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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

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29 | contract with a student athlete in a sport for which  
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

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57 athlete or an individual related to the student  
58 athlete before the student completes his or her last  
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  
84 to read:

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

86 (1) "Agent contract" means a contract or agreement in  
 87 which a student athlete authorizes an athlete agent to represent  
 88 the student in the marketing of the student's athletic ability  
 89 or 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~~  
 112 ~~college or university of the student's intent to participate in~~

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113 ~~that school's intercollegiate athletics, or who does participate~~  
114 ~~in that school's intercollegiate athletics and is eligible to do~~  
115 ~~so; or~~

116 ~~(b) Does not reside in Florida, but has informed, in~~  
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  
136 college or university of the student's intent to participate in  
137 that school's intercollegiate athletics, or who does participate  
138 in that school's intercollegiate athletics and is eligible to do  
139 so; or

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

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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  
 146 to 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  
 152 agent 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

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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  
 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  
 191 agent 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  
 195 agent, the individual submits an application for licensure.

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

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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  
 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



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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  
 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  
 243 section is voidable by the student athlete. However, an agent  
 244 contract may conform to the form approved by a national  
 245 professional sports association for the sport in which the  
 246 student athlete will be represented if an athlete agent is  
 247 certified by the national professional sports association. If a  
 248 student athlete voids an agent contract, the student athlete is  
 249 not required to pay any consideration or return any  
 250 consideration received from the athlete agent to induce the  
 251 student athlete to enter into 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  
 262 an agent contract with a student athlete in this state, an  
 263 athlete agent shall deposit a surety bond with the department in  
 264 the 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  
 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

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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  
312 and in exchange for any consideration made to an employee of or  
313 a 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.  
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  
332 athlete agent which causes financial harm to a student athlete  
333 or 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.

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

351 (p)~~(o)~~ 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

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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:

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

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393 to read:

394 468.4562 Civil action by a college or university or  
 395 student 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  
 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:

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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  
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  
 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.