AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000) (____)

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

November 7-8, 2014 Committee Meeting Draft

*Post meeting revisions highlighted in yellow*

WITH COMMENTS

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January 6, 2015
AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000)-(____)

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AMENDMENTS TO UNIFORM ATHLETE AGENTS ACT (2000) (___)

SECTION 1. SHORT TITLE. This Act may be cited as the Uniform Athlete Agents Act.

Comment

The title Uniform Athlete Agents Act was selected because a majority of the existing acts regulating the activities of agents representing athletes have similar titles.

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 student-athlete a professional-sports-services contract or an endorsement contract.

(2) “Athlete agent” means an individual who, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, or grandparent of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(2) “Athlete agent”:

(A) means an individual 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 as a member of a professional sports team or organization;

(ii) for compensation or the anticipation of compensation:

(I) represents a student athlete for a purpose related to the athlete’s
participation in professional athletics;

(II) serves a student athlete in an advisory capacity on a matter related to finances, business pursuits or ventures, 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

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

(iii) seeks to obtain financial gain or benefit from securing the enrollment of a student athlete at an educational institution, unless the individual is an employee of the institution acting exclusively for the benefit of the institution.

(iii) gives consideration to a student athlete in anticipation of:

(I) representing the athlete for a purpose related to the athlete’s participation in athletics;

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

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

(B) does not include an individual:

(i) an individual acting solely on behalf of a professional sports team or organization; or

(ii) an individual who is a licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, or member of another licensed, registered, or certified profession when the individual
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 student 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 as a member of a professional sports team or organization; or

(III) provides the service on a compensation basis different from the compensation basis 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.

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

(4) “Contact” means a communication, direct or indirect, between an athlete agent and a student athlete, to recruit or solicit the student athlete to enter into an agency contract.

(5) “Educational institution” includes a public or private elementary school, secondary school, community college, college, university, or other educational institution.

(5) (6) “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 student athlete may have because of publicity, reputation, following, or
fame obtained because of athletic ability or performance.

(7) “Enrolled” means registered for courses and attending athletic practice or class.

(6) (8) “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.

(9) “Interscholastic sport” means a sport played between educational institutions that are not a community college, college, or university.

(10) “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 another profession 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, and testing and requires continuing education to maintain the license, registration, or certification. The term does not include an athlete agent.

(7) (11) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, business or nonprofit entity, public corporation, government, or governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(8) (12) “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, or as a professional athlete.

(9) (13) “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.

(14) “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 economic benefit, directly or indirectly, from the agent.

(10) (15) “Registration” means registration as an athlete agent pursuant to under this [Act act].

(16) “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.

(11) (17) “State” means a State 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.

(12) (18) “Student-athlete Student athlete” means an individual who is eligible to attend an educational institution and who engages in, is eligible to engage in, or may be eligible in the future to engage in, any interscholastic or intercollegiate sport. If an individual is permanently ineligible to participate in a particular interscholastic or intercollegiate sport, the individual is not a student-athlete student athlete for purposes of that sport.

Comment

Only individuals are within the definition of “athlete agent” and therefore required to register under Section 5. 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. Attorneys are not excluded
from the definition. An attorney does not need to comply with the provisions of this act in order
to provide legal services to a student-athlete, but is required to register to perform the services of
an athlete agent.

Representatives of “professional sports teams or professional sports organizations,” such
as baseball teams, are excluded from the definition of “athlete agent” as long as they are acting
for their teams or organizations. If a representative should attempt to induce a student-athlete to
enter into an agency contract, rather than a contract with the team or organization, registration is
required. Also excluded from the definition are individuals who simply provide information to a
student-athlete, but who do not recruit or solicit the student-athlete to sign an agency contract.
For example, a professional athlete who gives a student-athlete information about the
qualifications of an athlete agent is not required to register unless the professional athlete also
attempts to recruit or solicit the student-athlete to sign an agency contract. In the exclusion of
certain family members from the definition of “athlete agent,” the phrase “or guardian” is
bracketed because some States may use another term to describe an individual who has legal
responsibility for the care of another.

The proposed 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, for compensation:

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

(2) represents a student athlete as an athlete;

(3) advises a student athlete on finances, business ventures, or career management;

(4) manages the business affairs of a student athlete; or

(5) secures the enrollment of a student athlete at a particular institution.

The term does not include a licensed professional acting within the scope of his or her
license 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.

The definition of “contact” does not include communications which merely provide
information to the student-athlete. For example, a communication about the position a student-
athlete could reasonably expect to have in a professional draft does not constitute recruitment or
solicitation to enter into an agency contract.

Athlete agents are providing benefits to students as early as elementary school if the
student appears to have long-term professional sports capability. For example, agents have been
known to provide athletic shoes and other athletic equipment to student athletes at an early age.
This could cause the student athlete to lose his or her eligibility to participate in intercollegiate
sports. Accordingly, a definition of educational institution is added and the definition of student
athlete is revised to make clear that the act applies to a student athlete enrolled at any level of
public or private 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 studentathlete 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. 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. SERVICE OF PROCESS; SUBPOENAS [SECRETARY OF STATE]; 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) The [Administrative Procedure Act] of the state in which the commission is located applies to this [act]. The commission may adopt rules under the [Administrative Procedure Act] 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.
The [Secretary of State] [commission] may issue subpoenas for any material that is relevant to the administration of this [Act].

Comment

The office of Secretary of State has been designated as the administrator of existing acts regulating the activities of athlete agents more frequently than any other office. The office of Secretary of State is referred to in subsection (b) and throughout this act. 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 (b) is in brackets because it may not be required under the administrative procedure acts of some States. If subsection (b) is not used, the remainder of the section should not be designated as (a).

SECTION 4. ATHLETE AGENTS: REGISTRATION REQUIRED; VOID CONTRACTS

(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 Section [5, 6, or 8].

(b) Before being issued a certificate of registration under Section [5, 6, or 8], 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 student-athlete initiates communication with the individual; and

(2) within 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 agency contract. If the individual does not attempt to recruit or solicit the student-athlete to sign an agency contract, registration is not required. References to “days” in this section and throughout the act mean calendar days.

In addition to the penalties which 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 contract is void, not merely voidable.

Alternative A

*Legislative Note: There are two alternatives for Sections 5, 6, 7, 8, and 9. Alternative A establishes a registration system in the enacting state that 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 and 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 the 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 is to delegate the responsibility for the registration of athlete agents in a state adopting the compact and the civil enforcement of the act to a central entity created by the compact. States adopting Alternative B will also have to amend Section 2 to include a definition of commission for the new central registration agency, add a section containing language formally creating the Interstate Compact, make conforming changes replacing [Secretary of State] with the commission in Sections 3 and 17, and additional conforming changes in Section 4.*
registration to the [Secretary of State] in a form prescribed by the [Secretary of State]. Information on the application which is a trade secret or is personal information the disclosure of which would constitute an unwarranted invasion of personal privacy is not a public record under the [state’s public records act]. The application must be in the name of an individual and, except as otherwise provided in subsection (b), signed or otherwise authenticated by the applicant under penalty of perjury. The application must state or contain at least the following:

1. The name, [last four digits of the applicant’s] Social Security number, birthdate, and birthplace of the applicant and the contact information for the applicant, including the address of the applicant’s principal place of business, work and mobile telephone numbers, facsimile number, electronic-mail address, and personal and organization 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 organization is affiliated;

4. Any business or occupation engaged in by the applicant for which the applicant engaged during the five years next preceding before the date of submission of the application, including self-employment and employment by others, and any professional or occupational license held by the applicant;

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;

(5) the names and addresses of three individuals not related to the applicant who are willing to serve as references;

(6) the name, sport, and last-known team for each individual for whom the applicant acted as an athlete agent during the five years next preceding before the date of submission of the application;

(7) the names and addresses of all persons who are each person that is:

(A) with respect to the athlete agent’s business if it is not a corporation, the partners, members, officers, managers, associates, or profit sharers a partner, member, officer, manager, associate, or profit sharer of the business; and

(B) with respect to a corporation employing the athlete agent, the officers, directors, an officer or director and any shareholder of the corporation having an interest of five percent or greater;

(8) a description of the status of any application by the applicant, or any person named under paragraph (7), for a 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;

(8) (9) whether the applicant, or any person named pursuant to under paragraph (7), has pleaded guilty to or been convicted of, or has charges pending for, a crime that, if committed in this state, would be a crime involving moral turpitude or 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, identify the date of each proceeding and explain each occurrence fully;

(11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment of continuing effect, including [alimony] or a domestic order in the nature of child support;

(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;

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

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

(15) any sanction, suspension, or disciplinary action taken against the applicant, or any person named pursuant to under paragraph (7), arising out of occupational or professional conduct; and
(16) whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, abandonment of, or limitation for any reason of, the registration or licensure of the applicant, or any person named pursuant to 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; and

(18) if the applicant is certified or registered by any professional organization league or players’ association, the name of the organization league or association, the date of certification or registration, and the date of expiration of the certification or registration, if any, and if applicable, the date of any denial of an application for, refusal to renew, suspension or revocation of, withdrawal of, or termination of the certification or registration or any reprimand or censure related to the certification or registration.

(b) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another State, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a). The Secretary of State shall accept the application and the certificate from the other State as an application for registration in this State if the application to the other State:

(1) was submitted in the other State within six months next preceding the submission of the application in this State and the applicant certifies that the information contained in the application is current;

(2) contains information substantially similar to or more comprehensive than that required in an application submitted in this State; and

(3) was signed by the applicant under penalty of perjury.
(b) Instead of proceeding under subsection (a), an individual registered as an athlete agent in another state may apply for registration in this state by submitting to the [Secretary of State] a copy of the application for registration and a statement identifying any change in the information on the application, or that there is no material change in the information, signed under penalty of perjury, the certificate of registration from the other state, and the applicable fee. The [Secretary of State] shall issue a certificate of registration to the individual 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 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 a registration in any state in which the individual is registered.

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

(1) cooperate with national organizations concerned with athlete agent issues and agencies in other states that 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, with those organizations and agencies.

Comment

Most of the requirements for disclosure in an application for registration found in subsection (a) are similar to requirements imposed by existing acts. Subsection (a)(6) is not intended to cause an athlete agent who is also an attorney to violate the attorney-client privilege. If an attorney’s role is limited to providing legal services to a student-athlete, the attorney is not required to register as an athlete agent or comply with this act. An attorney’s actions as an athlete agent, however, are outside the scope of legal services, there is no privilege and the attorney must comply with this act.
It is the intent of this section to require that records concerning registration of athletes be open to the public. The provision in subsection (a) about an application being a public record is bracketed because it is not necessary in States which have other applicable law causing the records to be open to the public.

Subsection (b) provides for reciprocal use of applications in States which have adopted the Uniform Act. The need for an agent to comply with substantially different application procedures in multiple jurisdictions is eliminated. It is the first of a number of reciprocity provisions found in the act which are intended to ease the burden placed on agents by substantially different registration requirements and to simplify enforcement of the act. Absence of reciprocity provisions in existing acts is a primary reason why the Uniform Act is needed.

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 state A applies for registration in state B, state B is required to grant the registration if it determines the law in state A is the same or more restrictive than the law in state B, 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) and 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 organization, 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 individual who complies with Section 5(a) or whose application has been accepted under Section 5(b).

(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 has a significant adverse effect 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) been convicted of a crime that, if committed in this State, would be a
crime involving moral turpitude or 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 or licensure as an athlete agent suspended, revoked, or
denied or been refused renewal of registration or licensure as an athlete agent in any State state;

(6) engaged in conduct the consequence of which was that a sanction, suspension,
or declaration of ineligibility to participate in an interscholastic or intercollegiate, or
professional athletic event was imposed on a student-athlete or a sanction was
imposed on an educational institution; or

(7) engaged in conduct that significantly 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) any 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]. [An
application filed under this section is a public record.] The application for renewal must be
signed by the applicant under penalty of perjury and must contain current information on all
matters required in an original application for registration.

(e) An individual who has submitted an application for renewal of registration or licensure in another State, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (d), may file a copy of the application for renewal and a valid certificate of registration or licensure from the other State. The Secretary of State shall accept the application for renewal from the other State as an application for renewal in this State if the application to the other State:

(1) was submitted in the other State within six months next preceding the filing in this State and the applicant certifies the information contained in the application for renewal is current;

(2) contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this State; and

(3) was signed by the applicant under penalty of perjury.

(e) An athlete agent who is registered under Section 5(b) 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 a copy of the application for renewal in the other state and the renewal registration from the other state and paying the applicable fee. 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 revoked or suspended and no action involving the individual’s conduct as an athlete agent is pending against the individual or a registration in any state in which the individual is registered.
(f) A certificate of registration or a renewal of a registration under this act is valid for two years.

(g) The Secretary of State may refuse to issue a certificate of registration under subsection (b) only after proper notice and an opportunity for a hearing.

Comment

This section includes many of the factors which are considered in determining whether to register athlete agents under existing legislation. In addition, the Secretary of State is authorized to consider action taken in another State, which has adopted the Uniform Act, regarding registration or licensure.

A requirement that Secretaries of State exchange information about denial, suspension, revocation or refusal to renew registration of athlete agents is beyond the scope of this act. Since an agreement to exchange such information would reduce the expense of administering this act and provide for more effective enforcement, it seems likely the Secretaries of State will enter into such an agreement.

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

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

(b) The Secretary of State may suspend or revoke the registration of an individual registered under Section 5(b) or 6(c) for any reason for which the Secretary of State could have refused to grant or renew registration or for conduct for which the Secretary of State could have denied registration of an individual applying under Section 5(a).

(c) The Secretary of State may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure under this act only after proper notice and an opportunity for a hearing. The Administrative Procedures Act applies to this Act.
Comment

By reference to Section 6(b), this section permits the Secretary of State to consider, among other things, actions in another State to suspend, revoke, or refuse to renew registration. “Administrative Procedures Act” is bracketed because some States may refer to laws relating to due process in administrative procedures by another name.

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 an application for registration based on a certificate of registration or license issued by another State;

(3) [$$] for an application for renewal of registration; or

(4) [$$] for an application for renewal of registration based on an application for a renewal of registration or license submitted 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**

**SECTION 5. COMMISSION ON INTERSTATE REGISTRATION OF ATHLETE AGENTS.**

(a) The Commission on Interstate Registration of Athlete Agents is hereby created. The commission is a body corporate and joint agency of the states that enact this [act]. The commission consists of one member from each state enacting this [act] appointed by the Governor of that state.

(b) The first meeting of the commission shall be held within [90] days after the [5th] state enacts this [act]. A majority of the states enacting this [act] constitutes a quorum for the conduct of business.

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

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

(d) The commission:

1. shall pay or provide for the payment of the reasonable expenses of the
establishment, organization, and ongoing activities of the commission;

(2) may accept any appropriate revenue source, donation, and grant of money, equipment, supplies, materials, and services;

(3) may assess each member state annually on a basis determined by the commission to cover the cost of operation of the commission not funded by registration fees imposed under subsection (b)(3);

(4) may not incur obligation of any kind prior to securing the funds adequate to meet the obligation or pledge the credit of a member state, except with the authority of the member state; and

(5) shall keep accurate accounts of all receipts and disbursements, subject to audit and accounting procedures established under its bylaws.

(e) The receipts and disbursements of funds by the commission shall be audited yearly by a certified or licensed public accountant and the report of the audit shall be included in the annual report of the commission.

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. Information on the application which is a trade secret or is personal information the disclosure of which would constitute an unwarranted invasion of personal privacy is not a public record. The application must be in the name of an individual and signed or otherwise authenticated by the applicant under penalty of perjury. The application must state or contain at least the following:

(1) the name, [last four digits of the applicant’s] Social Security number, birth date, and birthplace of the applicant and the contact information for the applicant, including the address of
the applicant’s principal place of business, work and mobile telephone numbers, facsimile number, electronic-mail address, and personal and organization 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 organization is affiliated;

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

(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, sport, and last-known team for each individual for whom the applicant acted as an athlete agent during the five years before the date of the application;

(7) the names and addresses of each person that is:

    (A) with respect to the athlete agent’s business if it is not a corporation, a partner, member, officer, manager, associate, or profit sharer of the business; and

    (B) with respect to a corporation employing the athlete agent, an officer or director and any shareholder of the corporation having an interest of five percent or greater;

(8) a description of the status of any application by the applicant, or any person named
under paragraph (7), for a 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 to or been convicted of, or has charges pending for, a crime that, if committed in this state, involving moral turpitude or 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, identify the date of each proceeding and explain each occurrence fully;

(11) whether the applicant, or any person named under paragraph (7), has an unsatisfied judgment of continuing effect, including [alimony] or a domestic order in the nature of child support;

(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) any 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) any 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, or
refusal to renew, abandonment of, or limitation for any reason 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 any professional organization, the name
of the organization, the date of certification or registration, and the date of expiration of the
certification or registration, if any, and if applicable, the date of any denial of an application for,
refusal to renew, suspension or revocation of, 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.

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 individual 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 has a significant adverse effect on the applicant’s fitness to act as an athlete agent.
In making the determination, the commission may consider whether the applicant has:

1. been convicted of a crime involving moral turpitude or 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 or been refused renewal of registration as an athlete agent in any state;
6. engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic event was imposed on a student athlete or a sanction was imposed on an educational institution; or
7. engaged in conduct that significantly 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. any 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 application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original application for registration.
(e) The commission may refuse to issue a certificate of registration under subsection (b) only after proper notice and an opportunity for a hearing. The Administrative Procedures Act of the state in which the commission is located applies to this act.

SECTION 8. SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION. The commission may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under Section 7(b).

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.

End of Alternatives

SECTION 10. REQUIRED FORM OF AGENCY CONTRACT.

(a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

(1) A statement that the athlete agent is registered as an athlete agent in the 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 athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(3) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student athlete signed the agency contract;
a description of any expenses that the student-athlete agrees to reimburse;

a description of the services to be provided to the student-athlete;

the duration of the contract; and

the date of execution.

(c) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters in substantially the following form stating:

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 ENTERING INTO 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; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) An agency contract must be accompanied by a separate record executed by the student athlete acknowledging that executing the agency contract may result in the loss of the athlete’s eligibility to participate in the athlete’s sport.
An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

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. The Drafting Committee preferred to require that agency contracts be in traditional written form. However, the adoption of the Electronic Signatures in Global and National Commerce Act (see Section 19) eliminated that option.

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.

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.

SECTION 11. NOTICE TO EDUCATIONAL INSTITUTION.

Within 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 student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(b) Within 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 student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

(c) Not later than 72 hours after a student athlete enrolls at an educational institution, an athlete agent who previously entered into an agency contract with the athlete shall notify the athletic director of the institution of the existence of the contract.

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.

SECTION 12. STUDENT-ATHLETE’S RIGHT TO CANCEL.

(a) A student athlete may cancel an agency contract by giving notice in a record of the cancellation to the athlete agent within not later than 14 days after the contract is signed or otherwise authenticated.

(b) A student-athlete may not waive the right to cancel an agency contract.

(c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration.
received from the athlete agent to induce the student-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.

SECTION 13. REQUIRED RECORDS.

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

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

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

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

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

SECTION 14. PROHIBITED CONDUCT.

(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) An athlete agent, with the intent to induce a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, may not:

(1) give any materially false or misleading information or make a materially false promise or representation;
(2) furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(3) furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(b) (c) An athlete agent may not intentionally:

(1) initiate contact with a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete unless registered under this Act;

(2) refuse or fail to retain or permit inspection of the records required by Section 13 to be retained by Section 13;

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

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

(5) predate or postdate an agency contract; or

(6) fail to notify a student-athlete or, if the athlete is a minor, a parent or guardian of the athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

(d) An athlete agent who is aware that an employee or agent of the athlete agent is engaging in conduct on behalf of the athlete agent that is a violation of this act must take effective action to stop the conduct.

(e) Before communicating or attempting to communicate with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to influence the athlete to enter into an
agency contract or before communicating or attempting to communicate with another individual to have that individual influence a student athlete or, if the athlete is a minor, a parent or guardian of the athlete to enter into an agency contract, an athlete agent shall notify in a record the athletic director of the educational institution at which the athlete is enrolled. If the communication or attempt to communicate is initiated by the athlete or another individual on behalf of an athlete, the agent shall notify in a record the athletic director of the institution not later than 10 days after the communication or attempt.

(f) Not later than 10 days after a student athlete enrolls at an educational institution, an athlete agent who has a pre-existing social relationship with the athlete shall notify in a record the athletic director of the institution of the relationship.

(g) An educational institution that becomes aware of a violation of this section must notify the [Secretary of State] [commission] and any professional league or players’ association with which the institution is aware the athlete agent is licensed or registered of the violation.

Comment

This section describes the conduct which gives rise to criminal penalties and civil liabilities under Sections 15 and 16.

Subsection (a)(3) prohibits an athlete agent from making any payment or providing anything of value to an individual who is in a position to influence a student-athlete to enter into an agency contract unless that individual is registered as an athlete agent. There have been numerous instances in which an athlete agent has made payment to or provided something of value to family members, friends or roommates of student-athletes to enlist their services in inducing a student-athlete to sign an agency contract usually without disclosure to the student-athlete.

If a student-athlete signs an agency contract in the form required by Section 10, there is no failure to notify under subsection (b)(6) because the agency contract includes the warning to student-athlete required by Section 10(c).

Subdivision (d) imposes a requirement an athlete agent notify the educational institution in a record before attempting to communicate with a student athlete enrolled at the institution. This provision is one the institutions feel is crucial to trying to control the excesses in the process.
SECTION 15. CRIMINAL PENALTIES. [a] An athlete agent who violates Section 14 is guilty of a [misdemeanor] [felony] and, upon conviction, is punishable by [       ].

(b) Prosecution under this section does not preclude prosecution for the same act under law of this state other than this [act].

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 may also 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 REMEDIES.

(a) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this [Act]. In an action under this section, the court may award to the prevailing party costs and reasonable attorney’s fees.

(b) Damages of an educational institution under subsection (a) include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this [Act] or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the
athlete agent or former student-athlete.

(d) Any liability of the athlete agent or the former student-athlete under this section is

several and not joint.

(e) This [Act] does not restrict rights, remedies, or defenses of any person under law or

equity.

(a) An educational institution or student athlete has a right of action for damages against

an athlete agent if the institution or student athlete is adversely affected by an act or omission of

the agent in violation of this [act]. An educational institution or a 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 and admitted to or enrolled in the

institution:

(1) is suspended or disqualified from participation in one or more interscholastic

or intercollegiate sports events by or under the rules of a state or national federation or

association for the promotion or regulation of interscholastic or intercollegiate sports;

(2) suffers financial damage; or

(3) suffers both suspension or disqualification and 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 shall forfeit 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.

Comment

It is assumed that educational institutions will be very reluctant to bring an action against

a former student-athlete. Public opinion and the desire to be successful in future recruiting of

athletes should cause educational institutions to carefully consider whether to exercise the right
established by subsection (a) in most situations. There are, however, known instances of extremely egregious conduct by student-athletes who received lucrative professional contracts which caused serious damage to educational institutions. Subsection (a) keeps open the possibility of a civil action against those individuals.

Section 16 does not specifically authorize an action by a student-athlete against an athlete agent because the student-athlete can bring an action against an athlete agent under existing law. Subsection (e) preserves the rights of the student-athlete under existing law.

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.

SECTION 17. ADMINISTRATIVE PENALTY. The [Secretary of State] [commission] may assess a civil penalty against an athlete agent not to exceed $[25,000] 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 procedures law.

[SECTION _________.

(a) In enacting Sections 5 through 9 of the [act], the state adopts the Interstate Compact for the Registration of Athlete Agents and agrees to participate with other states enacting those provisions in maintaining the Commission on the Interstate Registration of Athlete Agents.]

(b) Once effective, the compact shall continue in force and, except as otherwise provided in subsection (c), shall remain binding upon each and every member state.

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

(d) A withdrawing state shall immediately notify the executive director of the
commission in writing upon the introduction of legislation repealing the compact in the withdrawing state. The executive director shall notify the other member states of the withdrawing state's intent to withdraw within 60 days of its receipt.

(e) A withdrawing state 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 upon the date of the withdrawal or default of the member state which reduces the membership in the compact to less than [five]. Upon dissolution, the compact is null and void and shall be of no further force or effect, and the business and affairs of the commission shall be concluded and surplus funds shall be distributed in accordance with the bylaws.

SECTION 18. 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 19. RELATION TO ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT. The provisions of this [Act] governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of Section 102 of the Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), and supersede, modify, and limit the 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 (E-SIGN Act) 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 20. 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 21. REPEALS; CONFORMING AMENDMENTS. The following acts and parts of acts are hereby repealed:

(a) . . .
(b) . . .
(c) . . .

SECTION 22. EFFECTIVE DATE. This Act takes effect . . .