professional athlete
12 agent be certified as an agent by a national
13 professional sports association; providing that an
14 individual who is not certified as an agent by a
15 national professional sports association may be
16 licensed only as a limited athlete agent; requiring
17 that a licensed athlete agent notify the department in
18 writing of the agent's conviction of a crime or
19 decertification as an agent by a national professional
20 sports association within a specified period;
21 requiring that the department revoke the license of an
22 athlete agent who has been convicted of a crime or
23 decertified by a national professional sports
24 association; amending s. 468.454, F.S.; providing that
25 an agent contract may conform to the form approved by
26 a national professional sports association for the
27 sport in which the student athlete will be represented
28 under certain circumstances; providing that an agent
29 contract with a student athlete in a sport for which

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30 there is a national professional sports association is
31 void if negotiated by an agent holding a limited
32 license; creating s. 468.4542, F.S.; requiring that an
33 athlete agent deposit a surety bond with the
34 department before contacting an athlete or entering
35 into an agent contract or contract for financial
36 services with a student athlete under certain
37 conditions; requiring that the athlete agent maintain
38 a bond for at least 2 years after the athlete agent
39 ceases providing financial services or after the
40 athlete agent's license expires or is revoked;
41 amending s. 468.456, F.S.; prohibiting an athlete
42 agent from offering or furnishing anything of value to
43 a student athlete or an individual related to the
44 student athlete before the student completes his or
45 her last intercollegiate sports contest; prohibiting
46 an athlete agent from committing an act or causing a
47 person to commit an act on the agent's behalf which
48 causes a student athlete to violate a rule of a
49 national professional sports association under certain
50 circumstances; providing for an increase in
51 administrative penalties for certain violations;
52 authorizing the department to revoke, refuse to renew,
53 or refuse to issue an athlete agent's license if the
54 agent fails to pay an administrative penalty; amending
55 s. 468.45615, F.S.; providing that an athlete agent
56 who offers or furnishes anything of value to a student
57 athlete or an individual related to the student
58 athlete before the student completes his or her last

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59 intercollegiate sports contest commits a felony of the
60 third degree; requiring that the department send a
61 notice of an athlete agent's conviction of an offense
62 to each national professional sports association that
63 has certified the agent; amending s. 468.4562, F.S.;
64 authorizing a student athlete to sue for damages under
65 certain circumstances; creating s. 468.45625, F.S.;
66 requiring that the department publish on its Internet
67 website information prescribing the responsibilities
68 of colleges and universities under part IX, ch. 468,
69 F.S.; requiring that the department notify the
70 athletic director or other appropriate official of
71 each college or university of any changes to the
72 responsibilities; amending s. 468.4565, F.S.; revising
73 provisions relating to an athlete agent's financial
74 and business records; requiring that the records
75 contain the telephone number of each individual
76 represented by the athlete agent and the name and
77 address of each national professional sports
78 association that certifies the athlete agent;
79 providing an effective date.

80
81 Be It Enacted by the Legislature of the State of Florida:

82
83 Section 1. Section 468.452, Florida Statutes, is amended to
84 read:

85 468.452 Definitions.—For purposes of this part, the term:

86 (1) "Agent contract" means a contract or agreement in which
87 a student athlete authorizes an athlete agent to represent the

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88 student in the marketing of the student's athletic ability or
89 athletic reputation.

90 (2) "Athlete agent" means an individual ~~a person~~ who,
91 directly or indirectly, recruits or solicits a student athlete
92 to enter into an agent contract, or who, for any type of
93 financial gain, procures, offers, promises, or attempts to
94 obtain employment or promotional fees or benefits for a student
95 athlete with a professional sports team or as a professional
96 athlete, or with any promoter who markets or attempts to market
97 the student athlete's athletic ability or athletic reputation.
98 This term includes all employees and other persons acting on
99 behalf of an athlete agent who participate in the activities
100 included under this subsection. The term does not include a
101 spouse, parent, sibling, grandparent, or guardian of the student
102 athlete or an individual acting solely on behalf of a
103 professional sports team or professional sports organization.

104 (3) "Contact" means communication between an athlete agent
105 and a student athlete, by whatever means, directly or
106 indirectly, for the purpose of entering or soliciting entry into
107 an agent contract.

108 (4) "Department" means the Department of Business and
109 Professional Regulation.

110 ~~(5) "Student athlete" means any student who:~~

111 ~~(a) Resides in Florida, has informed, in writing, a college~~
112 ~~or university of the student's intent to participate in that~~
113 ~~school's intercollegiate athletics, or who does participate in~~
114 ~~that school's intercollegiate athletics and is eligible to do~~
115 ~~so; or~~

116 ~~(b) Does not reside in Florida, but has informed, in~~

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117 ~~writing, a college or university in Florida of the student's~~
118 ~~intent to participate in that school's intercollegiate~~
119 ~~athletics, or who does participate in that school's~~
120 ~~intercollegiate athletics and is eligible to do so.~~

121 (5)~~(6)~~ "Financial services" means the counseling on or the
122 making or execution of investment and other financial decisions
123 by the agent on behalf of the student athlete.

124 (6) "National professional sports association" means an
125 organization that certifies athlete agents to represent athletes
126 in a particular professional sport. The term includes the
127 National Football League Players Association, National
128 Basketball Players Association, Major League Baseball Players
129 Association, National Hockey League Players' Association, and
130 the United States Soccer Federation.

131 (7) "Participation" means practicing, competing, or
132 otherwise representing a college or university in
133 intercollegiate athletics.

134 (8) "Student athlete" means any student who:

135 (a) Resides in Florida, has informed, in writing, a college
136 or university of the student's intent to participate in that
137 school's intercollegiate athletics, or who does participate in
138 that school's intercollegiate athletics and is eligible to do
139 so; or

140 (b) Does not reside in Florida, but has informed, in
141 writing, a college or university in Florida of the student's
142 intent to participate in that school's intercollegiate
143 athletics, or who does participate in that school's
144 intercollegiate athletics and is eligible to do so.

145 Section 2. Section 468.453, Florida Statutes, is amended to

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146 read:

147 468.453 Licensure required; qualifications; license
 148 nontransferable; service of process; temporary license; license
 149 or application from another state; notice of conviction or
 150 decertification.-

151 (1) Any individual ~~person~~ who practices as an athlete agent
 152 in this state must be licensed pursuant to this part as:

153 (a) A professional athlete agent; or

154 (b) A limited athlete agent.

155 (2) A person who is not an individual may not practice as
 156 an athlete agent in this state.

157 (3)~~(2)~~ An individual ~~A person~~ shall be licensed as a
 158 professional ~~an~~ athlete agent if the applicant:

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

160 (b) Is of good moral character.

161 (c) Is certified as an agent by a national professional
 162 sports association.

163 (d)~~(e)~~ Has completed the application form and remitted an
 164 application fee not to exceed \$500, an active licensure fee not
 165 to exceed \$2,000, and all other applicable fees provided for in
 166 this part or in chapter 455.

167 (e)~~(d)~~ Has submitted to the department a fingerprint card
 168 for a criminal history records check. The fingerprint card shall
 169 be forwarded to the Division of Criminal Justice Information
 170 Systems within the Department of Law Enforcement for purposes of
 171 processing the fingerprint card to determine if the applicant
 172 has a criminal history record. The fingerprint card shall also
 173 be forwarded to the Federal Bureau of Investigation for purposes
 174 of processing the fingerprint card to determine if the applicant

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175 has a criminal history record. The information obtained by the
176 processing of the fingerprint card by the Florida Department of
177 Law Enforcement and the Federal Bureau of Investigation shall be
178 sent to the department for the purpose of determining if the
179 applicant is statutorily qualified for licensure.

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

185 (4) An individual who is not certified as an agent by a
186 national professional sports association may be licensed only as
187 a limited athlete agent. A limited athlete agent may represent a
188 student athlete only in a sport that is not affiliated with a
189 national professional sports association.

190 (5)~~(3)~~ An unlicensed individual may act as an athlete agent
191 if:

192 (a) A student athlete or person acting on the athlete's
193 behalf initiates communication with the individual; and

194 (b) Within 7 days after an initial act as an athlete agent,
195 the individual submits an application for licensure.

196 (6)~~(4)~~ A license issued to an athlete agent is not
197 transferable.

198 (7)~~(5)~~ By acting as an athlete agent in this state, a
199 nonresident individual appoints the department as the
200 individual's agent for service of process in any civil action
201 related to the individual's acting as an athlete agent.

202 (8)~~(6)~~ The department may issue a temporary license while
203 an application for licensure is pending. If the department

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204 issues a notice of intent to deny the license application, the
205 initial temporary license expires and may not be extended during
206 any proceeding or administrative or judicial review.

207 ~~(9)-(7)~~(a) An individual who has submitted an application
208 and holds a certificate, registration, or license as an athlete
209 agent in another state may submit a copy of the application and
210 certificate, registration, or license from the other state in
211 lieu of submitting an application in the form prescribed
212 pursuant to this section. The department must accept the
213 application and the certificate from the other state as an
214 application for registration in this state if the application in
215 the other state:

216 1. Was submitted in the other state within 6 months next
217 preceding the submission of the application in this state and
218 the applicant certifies that the information contained in the
219 application is current;

220 2. Contains information substantially similar to or more
221 comprehensive than that required in an application submitted in
222 this state; and

223 3. Was signed by the applicant under penalty of perjury.

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

226 (10) (a) A licensed athlete agent shall notify the
227 department in writing of the athlete agent's:

228 1. Conviction of a crime; or

229 2. Decertification as an athlete agent by a national
230 professional sports association which has become final following
231 the conclusion of the appeals process.

232 (b) An athlete agent shall notify the department within 30

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233 days after the date upon which the athlete agent is convicted of
234 a crime or 30 days after the date upon which decertification
235 becomes final.

236 (c) The department shall revoke the license of an athlete
237 agent who has been convicted of a crime or decertified by a
238 national professional sports association.

239 Section 3. Subsections (4) and (12) of section 468.454,
240 Florida Statutes, are amended to read:

241 468.454 Contracts.—

242 (4) An agent contract that does not conform to this section
243 is voidable by the student athlete. However, an agent contract
244 may conform to the form approved by a national professional
245 sports association for the sport in which the student athlete
246 will be represented if an athlete agent is certified by the
247 national professional sports association. If a student athlete
248 voids an agent contract, the student athlete is not required to
249 pay any consideration or return any consideration received from
250 the athlete agent to induce the student athlete to enter into
251 the contract.

252 (12) An agent contract between a student athlete and an
253 individual ~~a person~~ not licensed under this part is void and
254 unenforceable. An agent contract with a student athlete in a
255 sport for which there is a national professional sports
256 association is void if the contract is negotiated by an athlete
257 agent holding a limited license.

258 Section 4. Section 468.4542, Florida Statutes, is created
259 to read:

260 468.4542 Bond requirements.—

261 (1) Before contacting a student athlete or entering into an

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262 agent contract with a student athlete in this state, an athlete
263 agent shall deposit a surety bond with the department in the
264 amount of \$50,000, payable to the state and conditioned on:

265 (a) The athlete agent complying with this part;
266 (b) The payment of any administrative penalty; and
267 (c) The payment of any damages awarded to a college or
268 university or a student athlete as a result of the athlete agent
269 offering or furnishing a thing of value to a student athlete or
270 a family member of the athlete.

271 (2) Before entering into a contract for financial services
272 with an athlete, an athlete agent shall deposit a surety bond
273 with the department in the amount of \$100,000, payable to the
274 state and conditioned on:

275 (a) The athlete agent complying with this part;
276 (b) The payment of money owed to an individual or group of
277 individuals when the athlete agent or the athlete agent's
278 representative or employee receives the money; and

279 (c) The payment of damages to a student athlete caused by
280 the intentional misrepresentation, fraud, deceit, or unlawful or
281 negligent act or omission of the athlete agent or of the athlete
282 agent's representative or employee while acting within the scope
283 of a contract for financial services.

284 (3) An athlete agent shall maintain a bond deposited with
285 the department for at least 2 years after the date upon which
286 the athlete agent ceases to provide financial services to a
287 student athlete or the date upon which the athlete agent's
288 license expires or is revoked.

289 Section 5. Subsections (1) and (3) of section 468.456,
290 Florida Statutes, are amended, and subsection (4) is added to

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291 that section, to read:

292 468.456 Prohibited acts.—

293 (1) The following acts are ~~shall be~~ grounds for the
294 disciplinary actions provided for in subsection (3):

295 (a) A violation of any law relating to the practice as an
296 athlete agent including, but not limited to, violations of this
297 part and chapter 455 and any rules adopted ~~promulgated~~
298 thereunder.

299 (b) Failure to account for or to pay, within a reasonable
300 time, not to exceed 30 days, assets belonging to another which
301 have come into the control of the athlete agent in the course of
302 conducting business as an athlete agent.

303 (c) Any conduct as an athlete agent which demonstrates bad
304 faith or dishonesty.

305 (d) Commingling money or property of another person with
306 the athlete agent's money or property. Every athlete agent shall
307 maintain a separate trust or escrow account in an insured bank
308 or savings and loan association located in this state in which
309 shall be deposited all proceeds received for another person
310 through the athlete agent.

311 (e) Accepting as a client a student athlete referred by and
312 in exchange for any consideration made to an employee of or a
313 coach for a college or university located in this state.

314 (f) Before a student athlete completes his or her last
315 intercollegiate sports contest, offering anything of value to
316 the student athlete or an individual related to the student
317 athlete within the second degree by affinity or consanguinity
318 ~~any person~~ to induce a student athlete to enter into an
319 agreement by which the agent will represent the student athlete.

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320 However, negotiations regarding the agent's fee are ~~shall~~ not be
321 considered an inducement.

322 (g) Before a student athlete completes his or her last
323 intercollegiate sports contest, furnishing anything of value to
324 the student athlete or an individual related to the student
325 athlete within the second degree by affinity or consanguinity.

326 (h) ~~(g)~~ Knowingly providing financial benefit from the
327 licensee's conduct of business as an athlete agent to another
328 athlete agent whose license to practice as an athlete agent is
329 suspended or has been permanently revoked within the previous 5
330 years.

331 (i) ~~(h)~~ Committing mismanagement or misconduct as an athlete
332 agent which causes financial harm to a student athlete or
333 college or university.

334 (j) ~~(i)~~ Failing to include the athlete agent's name and
335 license number in any advertising related to the business of an
336 athlete agent. Advertising does ~~shall~~ not include clothing or
337 other novelty items.

338 (k) ~~(j)~~ Publishing or causing to be published false or
339 misleading information or advertisements, or giving any false
340 information or making false promises to a student athlete
341 concerning employment or financial services.

342 (l) ~~(k)~~ Violating or aiding and abetting another person to
343 violate the rules of the athletic conference or collegiate
344 athletic association governing a student athlete or student
345 athlete's college or university.

346 (m) ~~(l)~~ Having contact, as prohibited by this part, with a
347 student athlete.

348 (n) ~~(m)~~ Postdating agent contracts.

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349 (o)~~(n)~~ Having an athlete agent certification acted against
350 by a professional athletic club or association.

351 (p)~~(e)~~ Being employed to illegally recruit or solicit
352 student athletes by being used ~~utilized~~ by or otherwise
353 collaborating with a person known to have been convicted or
354 found guilty of, or to have entered a plea of nolo contendere
355 to, a violation of s. 468.45615, regardless of adjudication.

356 (q) Committing an act or causing a person to commit an act
357 on the athlete agent's behalf which causes a student athlete to
358 violate a rule of the national professional sports association
359 for the promotion and regulation of intercollegiate athletics of
360 which the student athlete's college or university is a member.

361 (3) When the department finds any person guilty of any of
362 the prohibited acts set forth in subsection (1), the department
363 may enter an order imposing one or more of the penalties
364 provided for in s. 455.227, and an administrative fine not to
365 exceed \$50,000 for a violation under paragraph (1) (g) or
366 paragraph (1) (q) or an administrative fine not to exceed \$25,000
367 for any other ~~each separate~~ offense. In addition to any other
368 penalties or disciplinary actions provided for in this part, the
369 department shall suspend or revoke the license of any athlete
370 agent licensed under this part who violates paragraph (1) (f) or
371 paragraph (1) (p) ~~(1) (e)~~ or s. 468.45615.

372 (4) If an athlete agent fails to pay an administrative
373 penalty, the department may revoke, refuse to renew, or refuse
374 to issue the athlete agent's license.

375 Section 6. Subsection (1) of section 468.45615, Florida
376 Statutes, is amended, and subsection (5) is added to that
377 section, to read:

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378 468.45615 Provision of illegal inducements to athletes
379 prohibited; penalties; license suspension.-

380 (1) (a) Any person who violates s. 468.456(1) (f) commits ~~is~~
381 ~~guilty~~ of a felony of the second degree, punishable as provided
382 in s. 775.082, s. 775.083, s. 775.084, s. 775.089, or s.
383 775.091.

384 (b) Any person who intentionally or knowingly violates s.
385 468.456(1) (g) or (1) (q) commits a felony of the third degree,
386 punishable as provided in s. 775.082, s. 775.083, s. 775.084, s.
387 775.089, or s. 775.091.

388 (5) The department shall send a notice of an athlete
389 agent's conviction of an offense under this section to each
390 national professional sports association that certifies the
391 athlete agent.

392 Section 7. Section 468.4562, Florida Statutes, is amended
393 to read:

394 468.4562 Civil action by a college or university or student
395 athlete institution.-

396 (1) A college or university or a student athlete may sue
397 for damages, as provided by this section, any person who
398 violates this part. A college or university or a student athlete
399 may seek equitable relief to prevent or minimize harm arising
400 from acts or omissions that ~~which~~ are or would be a violation of
401 this part.

402 (2) (a) For purposes of this section, a college or
403 university is damaged if, because of activities of the person,
404 the college or university is penalized, disqualified, or
405 suspended from participation in intercollegiate athletics by a
406 national association for the promotion and regulation of

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407 intercollegiate athletics, by an intercollegiate athletic
 408 conference, or by reasonable self-imposed disciplinary action
 409 taken to mitigate sanctions likely to be imposed by such
 410 organization and, because of that penalty, disqualification,
 411 suspension, or action the institution:

412 1.~~(a)~~ Loses revenue from media coverage of a sports
 413 contest;

414 2.~~(b)~~ Loses the right to grant an athletic scholarship;

415 3.~~(c)~~ Loses the right to recruit an athlete;

416 4.~~(d)~~ Is prohibited from participating in postseason
 417 athletic competition;

418 5.~~(e)~~ Forfeits an athletic contest; or

419 6.~~(f)~~ Otherwise suffers an adverse financial impact.

420 (b) A student athlete is damaged if:

421 1. The athlete agent's violation causes a national
 422 association for the promotion and regulation of intercollegiate
 423 athletics to disqualify or suspend the student athlete from
 424 participating in intercollegiate sports contests; and

425 2. The disqualification or suspension of the student
 426 athlete causes the student athlete to suffer an adverse
 427 financial impact.

428 (3) A plaintiff ~~An institution~~ that prevails in a suit
 429 brought under this section may recover:

430 (a) Actual damages;

431 (b) Punitive damages;

432 (c) Treble damages;

433 (d) Court costs; and

434 (e) Reasonable attorney ~~attorney's~~ fees.

435 (4) A right of action under this section does not accrue

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436 until the plaintiff ~~educational institution~~ discovers, or by the
437 exercise of reasonable diligence would have discovered, the
438 violation by the athlete agent ~~or former student athlete~~.

439 (5) Any liability of the athlete agent ~~or the former~~
440 ~~student athlete~~ under this section is several and not joint.

441 (6) This part does not restrict rights, remedies, or
442 defenses of any person under law or equity.

443 Section 8. Section 468.45625, Florida Statutes, is created
444 to read:

445 468.45625 Publication of responsibilities; colleges and
446 universities.-

447 (1) The department shall publish on its Internet website
448 information prescribing the responsibilities of a college or
449 university under this part.

450 (2) The department shall notify the athletic director or
451 other appropriate official of each college or university if
452 there are any changes to the responsibilities.

453 Section 9. Subsection (1) of section 468.4565, Florida
454 Statutes, is amended to read:

455 468.4565 Business records requirement.-

456 (1) An athlete agent shall establish and maintain complete
457 financial and business records. The athlete agent shall save
458 each entry into a financial or business record for at least 5
459 years from the date of entry. These records must include:

460 (a) The name, ~~and~~ address, and telephone number of each
461 individual represented by the athlete agent;

462 (b) Any agent contract or contract for financial services
463 entered into by the athlete agent; ~~and~~

464 (c) Any direct costs incurred by the athlete agent in the

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465 recruitment or solicitation of a student athlete to enter into
466 an agent contract or contract for financial services; and-

467 (d) The name and address of each national professional
468 sports association that currently certifies the athlete agent.

469 Section 10. This act shall take effect July 1, 2012.