

REVISED UNIFORM ATHLETE AGENTS ACT (2015)

(Last Amended 2019)

drafted by the

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

and by it

APPROVED AND RECOMMENDED FOR ENACTMENT
IN ALL THE STATES

at its

ANNUAL CONFERENCE
MEETING IN ITS ONE-HUNDRED-AND-TWENTY-FOURTH YEAR
WILLIAMSBURG, VIRGINIA
JULY 10 - JULY 16, 2015



WITH PREFATORY NOTE AND COMMENTS

Copyright © 2019
By
NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS

September 19, 2019

ABOUT ULC

The **Uniform Law Commission** (ULC), also known as National Conference of Commissioners on Uniform State Laws (NCCUSL), now in its 124th year, provides states with non-partisan, well-conceived and well-drafted legislation that brings clarity and stability to critical areas of state statutory law.

ULC members must be lawyers, qualified to practice law. They are practicing lawyers, judges, legislators and legislative staff and law professors, who have been appointed by state governments as well as the District of Columbia, Puerto Rico and the U.S. Virgin Islands to research, draft and promote enactment of uniform state laws in areas of state law where uniformity is desirable and practical.

- ULC strengthens the federal system by providing rules and procedures that are consistent from state to state but that also reflect the diverse experience of the states.
- ULC statutes are representative of state experience, because the organization is made up of representatives from each state, appointed by state government.
- ULC keeps state law up-to-date by addressing important and timely legal issues.
- ULC's efforts reduce the need for individuals and businesses to deal with different laws as they move and do business in different states.
- ULC's work facilitates economic development and provides a legal platform for foreign entities to deal with U.S. citizens and businesses.
- Uniform Law Commissioners donate thousands of hours of their time and legal and drafting expertise every year as a public service, and receive no salary or compensation for their work.
- ULC's deliberative and uniquely open drafting process draws on the expertise of commissioners, but also utilizes input from legal experts, and advisors and observers representing the views of other legal organizations or interests that will be subject to the proposed laws.
- ULC is a state-supported organization that represents true value for the states, providing services that most states could not otherwise afford or duplicate.

REVISED UNIFORM ATHLETE AGENTS ACT (2015)

The Committee appointed by and representing the National Conference of Commissioners on Uniform State Laws in preparing this Act consists of the following individuals:

DALE G. HIGER, 1302 Warm Springs Ave., Boise, ID 83712, *Chair*

ROBERT G. BAILEY, University of Missouri School of Law, 217 Hulston Hall, Columbia, MO 65211

LEVI J. BENTON, 3417 Milam St., Houston, TX 77002

JOHN L. CARROLL, Samford University, Cumberland School of Law, 800 Lakeshore Dr., Birmingham, AL 35229

KIERAN MARION, 430 W. Allegan St., 4th Floor, Lansing, MI 48933

THOMAS J. MCCracken, JR., 161 N. Clark St., Suite 2210, Chicago, IL 60601

JOHN T. MCGARVEY, 601 W. Main St., Louisville, KY 40202

ANNE L. MCGIHON, P.O. Box 9396, Denver, CO 80209

DONALD E. MIELKE, 6534 S. Chase St., Littleton, CO 80123

REBECCA ROCKWELL, Office of Legislative Research and General Counsel, 210 House Bldg., Utah State Capitol Complex, Salt Lake City, UT 84114-5210

HARRY M. WALSH, 456 Summit Avenue, #206, St. Paul, MN 55102

JERRY L. BASSETT, Legislative Reference Service, 613 Alabama State House, 11 S. Union St., Montgomery, AL 36130, *Reporter*

EX OFFICIO

HARRIET LANSING, 1 Heather Pl., St. Paul, MN 55102-2615, *President*

STEVEN N. LEITESS, 10451 Mill Run Cir., Suite 1000, Baltimore, MD 21117, *Division Chair*

AMERICAN BAR ASSOCIATION ADVISOR

MICHAEL P. BARNES, Court of Appeals of Indiana, State House, 200 W. Washington St., Indianapolis, IN 46204-2784, *ABA Advisor*

EXECUTIVE DIRECTOR

LIZA KARSAI, 111 N. Wabash, Suite 1010, Chicago, IL 60602, *Executive Director*

Copies of this Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS
ON UNIFORM STATE LAWS
111 N. Wabash Ave., Suite 1010
Chicago, IL 60602
312/450-6600
www.uniformlaws.org

REVISED UNIFORM ATHLETE AGENTS ACT (2015) (LAST AMENDED 2019)

TABLE OF CONTENTS

PREFATORY NOTE.....	1
SECTION 1. SHORT TITLE.	4
SECTION 2. DEFINITIONS.....	4
SECTION 3. [SECRETARY OF STATE][COMMISSION]; AUTHORITY; PROCEDURE.	9
SECTION 4. ATHLETE AGENT: REGISTRATION REQUIRED; VOID CONTRACT.	10

Alternative A for Sections 5 through 9

SECTION 5. REGISTRATION AS ATHLETE AGENT; APPLICATION; REQUIREMENTS; RECIPROCAL REGISTRATION.	12
SECTION 6. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.	24
SECTION 7. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.	26
SECTION 8. TEMPORARY REGISTRATION.....	26
SECTION 9. REGISTRATION AND RENEWAL FEES.....	27

Alternative B for Sections 5 through 9

SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE AGENTS.....	27
SECTION 6. REGISTRATION AS ATHLETE AGENT; APPLICATION; REQUIREMENTS.	29
SECTION 7. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.	33
SECTION 8. LIMITATION, SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.	34
SECTION 9. TEMPORARY REGISTRATION.....	34

End of Alternatives

SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.....	35
SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.....	37
SECTION 12. STUDENT ATHLETE’S RIGHT TO CANCEL.	40
SECTION 13. REQUIRED RECORDS.	40
SECTION 14. PROHIBITED CONDUCT.	41
SECTION 15. CRIMINAL PENALTY.....	43
SECTION 16. CIVIL REMEDY.	43
SECTION 17. CIVIL PENALTY.....	44
[SECTION 18. INTERSTATE COMPACT FOR REGISTRATION OF ATHLETE AGENTS.].....	45
SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION.	46
SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.	46

[SECTION 21. SEVERABILITY.]	46
SECTION 22. REPEALS; CONFORMING AMENDMENTS.....	47
SECTION 23. EFFECTIVE DATE.....	47

REVISED UNIFORM ATHLETE AGENTS ACT (2015) (LAST AMENDED 2019)

PREFATORY NOTE

With the immense amount of money at stake for a wide variety of professional athletes and those who represent them, the commercial marketplace in which athlete agents operate is extremely competitive. While seeking to best position one's clients and to maximize their potential income is both legal and good business practice, the recruitment of a student athlete while he or she is still enrolled in an educational institution can and will cause substantial eligibility problems for both the student and the institution, which can in turn lead to severe economic sanctions and loss of scholarships. The problem is more acute where an unscrupulous agent misleads a student, especially where the athlete is not aware of the implications of signing the agency agreement or where an agency contract is entered without notice to the institution. In response to these issues, the Uniform Athlete Agents Act (UAAA) was promulgated by the Uniform Law Commission (ULC) in 2000.

In general, the UAAA did the following:

- Defined athlete agent as an individual who directly or indirectly induces or attempts to induce a student athlete to enter an agency contract.
- Defined student athlete as an individual who "engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport."
- Except under limited and temporary circumstances, prohibited an individual from acting as an athlete agent without registering in the state.
- Required applicants to disclose: Training, experience, and education; any felony or crime of moral turpitude of which the applicant or an associate has been convicted; any administrative or judicial determination that the applicant has made a false or deceptive representation; and whether the applicant's agent's license has been denied, suspended, or revoked in any state or has been the subject or cause of any sanction, suspension, or declaration of ineligibility.
- Required agents to maintain executed contracts and other specified records for a period of five years, including information about represented individuals and recruitment.
- Allowed agents issued a valid certificate of registration or licensure in one state to cross-file that application (or an application for renewal thereof) in other states that have adopted the act.
- Provided student athletes with a statutory right to cancel an agency contract within 14 days after the contract is signed.
- Required agency contracts to disclose the amount and method of calculating the agent's compensation, the name of any unregistered person receiving compensation because the athlete signed the agreement, and the reimbursable expenses and services to be provided and contain warnings of the cancellation and notice requirements imposed under the act.
- Required both the agent and the student athlete to give notice of the contract to the athletic director of the affected educational institution within 72 hours of signing the

agreement, or before the athlete's next scheduled athletic event, whichever occurs first.

- Provided educational institutions with a statutory right of action against an athlete agent or former student athlete for damages, including losses and expenses incurred as a result of the educational institution being penalized, disqualified, or suspended from participation by an athletic association or conference, or as a result of reasonable self-imposed disciplinary actions taken to mitigate sanctions, as well as costs and reasonable attorney's fees.
- Prohibited agents from providing materially false or misleading information, promise or representation, with the intent of inducing a student athlete to enter into an agency contract, furnishing anything of value to a student athlete or another person before that athlete enters into an agency contract, intentionally initiate contact with a student athlete unless registered under the act, refusing or willfully failing to retain or permit inspection of required records, failing to register where required; providing materially false or misleading information in an application for registration or renewal thereof; predating or postdating an agency contract; or failing to notify a student athlete that signing an agency contract may make the student athlete ineligible to participate as a student athlete in that sport and imposed criminal penalties for violations of these prohibitions.

Some 41 states have enacted the UAAA. However, several states have amended the act to, among other things, deal with a perceived lack of enforcement, broaden the coverage of the act to individuals who do not necessarily recruit or solicit a student athlete to enter into an agency contract, and require notice to educational institutions prior to contact. It became evident that the variations from state to state put uniformity at risk and may have discouraged reputable agents from complying with the act. To deal with these issues, the Uniform Law Commission adopted the Revised Uniform Athlete Agents Act (RUAAA) in July of 2015.

The purposes of the RUAAA include providing enhanced protection for student athletes and educational institutions, creating a uniform body of agent registration information for use by the state agencies registering agents, and simplifying the registration process for agents. Specifically, the RUAAA:

- Revises the definition of "athlete agent" to include an individual who, for compensation or the anticipation of compensation, serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions or manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes, and an individual who gives something of value to a student athlete or another person in anticipation of representing the athlete for a purpose related to the athlete's participation in athletics.
- Contains two alternatives for athlete agent registration. Alternative A includes a true reciprocal registration requirement in that if an individual is issued a certificate of registration by one state, the registration is in good standing and no disciplinary proceedings are pending against the registration, and the law in that state is the same or more restrictive as the law in another state, the other state would be required to register the individual. Alternative B would adopt an interstate compact when the act

is enacted by at least five states. The compact would create the Commission on Interstate Regulation of Athlete Agents to provide a single registration site where an individual could register to act as an athlete agent in the states that are members of the compact.

- Adds additional requirements to the signing of an agency contract. The contract must now contain a statement that the athlete agent is registered in the state in which the contract is signed and list any other state in which the agent is registered and be accompanied by a separate record signed by the student athlete acknowledging that signing the contract may result in the loss of eligibility to participate in the athlete's sport.
- Requires an agent to notify the educational institution at which a student athlete is enrolled before contacting a student athlete and requires an athlete agent with a preexisting relationship with a student athlete who enrolls at an educational institution and receives an athletic scholarship to notify the institution of the relationship if the agent knows or should have known of the enrollment and the relationship was motivated by the intention of the agent to recruit or solicit the athlete to enter an agency contract or the agent actually recruited or solicited the student athlete to enter a contract.
- Adds criminal penalties for athlete agents who encourage another individual to take on behalf of the agent an action the agent is prohibited from taking and gives student athletes a right of action against an athlete agent in violation of the act.

In September 2017, the FBI arrested ten individuals in relation to a college basketball corruption scandal. As a result of these indictments, the National Collegiate Athletic Association (NCAA) established the Commission on College Basketball (the Rice Commission), chaired by Dr. Condoleezza Rice, to “fully examine critical aspects of Division I men’s basketball.” The Rice Commission recommended “that high school and college players who declare for the [NBA] draft and are not drafted remain eligible for college basketball unless and until they sign a professional contract. Specifically, players who are not drafted should be permitted to change their minds and attend college or return to college, provided they remain academically and otherwise eligible.” On August 8, 2018, the NCAA amended its bylaws in accordance with recommendations made by the Rice Commission. The changes apply only to high school and college student athletes playing basketball.

In 2019, the ULC amended Section 14 of the RUAAA to accommodate the NCAA bylaws amendments. Though the changes to the NCAA bylaws are limited to student athletes playing basketball, the ULC did not limit the amendment in the same manner. The 2019 RUAAA amendment accommodates changes to NCAA bylaws made in 2018 that affect high school and college student athletes playing basketball and anticipates future changes made by associations of educational institutions governing interscholastic or intercollegiate sports to rules or bylaws governing student athletes.

REVISED UNIFORM ATHLETE AGENTS ACT (2015) (LAST AMENDED 2019)

SECTION 1. SHORT TITLE. This [act] may be cited as the Revised Uniform Athlete Agents Act (2015).

SECTION 2. DEFINITIONS. In this [act]:

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

(2) “Athlete agent”:

(A) means an individual, whether or not registered under this [act], who:

(i) directly or indirectly recruits or solicits a student athlete to enter into an agency contract or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student athlete as a professional athlete or member of a professional sports team or organization;

(ii) for compensation or in anticipation of compensation related to a student athlete’s participation in athletics:

(I) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or

(II) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; or

(iii) in anticipation of representing a student athlete for a purpose related to the athlete’s participation in athletics:

(I) gives consideration to the student athlete or another person;

(II) serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or

(III) manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes; but

(B) does not include an individual who:

(i) acts solely on behalf of a professional sports team or organization; or

(ii) is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual:

(I) also recruits or solicits the athlete to enter into an agency contract;

(II) also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization; or

(III) receives consideration for providing the services calculated using a different method than for an individual who is not a student athlete.

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

[(4) “Commission” means the Commission on Interstate Registration of Athlete Agents.]

[(5) “Compact” means the Interstate Compact for Registration of Athlete Agents.]

(6) “Educational institution” includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university.

(7) “Endorsement contract” means an agreement under which a student athlete is employed or receives consideration to use on behalf of the other party any value that the athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(8) “Enrolled” means registered for courses and attending athletic practice or class. “Enrolls” has a corresponding meaning.

(9) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student athlete are established by a national association that promotes or regulates collegiate athletics.

(10) “Interscholastic sport” means a sport played between educational institutions that are not community colleges, colleges, or universities.

(11) “Licensed, registered, or certified professional” means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.

(12) “Person” means an individual, estate, business or nonprofit entity, public corporation, government or governmental subdivision, agency, or instrumentality, or other legal entity.

(13) “Professional-sports-services contract” means an agreement under which an

individual is employed as a professional athlete or agrees to render services as a player on a professional sports team or with a professional sports organization.

(14) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(15) “Recruit or solicit” means attempt to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

(16) “Registration” means registration as an athlete agent under this [act].

(17) “Sign” means, with present intent to authenticate or adopt a record:

(A) to execute or adopt a tangible symbol; or

(B) to attach to or logically associate with the record an electronic symbol, sound, or process.

(18) “State” means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(19) “Student athlete” means an individual who is eligible to attend an educational institution and engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. The term does not include an individual permanently ineligible to participate in a particular interscholastic or intercollegiate sport for that sport.

Legislative Note: The definitions of “commission” and “compact” are bracketed to reflect alternatives for registration. See the Legislative Note for Alternative A preceding Section 5.

Comment

Only individuals are within the definition of “athlete agent” and therefore required to register under the act. Corporations and other business entities do not come within the definition of “athlete agent” and therefore are not required to register under the act, even though individuals employed by the corporation or other business entity as athlete agents would be required to register. The definition also includes other individuals or “runners” used by an agent to recruit or solicit a student athlete to enter into an agency contract.

The amendment of the definition of athlete agent retains the language of the UAAA which makes an individual who directly or indirectly recruits or solicits a student athlete to enter an agency contract an athlete agent, but expands the definition to include an individual who:

(1) for compensation, procures or attempts to procure employment for a student athlete as a professional athlete;

(2) for compensation or the anticipation of compensation, represents a student athlete as an athlete or advises a student athlete on finances, business ventures, or career management or manages the business affairs of a student athlete; or

(3) in anticipation of representing a student athlete as an athlete, gives consideration to the student athlete or another person.

The term does not include a person who acts solely on behalf of a professional sports team or organization or a licensed, registered, or a certified professional acting within the scope of his or her license, registration, or certification unless the individual also recruits or solicits a student athlete to enter an agency contract or is an individual who, for compensation, procures or attempts to procure employment of a student athlete as a professional athlete or receives consideration for providing the professional services using a different method than for an individual who is not a student athlete.

Under the UAAA, an individual who solicited or recruited a student athlete to enter into an agency contract was an athlete agent. Under that law, individuals licensed as, for example, a financial advisor, are providing services to student athletes for little or no compensation in anticipation of signing the athlete to an agency contract, but are not registering as an athlete agent or otherwise complying with the act. Rather than debate whether the action of a licensed, registered, or certified professional is “recruiting or soliciting” for purposes of the UAAA definition, the definition was revised to remove any ambiguity.

A definition of “educational institution” was added to make clear the act is intended to apply to all educational institutions, whether public or private, and all levels of education.

Recruit or solicit, which is used in the definition of athlete agent, is defined to mean attempting to influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, by a parent or guardian of the athlete. The UAAA excluded a spouse, parent, sibling, grandparent, or guardian of a student athlete from the definition of athlete agent. The act was also silent on the issue of coaches and student athletes although a coach who recruited or solicited a student athlete to enter into an agency contract with an athlete agent was technically an athlete agent. The definition of recruit or solicit excludes advice to select a particular athlete

agent given in a family, coaching, or social situation unless the advice is given because of the receipt or anticipated receipt of compensation from the agent. Thus, the parent of a student athlete who advises the athlete to select a particular agent is not an athlete agent unless the advice is given in exchange for compensation or the expectation of compensation from the agent. Similarly, a coach of a student athlete who advises the athlete to select a particular agent is not an agent unless the advice is given for compensation or the expectation of compensation from the agent.

The definition of “student athlete” applies to a two-sport athlete who has eligibility remaining in one sport. For example, an individual who has signed a contract to play professional basketball is not a student athlete in basketball, but is a student athlete in baseball. The definition of “student athlete” also includes individuals who are not yet in college. It includes high school students, high school dropouts and high school graduates who have delayed matriculation to a college or university so long as the individual may have future eligibility for intercollegiate sports.

**SECTION 3. [SECRETARY OF STATE][COMMISSION]; AUTHORITY;
PROCEDURE.**

Alternative A

(a) The [administrative procedure act] applies to this [act]. The [Secretary of State] may adopt rules under the [administrative procedure act] to implement this [act].

Alternative B

(a) Except as otherwise provided in this [act], the commission is an agency of the state in which the headquarters of the commission is located and the law of that state, including the law relating to administrative procedure, public records, and public meetings, applies to the commission. The commission may adopt rules under the [administrative procedure act] of the state in which its headquarters is located to implement this [act].

End of Alternatives

(b) By acting as an athlete agent in this state, a nonresident individual appoints the [Secretary of State] [commission] as the individual’s agent for service of process in any civil action in this state related to the individual acting as an athlete agent in this state.

[(c) The [Secretary of State] [commission] may issue a subpoena for material that is relevant to the administration of this [act].]

Legislative Note: *There are two alternatives for subsection (a) to reflect the registration option discussed in the Legislative Note for Alternative A preceding Section 5.*

If the administrative procedure act of a state does not give administrative agencies the power to issue a cease and desist order or otherwise prevent continued conduct in violation of the act, the state should consider specifically granting the power to the agency designated as the enforcement agency.

The Secretary of State has been designated as the administrator of existing acts regulating the activities of athlete agents more frequently than any other office. It is recognized, however, that the appropriate state office to administer this act may vary from state to state and, therefore, references to the Secretary of State are in brackets.

Subsection (c) is in brackets because it may not be required under the administrative procedure acts of some states.

SECTION 4. ATHLETE AGENT: REGISTRATION REQUIRED; VOID CONTRACT.

(a) Except as otherwise provided in subsection (b), an individual may not act as an athlete agent in this state without holding a certificate of registration under this [act].

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

(1) a student athlete or another person acting on behalf of the athlete initiates communication with the individual; and

(2) not later than seven days after an initial act that requires the individual to register as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

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

Comment

The intent of this section is to make the registration requirement as broad as

constitutionally permissible consistent with the minimum contacts theory of *International Shoe Company v. Washington*, 326 U.S. 310 (1945). Agents must register in each state in which they have established minimum contacts. For example, an individual in state A contacting a student athlete in state B is acting as an athlete agent in both states and is therefore required to register in both states.

Subsection (b) provides a safe harbor for an unregistered individual with whom a student athlete initiates communications. The individual must apply for registration within seven days from the beginning of any effort to recruit or solicit the student athlete to enter into an agency contract. If the individual does not attempt to recruit or solicit the student athlete to sign an agency contract, registration is not required.

In addition to the penalties that may be imposed under Sections 15 and 17, subsection (c) discourages contact with a student athlete by an individual who has not registered as an athlete agent. An agency contract resulting from that contact is void, not merely voidable.

Alternative A for Sections 5 through 9

Legislative Note: *There are two alternatives for Sections 5 through 9. Alternative A establishes a registration system in the enacting state which requires the enacting state to register an individual who is registered in another state if the enacting state determines the law of the other state is substantially similar to or more restrictive than the law of the enacting state, the registration in the other state has not been revoked or suspended, and no action involving the agent's conduct as an agent is pending.*

Alternative B creates a central registration agency, the Commission on Interstate Registration of Athlete Agents, and provides that states enacting Alternative B will be entering into an interstate compact with other states that enact it.

While the numbering of the sections in the two alternatives is different because Section 5 of Alternative B creates the commission and the contents of Section 9 are folded into Section 5, the substantive requirements for the initial registration and the basis for denial of registration or the suspension, revocation, or failure to renew registration are identical in both alternatives. Thus, the effect of Alternative B in a state adopting the compact is to delegate the responsibility for the registration of athlete agents and the civil enforcement of the act to a central entity created by the compact. A state adopting Alternative B also will have to amend Section 2 to include the definition of commission for the new central registration agency and the definition of "compact" for the interstate compact, select Alternative B for Section 3(a), add bracketed Section 18 containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17, and make additional conforming changes in Section 4. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.

**SECTION 5. REGISTRATION AS ATHLETE AGENT; APPLICATION;
REQUIREMENTS; RECIPROCAL REGISTRATION.**

(a) An applicant for registration as an athlete agent shall submit an application for registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) the name and date and place of birth of the applicant and the following contact information for the applicant:

(A) the address of the applicant's principal place of business;

(B) work and mobile telephone numbers; and

(C) any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer websites;

(2) the name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(3) each social-media account with which the applicant or the applicant's business or employer is affiliated;

(4) each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) a description of the applicant's:

(A) formal training as an athlete agent;

(B) practical experience as an athlete agent; and

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

(6) the name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the individual is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;

(7) the name and address of each person that:

(A) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and

(B) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;

(8) a description of the status of any application by the applicant, or any person named under paragraph (7), for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

(9) whether the applicant, or any person named under paragraph (7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state and, if so, identification of:

(A) the crime;

(B) the law-enforcement agency involved; and

(C) if applicable, the date of the conviction and the fine or penalty

imposed;

(10) whether, within 15 years before the date of application, the applicant, or any person named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of [legal incompetence] and, if so, the date and a full explanation of each proceeding;

(11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment or a judgment of continuing effect, including [alimony] or a domestic order in the nature of child support, which is not current at the date of the application;

(12) whether, within 10 years before the date of application, the applicant, or any person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(13) whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or fraudulent representation;

(14) each instance in which conduct of the applicant, or any person named under paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;

(15) each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph (7), arising out of occupational or professional conduct;

(16) whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under paragraph (7), as an athlete agent in any state;

(17) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(18) if the applicant is certified or registered by a professional league or players association:

(A) the name of the league or association;

(B) the date of certification or registration, and the date of expiration of the certification or registration, if any; and

(C) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(19) any additional information required by the [Secretary of State].

(b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the [Secretary of State]:

(1) a copy of the application for registration in the other state;

(2) a statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury; and

(3) a copy of the certificate of registration from the other state.

(c) The [Secretary of State] shall issue a certificate of registration to an individual who applies for registration under subsection (b) if the [Secretary of State] determines:

(1) the application and registration requirements of the other state are substantially similar to or more restrictive than this [act]; and

(2) the registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(d) For purposes of implementing subsection (c), the [Secretary of State] shall:

(1) cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this [act]; and

(2) exchange information, including information related to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

Comment

The UAAA required an application for registration as an athlete agent to contain personal and business information about the applicant. RUAAA expands the information required to be contained on the application to require, among other things, disclosure of financial information and, recognizing that communication between an athlete agent and a student athlete may be by electronic means, electronic mail addresses and social media accounts.

The UAAA also contained bracketed language that an application filed under the act was a public record. The intention of the committee was not to rewrite the public record law of any state, but to default to that law, whatever it is. Thus, in some states, certain information on the application, such as a trade secret, may not be a public record, while the public record law in another state may require a different result.

Subsection (a)(6) is not intended to require an athlete agent who is also a licensed, registered, or certified professional, to violate any privilege, including the attorney-client privilege.

Section 5 of the UAAA was not a true reciprocal registration provision in that, while it allowed for submission of the application for registration in one state to another state, the second state was free to require additional information or refuse to issue the registration on various grounds. The amended version is a true reciprocal registration provision in that if an individual registered in one state applies for registration in a second state, the second state is required to grant the registration if it determines the law in the first state is the same or more restrictive than the law in the second state, the registration is in good standing, and no proceeding involving the individual's conduct as an athlete agent is pending in any state in which the individual is

registered.

A central registration point with a single form is the easiest way to facilitate the reciprocal licensing provisions of subsection (b). Subsection (c) encourages the administrative agencies to which the enforcement of the act is delegated to cooperate with agencies from other states to that end. It is recognized there are substantial obstacles to a central registration office, not the least of which is cost. If it is not possible or feasible to create a central registration point, agencies are encouraged to adopt the following standard form:

REGISTRATION FORM

PART I. GENERAL INFORMATION

[Use additional sheets as necessary]

1. Registrant first name: _____
2. Registrant middle name: _____
3. Registrant last name: _____
4. If you have ever been known by any other name, surname, or maiden name, list the name: _____
5. Name of your organization involved in providing services for athletes: _____

6. Your position or title within the organization identified in Item 5: _____

7. Mailing address, city, state, and zip code of organization identified in Item 5: _____

8. Work phone: _____
9. Mobile phone: _____
10. Fax number: _____
11. Work and Personal Email and Website: _____
12. Birthplace and date of birth: _____

13. List all social-media accounts with which you and the organization identified in Item 5 are affiliated: _____

14. Indicate if you are registered or certified by any professional league or player's association, the date of registration or certification, and, if applicable, the date of expiration, as of the date of the completion of this form, with:

Major League Baseball Players Association _____

National Basketball Players Association _____

National Football Players Association _____

National Hockey League Players Association _____

Other _____

None _____

15. If "Other" was selected for Item 14, name the professional association(s): _____

16. List all states in which you are currently registered or have applied to be registered pursuant to any state statute regulating athlete agents: _____

PART II. EDUCATION

For each item in this part, include: School name, city and state, degree conferred, and year the degree was awarded.

17. Professional/Graduate School(s): _____

18. Undergraduate School(s): _____

19. High School(s): _____

PART III. CURRENT OCCUPATION/EMPLOYMENT

20. Are you self-employed? (Y/N) (If you are not self-employed, skip to Item 23.)

21. Provide the dates and duration of your self-employment: _____

22. Describe the nature of your current self-employment: _____

23. If you are not self-employed, provide each item listed below for every organization by which you are employed:

Name of employer: _____

Supervisor's name: _____

Supervisor's address and work phone: _____

Initial date of employment (including month and year): _____

Nature of your current employment: _____

24. Provide the following information for each firm or organization with which you are currently affiliated: Name, mailing address, phone number, organizational form (for example, a sole proprietorship, corporation, partnership, or other entity), and nature of business: _____

25. If a firm or organization listed in Item 24 is a partnership, list the name of each partner below. If a firm or organization listed in Item 24, is a corporation, list the name of each officer and member of the board of directors. For each firm or organization, designate the partners, officers, shareholders, or members of the board of directors who customarily perform work for or on behalf of professional athletes: _____

26. List each individual not named in Item 25, who: (a) has an ownership interest of 5% or more in each firm or organization listed in Item 24 which is a corporation; (b) has wholly or partially financed your firm or organization (other than financing or credit extended in the ordinary course of business by lending institutions); or (c) directly or indirectly exercises or has the power to exercise a controlling influence over the management of your firm or organization. For each individual, provide their respective name, mailing address, phone number, and nature of involvement (for example, describe the individual's ownership interest, amount of financing provided, or basis of the individual's controlling influence: _____

27. Provide your employment history for the past five years or a resume that indicates that employment history: _____

PART IV. PROFESSIONAL BACKGROUND

28. List each membership you have in a business or professional organization that directly relates to your occupation or profession: _____

29. List each occupational or professional license or other similar credential (i.e., Certified Public Accountant, Chartered Life Underwriter, Registered Investment Advisor, etc.) you have obtained, including the date and status of the license or credential obtained: _____

30. Have you ever been denied an occupational or professional license from a state or federal regulatory agency? (Y/N)

31. If you answered "Yes" to Item 30, explain each occurrence fully: _____

32. Have you ever been denied a business license, franchise, or other similar credential for which you applied? (Y/N)

33. If you answered "Yes" to Item 32, explain each occurrence fully: _____

34. Describe and indicate the status of any application you currently have pending for an occupational or professional license: _____

35. Describe and indicate the status of any application you currently have pending for a business license, franchise, or other similar credential: _____

36. As part of your professional endeavors, have you ever been reprimanded or censured or has your right to engage in any profession or occupation ever been disqualified, suspended, withdrawn, or terminated? (Y/N)

37. If you answered "Yes" to Item 36, explain each occurrence fully: _____

PART V. COMPLIANCE BACKGROUND

38. Have you ever been convicted, reprimanded, censured, disqualified, cited, or otherwise disciplined for a violation of a state statute regulating athlete agents? (Y/N)

39. If you answered "Yes" to Item 38, for each occurrence specify: any associated complaint or charge, the date of the alleged violation, the result or status of any related investigation, and the name of any authority imposing a related sanction: _____

40. Indicate the nature of any charge or complaint currently pending against you regarding your conduct as a member of a profession. For each charge or complaint, specify the name and address of the authority considering the charge or complaint. If no charge or complaint is currently pending against you, enter "None." _____

41. Have you ever been convicted of or pleaded guilty to a criminal charge or have a criminal charge currently pending against you? (Y/N)

42. If you answered "Yes" to Item 41, provide the following information for each occurrence: Offense, law enforcement agency involved, and, if applicable, the date of conviction and the fine or penalty imposed: _____

43. Within the 15 years before the date of this application, have you been a defendant in a civil proceeding? (Y/N)

44. If you answered "Yes" to Item 43, specify the date of each proceeding and explain each occurrence fully: _____

45. If you have been adjudicated legally incompetent by any court within the last 15 years of the date of this application, specify the date and nature of the determination: _____

46. Have you ever been suspended or expelled from an educational institution? (Y/N)

47. If you answered "Yes" to Item 46, specify the date of the suspension or expulsion, the educational institution involved, and the reason for the suspension or expulsion: _____

48. Is there any unsatisfied judgment of continuing effect against you (including alimony and child support)? (Y/N)

49. If you answered "Yes" to Item 48, explain the unsatisfied judgment fully: _____

50. Within the 10 years before the date of this application, have you been declared bankrupt or been an owner or part-owner of a business that was declared bankrupt? (Y/N)

51. If you answered "Yes" to Item 50, specify the date and fully explain each occurrence:

52. Have you ever been involved in any action that resulted in the imposition of a sanction against an educational institution or the imposition of a sanction against or suspension or declaration of ineligibility of a student athlete from participating in an interscholastic, intercollegiate, or professional athletic event? (Y/N)

53. If you answered "Yes" to Item 52, provide the following for each occurrence: the complaint or charge, the date of alleged violation, the results or status of any related investigation, and the name of the authority imposing any related sanction: _____

54. For any organization listed in Item 14, list any denial, refusal to renew, withdrawal, or termination of the certification or registration, or any reprimand or censure related to the certification or license: _____

ACKNOWLEDGEMENT

By entering my name below, I attest under penalty of perjury that all statements, affirmations, and representations made in this application and its attachments are accurate as of my application date and are made for the benefit of the state and its student athletes, both present

and future, and that the information contained herein, except for information that is a trade secret or personal information the disclosure of which would constitute an unwarranted invasion of personal privacy, is public information and may be provided by the state to student athletes and other individuals without restriction.

Name

**SECTION 6. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL;
RENEWAL.**

(a) Except as otherwise provided in subsection (b), the [Secretary of State] shall issue a certificate of registration to an applicant for registration who complies with Section 5(a).

(b) The [Secretary of State] may refuse to issue a certificate of registration to an applicant for registration under Section 5(a) if the [Secretary of State] determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the [Secretary of State] may consider whether the applicant has:

(1) pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state;

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

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

(4) engaged in conduct prohibited by Section 14;

(5) had a registration as an athlete agent suspended, revoked, or denied in any state;

(6) been refused renewal of registration as an athlete agent in any state;

(7) engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or

(8) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b), the [Secretary of State] shall consider:

(1) how recently the conduct occurred;

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

(3) other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the [Secretary of State]. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) An athlete agent registered under Section 5(c) may renew the registration by proceeding under subsection (d) or, if the registration in the other state has been renewed, by submitting to the [Secretary of State] copies of the application for renewal in the other state and the renewed registration from the other state. The [Secretary of State] shall renew the registration if the [Secretary of State] determines:

(1) the registration requirements of the other state are substantially similar to or more restrictive than this [act]; and

(2) the renewed registration has not been suspended or revoked and no action

involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state.

(f) A certificate of registration or renewal of registration under this [act] is valid for [two] years.

Comment

This section has been revised to reflect the true reciprocal registration provisions of Section 5.

SECTION 7. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.

(a) The [Secretary of State] may limit, suspend, revoke, or refuse to renew a registration of an individual registered under Section 6(a) for conduct that would have justified refusal to issue a certificate of registration under Section 6(b).

(b) The [Secretary of State] may suspend or revoke the registration of an individual registered under Section 5(c) or renewed under Section 6(e) for any reason for which the [Secretary of State] could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under Section 6(b).

SECTION 8. TEMPORARY REGISTRATION. The [Secretary of State] may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

Comment

The discretion to issue a temporary certificate of registration is broad enough to include issuance of such a certificate even where the registration may be contested. It is not necessary to issue a temporary certificate to protect an individual with whom a student athlete initiated communications. Under Section 4(b), that individual is only required to file an application for registration within seven days after commencement of efforts to recruit or solicit the student athlete to sign an agency contract.

SECTION 9. REGISTRATION AND RENEWAL FEES. An application for registration or renewal of registration as an athlete agent must be accompanied by a fee in the following amount:

- (1) \$[] for an initial application for registration;
- (2) \$[] for registration based on a certificate of registration issued by another state;
- (3) \$[] for an application for renewal of registration; or
- (4) \$[] for renewal of registration based on a renewal of registration in another state.

Comment

The amount of fees is left for each state to determine. Some states with existing acts have set fees in amounts sufficient to recover the cost of administration. If that approach is taken, a fee for registration or renewal based on registration or renewal of registration in another state should be less than when a complete evaluation and review of an application is necessary.

Athlete agent registration is the cornerstone of this act. High registration fees imposed by some states with existing acts have probably contributed to seemingly small numbers of registrants under existing acts. The success of this act may be contingent on the implementation of a reasonable fee structure which does not motivate non-compliance.

Alternative B for Sections 5 through 9

Legislative Note: As discussed in the Legislative Note for Alternative A, a state adopting Alternative B also will have to amend Section 2 to include the definition of commission for the new central registration agency and the definition of “compact” for the interstate compact, select Alternative B for Section 3(a), add bracketed Section 18 containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Section 17, and make additional conforming changes in Section 4. Since the operation of Alternative B is conditioned on that alternative being adopted by at least five states, a state that elects to participate in the interstate compact before the interstate compact becomes effective may wish either to continue its existing athlete agent registration program until the interstate compact becomes effective and the commission created by the compact is in operation or enact Alternative A on an interim basis.

SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE AGENTS.

- (a) The Commission on Interstate Registration of Athlete Agents is created. The

commission is a body corporate and joint agency of the states that enact an act substantially similar to this [act]. The commission consists of one member from each state that enacts such an act appointed by the Governor of that state.

(b) The first meeting of the commission must be held not later than 90 days after the fifth state enacts an act substantively similar to this [act]. A majority of the states that enact such an act constitutes a quorum for the conduct of business.

(c) At its first meeting, the commission shall adopt bylaws that provide for:

- (1) an executive committee to manage day-to-day affairs of the commission;
- (2) the operation of the commission, including employment of necessary staff;
- (3) maintaining a location for the registration of athlete agents in the states that enact an act substantially similar to this [act];
- (4) establishing the registration fee and the apportionment of the fee among the states that enact an act substantially similar to this [act]; and
- (5) any other matter necessary for efficient operation of the commission.

(d) The commission:

- (1) shall pay or provide for payment of the reasonable expenses of the establishment, organization, and ongoing activities of the commission;
- (2) may accept a grant of money, equipment, supplies, materials, or services and donations;
- (3) may assess each member state annually on a basis determined by the commission to cover operation costs of the commission not funded by registration fees imposed under subsection (c)(4);
- (4) may not incur an obligation before securing funds adequate to meet the

obligation;

(5) may not pledge the credit of a member state, except with the authority of the member state; and

(6) shall keep an accurate account of receipts and disbursements, under audit and accounting procedures established under the commission's bylaws.

(e) The receipt and disbursement of funds by the commission must be audited yearly by a certified or licensed public accountant, and the commission shall include the audit report in an annual report of the commission.

Comment

This section creates the Commission on Interstate Registration of Athlete Agents and provides for its organization, powers, and duties. Since the existence of the compact is conditioned on at least five states adopting Alternative B in substantially the same form, deviation from the language of this section or any other provision of Alternative B is discouraged.

SECTION 6. REGISTRATION AS ATHLETE AGENT; APPLICATION;

REQUIREMENTS. An applicant for registration as an athlete agent shall submit an application for registration to the commission in a form prescribed by the commission. The applicant must be an individual, and the application must be signed by the applicant under penalty of perjury. The application must contain at least the following:

(1) the name and date and place of birth of the applicant and the following contact information for the applicant:

(A) the address of the applicant's principal place of business;

(B) work and mobile telephone numbers; and

(C) any means of communicating electronically, including a facsimile number, electronic-mail address, and personal and business or employer websites;

(2) the name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business;

(3) each social-media account with which the applicant or the applicant's business or employer is affiliated;

(4) each business or occupation in which the applicant engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;

(5) a description of the applicant's:

(A) formal training as an athlete agent;

(B) practical experience as an athlete agent; and

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

(6) the name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the athlete is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last-known team;

(7) the name and address of each person that:

(A) is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent or greater of the athlete agent's business if it is not a corporation; and

(B) is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation;

(8) a description of the status of any application by the applicant, or any person named under paragraph (7), for a state or federal business, professional, or occupational license, other than as an athlete agent, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;

(9) whether the applicant, or any person named under paragraph (7), has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime involving moral turpitude or which is a felony and, if so, identify:

(A) the crime;

(B) the law-enforcement agency involved; and

(C) if applicable, the date of the conviction and the fine or penalty imposed;

(10) whether, within 15 years before the date of application, the applicant, or any person named under paragraph (7), has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence, and, if so, the date and a full explanation of each proceeding;

(11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;

(12) whether, within 10 years before the date of application, the applicant, or any person named under paragraph (7), was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;

(13) whether there has been any administrative or judicial determination that the applicant, or any person named under paragraph (7), made a false, misleading, deceptive, or fraudulent representation;

(14) each instance in which conduct of the applicant, or any person named under paragraph (7), resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution;

(15) each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph (7), arising out of occupational or professional conduct;

(16) whether there has been a denial of an application for, suspension or revocation of, refusal to renew, or abandonment of, the registration of the applicant, or any person named under paragraph (7), as an athlete agent in any state;

(17) each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent;

(18) if the applicant is certified or registered by a professional league or players association:

(A) the name of the league or association;

(B) the date of certification or registration, and the date of expiration of the certification or registration, if any; and

(C) if applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration; and

(19) any additional information required by the commission.

Legislative Note: Paragraphs (10) and (11) use the terms “legal incompetence” and “alimony”. If those are not the appropriate terms for a state, the insertion of the state specific terms is not intended to be a deviation from the substantially similar requirement for the adoption of the Interstate Compact.

Comment

This section parallels Section 5 of Alternative A.

SECTION 7. CERTIFICATE OF REGISTRATION; ISSUANCE OR DENIAL; RENEWAL.

(a) Except as otherwise provided in subsection (b), the commission shall issue a certificate of registration to an applicant for registration who complies with Section 6.

(b) The commission may refuse to issue a certificate of registration to an applicant for registration under Section 6 if the commission determines that the applicant has engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an athlete agent. In making the determination, the commission may consider whether the applicant has:

(1) pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime involving moral turpitude or which is a felony;

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

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

(4) engaged in conduct prohibited by Section 14;

(5) had a registration as an athlete agent suspended, revoked, or denied in any state;

(6) been refused renewal of registration as an athlete agent in any state;

(7) engaged in conduct resulting in imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event on a student athlete or a sanction on an educational institution; or

(8) engaged in conduct that adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b), the commission shall consider:

(1) how recently the conduct occurred;

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

(3) other relevant conduct of the applicant.

(d) An athlete agent registered under subsection (a) may apply to renew the registration by submitting an application for renewal in a form prescribed by the commission. The applicant shall sign the application for renewal under penalty of perjury and include current information on all matters required in an original application for registration.

(e) A certificate of registration or a renewal of registration under this [act] is valid for two years.

Comment

This section parallels Section 6 of Alternative A.

SECTION 8. LIMITATION, SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION. The commission may limit, suspend, revoke, or refuse to renew a registration of an individual registered under Section 7 for conduct that would have justified refusal to issue a certificate of registration under Section 7(b).

Comment

This section parallels Section 7 of Alternative A.

SECTION 9. TEMPORARY REGISTRATION. The commission may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.

Comment

This section parallels Section 8 of Alternative A.

End of Alternatives

SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.

(a) An agency contract must be in a record signed by the parties.

(b) An agency contract must contain:

(1) a statement that the athlete agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent;

(2) the amount and method of calculating the consideration to be paid by the student athlete for services to be provided by the agent under the contract and any other consideration the agent has received or will receive from any other source for entering into the contract or providing the services;

(3) the name of any person not listed in the agent's application for registration or renewal of registration which will be compensated because the athlete signed the contract;

(4) a description of any expenses the athlete agrees to reimburse;

(5) a description of the services to be provided to the athlete;

(6) the duration of the contract; and

(7) the date of execution.

(c) Subject to subsection (g), an agency contract must contain a conspicuous notice in boldface type and in substantially the following form:

WARNING TO STUDENT ATHLETE

IF YOU SIGN THIS CONTRACT:

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

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

(d) An agency contract must be accompanied by a separate record signed by the student athlete or, if the athlete is a minor, the parent or guardian of the athlete acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

(e) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may void an agency contract that does not conform to this section. If the contract is voided, any consideration received from the athlete agent under the contract to induce entering into the contract is not required to be returned.

(f) At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the

contract and the separate acknowledgement required by subsection (d).

(g) If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (c) must be revised accordingly.

Comment

This section is intended to provide protection to the student athlete by requiring a form of agency contract similar to those required in some consumer transactions.

A student athlete who opts to void an agency contract under this section because it does not comply with the specified form is not required to return any consideration received to induce the signing of the agency contract because such inducement is prohibited conduct under Section 14.

Subsection (b) is revised to require an agency contract to contain a statement that the athlete agent is registered in the state and a list of any other state in which the agent is registered.

The compensation referred to in subsection (b)(2) is compensation for services intended to induce the student athlete to sign an agency contract. It does not include compensation individuals may receive because an athlete agent has been successful in securing an agency contract. For example, the compensation paid employees of an athlete agent who did not participate in inducing the student athlete to sign an agency contract is not compensation under subsection (b)(2) even though their compensation may be made possible by the income resulting from the agency contract.

Subsection (b) contains references to a student athlete in a time context in which the individual may be a former student athlete. This is done for simplicity in drafting. It should be noted that violation of eligibility rules adopted by an educational institution or a national association is not automatic and does not occur until a determination has been made by the educational institution or the national association.

Subsection (d) requires an agency contract be accompanied by a separate record signed by the student athlete that informs the athlete that signing the contract may result in the loss of eligibility to participate in the athlete's sport. In the rare case where an agency contract involves a student athlete who is a minor, the section was revised to require the contract to be signed by the parent or guardian.

SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.

(a) In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll.

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student athlete may participate, whichever occurs first, the athlete shall inform the athletic director of the educational institution at which the athlete is enrolled that the athlete has entered into an agency contract and the name and contact information of the athlete agent.

(d) If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than 72 hours after the agent knew or should have known the athlete enrolled.

(e) If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the agent shall notify the institution of the relationship not later than 10 days after the enrollment if the agent knows or should have known of the enrollment and:

(1) the relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future; or

(2) the agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

(f) An athlete agent shall give notice in a record to the athletic director of any educational

institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with:

(1) the athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract; or

(2) another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete to enter into an agency contract.

(g) If a communication or attempt to communicate with an athlete agent is initiated by a student athlete or another individual on behalf of the athlete, the agent shall notify in a record the athletic director of any educational institution at which the athlete is enrolled. The notification must be made not later than 10 days after the communication or attempt.

(h) An educational institution that becomes aware of a violation of this [act] by an athlete agent shall notify the [Secretary of State] [commission] and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

Comment

The purpose of this section is to prevent an educational institution from being sanctioned or penalized by allowing an ineligible player to participate in intercollegiate sports. The penalties may be severe. In addition to non-monetary penalties mentioned in the prefatory note, penalties may include loss of very substantial revenues received for participation in a football bowl game or a post-season basketball tournament.

The RUAAA adds subsection (a) and subsections (d) through (h) to the notice requirements contained in the UAAA. The changes are intended to give educational institutions notice of pre-existing relationships between athlete agents and student athletes and prior notice of any communication between an athlete agent and a student athlete enrolled at the institution. If the communication is initiated by the student athlete or someone on behalf of the student athlete, there is a safe harbor for the agent to report the communication. The changes were made to conform to amendments to the UAAA by multiple states to that effect and at the suggestion of the educational institutions.

Subsection (h) adds a requirement that an educational institution that becomes aware of a violation of the act notify the enforcement agency.

SECTION 12. STUDENT ATHLETE'S RIGHT TO CANCEL.

(a) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may cancel an agency contract by giving notice in a record of cancellation to the athlete agent not later than 14 days after the contract is signed.

(b) A student athlete or, if the athlete is a minor, the parent or guardian of the athlete may not waive the right to cancel an agency contract.

(c) If a student athlete, parent, or guardian cancels an agency contract, the athlete, parent, or guardian is not required to pay any consideration under the contract or return any consideration received from the athlete agent to influence the athlete to enter into the contract.

Comment

Because of the disparity in the sophistication of the parties, this section gives the student athlete or former student athlete the right to cancel an agency contract within 14 days even if the athlete agent has complied with the provisions of Section 10 regarding the form of the contract. The section provides relief to the student athlete who has entered into an ill-considered agency contract, but does not provide any assurance that the student athlete will be eligible to compete in a sport.

The RUAAA revises the section to reflect the rare circumstance of when an agent contract involves a student athlete who is a minor.

SECTION 13. REQUIRED RECORDS.

(a) An athlete agent shall create and retain for five years records of the following:

(1) the name and address of each individual represented by the agent;

(2) each agency contract entered into by the agent; and

(3) the direct costs incurred by the agent in the recruitment or solicitation of each student athlete to enter into an agency contract.

(b) Records described in subsection (a) are open to inspection by the [Secretary of State] [commission] during normal business hours.

SECTION 14. PROHIBITED CONDUCT. An athlete agent may not intentionally:

(1) give a student athlete or, if the athlete is a minor, a parent or [guardian] of the athlete materially false or misleading information or make a materially false promise or representation with the intent to influence the athlete, parent, or [guardian] to enter into an agency contract;

(2) furnish anything of value to a student athlete or another individual, if to do so may result in loss of the athlete's eligibility to participate in the athlete's sport, unless:

(A) the agent notifies the athletic director of the educational institution at which the athlete is enrolled or at which the agent has reasonable grounds to believe the athlete intends to enroll, not later than 72 hours after giving the thing of value; and

(B) the athlete or, if the athlete is a minor, a parent or [guardian] of the athlete acknowledges to the agent in a record that receipt of the thing of value may result in loss of the athlete's eligibility to participate in the athlete's sport;

(3) initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or [guardian] of the athlete, to recruit or solicit the athlete, parent, or [guardian] to enter an agency contract unless registered under this [act];

(4) fail to create, retain, or permit inspection of the records required by Section 13;

(5) fail to register when required by Section 4;

(6) provide materially false or misleading information in an application for registration or renewal of registration;

(7) predate or postdate an agency contract;

(8) fail to notify a student athlete or, if the athlete is a minor, a parent or [guardian] of the athlete, before the athlete, parent, or [guardian] signs an agency contract for a particular sport that the signing may result in loss of the athlete's eligibility to participate in the athlete's sport;

(9) encourage another individual to do any of the acts described in paragraphs (1) through (8) on behalf of the agent; or

(10) encourage another individual to assist any other individual in doing any of the acts described in paragraphs (1) through (8) on behalf of the agent.

Legislative Note: *If a state uses a different term to describe the relationship of guardian, the bracketed term “guardian” should be changed to the appropriate term in this section and in Section 2(15); Section 5(a)(6); Section 10(d), (e), (f), and (g); Section 11(f)(1) and (2); and Section 12(a), (b), and (c).*

Comment

This section describes the conduct by an agent which gives rise to criminal penalties under Section 15 and civil penalties under Section 16. The prohibitions include furnishing a thing of value to a student athlete prior to the signing of an agency contract.

The RUAAA revises the section to prohibit an athlete agent from encouraging any other individual to take or assist another individual in taking any of the prohibited actions on behalf of the agent.

The section was revised further in 2019 to deal with changes made to NCAA eligibility rules following the indictment of certain agents, representatives of shoe companies, and basketball coaches in 2017. The new rules are limited to a limited number of student athletes whose sport is basketball. They allow an agent certified by the NCAA to make certain limited expenditures related to selecting an agent before signing an agency contract for those student athletes and, contingent upon a change in NBA “one and done” rule negotiated between the NBA and the NBA Players Association as a part of the collective bargaining agreement, allow a limited number of “elite” student athletes whose sport is basketball to sign an agency contract with a certified agent and retain their eligibility if, before the commencement of the next season, the athlete subsequently decides not to sign a professional contract and terminates the agency contract.

The revision prohibits an agent from furnishing a thing of value to a student athlete or another individual if doing so may result in the loss of eligibility of the athlete to participate in the athlete’s sport, unless:

- (1) the athlete, parent, or guardian acknowledges to the agent in a record that receipt of the thing of value may result in the loss of eligibility of the athlete to participate in the athlete’s sport; and
- (2) the agent, not later than 72 hours after furnishing the thing of value, notifies the athletic director of the educational institution the athlete is attending, or the agent has reasonable grounds to believe intends to enroll, of that fact.

The revision is not basketball specific or type of expense specific so that potential future revisions of eligibility rules by the NCAA or any other association of educational institutions governing interscholastic or intercollegiate sports will not necessarily require further amendment of the section.

SECTION 15. CRIMINAL PENALTY. An athlete agent who violates Section 14 is guilty of a [misdemeanor] [felony] and, on conviction, is punishable by [].

***Legislative Note:** Each state should determine the penalties to be imposed for a violation of the act. A state may wish to include a suspension or revocation of the registration as a part of the penalty and also may wish to dedicate all or a part of any fine to the enforcement of the act (see, for example, Section 18897.93, California Business and Professions Code).*

Comment

The extent of the criminal penalties which may be imposed for violation of the act are left to the states adopting the act because of a wide variation in the criminal penalties provided for by existing acts. Variations in the criminal penalties which may be imposed would not detract from the otherwise uniform and reciprocal provisions of the act. Some potential criminal penalty is necessary to discourage those individuals who are willing to engage in improper or illegal conduct because of the size of the monetary stakes in the contemporary professional sports world.

SECTION 16. CIVIL REMEDY.

(a) An educational institution or student athlete may bring an action for damages against an athlete agent if the institution or athlete is adversely affected by an act or omission of the agent in violation of this [act]. An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution:

(1) is suspended or disqualified from participation in an interscholastic or intercollegiate [sports] event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or

(2) suffers financial damage.

(b) A plaintiff that prevails in an action under this section may recover [actual damages] [treble damages] [,] [punitive damages,] [and] costs[, and reasonable attorney's fees]. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the agent by or on behalf of the athlete.

[(c) A violation of this [act] is an [unfair trade or deceptive practice] for purposes of [insert reference to state's unfair trade practices law].]

Legislative Note: *If a state has a law that prohibits unfair or deceptive trade practices and provides for civil enforcement by a state agency or persons, including competitors, injured by the practice, the appropriate name for the practice and statutory citation to the applicable law should replace the bracketed language. The drafting rules in some states prohibit what is an amendment by reference and may require the unfair or deceptive trade practices act be amended. In that case, the bill should contain an appropriate amendment of the specific law and subsection (c) should be deleted. Similarly, if a state does not have an unfair or deceptive trade practices law, subsection (c) should be deleted or substantially expanded to provide for civil enforcement by a state agency, affected members of the public, and competitors.*

Comment

The UAAA provided a cause of action for an educational institution against an athlete agent or a student athlete for damages caused by a violation of the act. The amended section, which is based on Section 18897.8 of the California Business and Professions Code, removes the cause of action against a student athlete and gives the student athlete a cause of action against the athlete agent.

The cause of action for a student athlete applies to a student athlete who is suspended or disqualified or suffers financial damage as a result of the act or omission of an athlete agent in violation of the act. An action based on suspension or disqualification is clear, as is an action based on financial damages resulting from an act or omission, such as fraud or misappropriation of funds, with respect to the student athlete bringing the action. The committee did not intend to preclude an action by one student athlete against an agent based on an act or omission with respect to a second student athlete that resulted in the second student athlete being suspended or disqualified or the institution being sanctioned if the first student athlete can prove financial damages.

SECTION 17. CIVIL PENALTY. The [Secretary of State] [commission] may assess a civil penalty against an athlete agent not to exceed \$[50,000] for a violation of this [act].

Comment

The procedure for imposing an administrative penalty and complying with due process requirements are left to the adopting state's administrative procedure law.

[SECTION 18. INTERSTATE COMPACT FOR REGISTRATION OF ATHLETE AGENTS.

(a) In enacting this [act], this state adopts the Interstate Compact for Registration of Athlete Agents and agrees to participate with other states enacting those provisions in maintaining the Commission on Interstate Registration of Athlete Agents.

(b) Once effective, the compact continues in force and, except as otherwise provided in subsection (c), remains binding on each member state.

(c) A member state may withdraw from the compact by repealing the portions of the statute that enacted the compact into law. The withdrawal may not take effect until one year after the effective date of the statute that repeals the portions of the statute that enacted the compact into law and until written notice of the withdrawal has been given by the Governor and Secretary of State of the withdrawing state to the Governor and Secretary of State of each member state.

(d) A member state immediately shall notify the executive director of the commission in a record of the introduction of legislation to repeal the compact in the member state. Not later than 60 days after receipt of the notice, the executive director shall notify other member states of the introduction of the legislation.

(e) A state withdrawing from the compact under subsection (c) is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extend beyond the effective date of withdrawal.

(f) The compact is dissolved effective on the date of the withdrawal of the member state that reduces the membership in the compact to fewer than five states. On dissolution, the

compact has no further effect, and the affairs of the commission must be concluded and assets distributed in accordance with the commission's bylaws.]

Comment

This section is the part of Alternative B which formally creates the Interstate Compact on Registration of Athlete Agents and provides the procedure for a state that has entered into the compact to withdraw from the compact.

SECTION 19. UNIFORMITY OF APPLICATION AND CONSTRUCTION. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

SECTION 20. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. This [act] modifies, limits, or supersedes the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

Comment

The Electronic Signatures in Global and National Commerce Act (ESGNCA) contains provisions governing the legal effect, validity, or enforceability of electronic records and electronic signatures. The act recognizes contracts which have been formed with the use of electronic records or electronic signatures even though the Drafting Committee recommends that agency contracts be in the traditional written form.

[SECTION 21. SEVERABILITY. If any provision of this [act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [act] which can be given effect without the invalid provision or application, and to this end the provisions of this [act] are severable.]

Legislative Note: Include this section only if this state lacks a general severability statute or a decision by the highest court of this state stating a general rule of severability.

SECTION 22. REPEALS; CONFORMING AMENDMENTS.

(a)

(b)

(c)

SECTION 23. EFFECTIVE DATE. This [act] takes effect