

# WEST VIRGINIA LEGISLATURE

## 2018 REGULAR SESSION

Introduced

### House Bill 4446

FISCAL  
NOTE

BY DELEGATES STORCH, FERRO, BARRETT, ELLINGTON,

R. ROMINE AND HAMRICK

[Introduced February 6, 2018; Referred  
to the Committee on the Judiciary then Finance.]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,  
2 designated §21-17-1, §21-17-2, §21-17-3, §21-17-4, §21-17-5, §21-17-6, §21-17-7, §21-  
3 17-8, §21-17-9, §21-17-10, §21-17-11, §21-17-12, §21-17-13, §21-17-14, §21-17-15, §21-  
4 17-16, §21-17-17, §21-17-18, §21-17-19, and §21-17-20, all relating to creating the  
5 Revised Uniform Athlete Agents Act; creating short title; defining terms; requiring  
6 registration for athlete agent; voiding contracts if athlete agent not registered; creating  
7 application process and requirements for athlete agents; establishing reciprocal  
8 registration if certain conditions are met; providing authority of secretary to issue or deny  
9 applications; providing renewal requirements; providing power of secretary to suspend,  
10 revoke, or refuse to renew registration; providing for temporary registration; establishing  
11 fees; requiring terms for validity of contract; requiring notice to educational institution;  
12 providing student right to cancel contract within specified period; requiring athlete agent  
13 retain certain records; establishing prohibited conduct of athlete agent; establishing  
14 criminal penalties; establishing civil remedies for violations of act; establishing civil  
15 penalties; requiring uniformity of application in construction of act; establishing relation to  
16 the Electronic Signatures In Global And National Commerce Act; and providing  
17 severability.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 17. REVISED UNIFORM ATHLETE AGENTS ACT.**

**§21-17-1. Short title.**

1 This article may be cited as the Revised Uniform Athlete Agents Act (2015).

**§21-17-2. Definitions.**

1 In this article:

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

5           (2) “Athlete agent”:

6           (A) Means an individual, whether or not registered under this article, who:

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

11           (ii) For compensation or in anticipation of compensation related to a student athlete’s  
12 participation in athletics;

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

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

18           (iii) In anticipation of representing a student athlete for a purpose related to the athlete’s  
19 participation in athletics;

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

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

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

25           (B) Does not include an individual who:

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

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

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

30           (II) Also, for compensation, procures employment or offers, promises, attempts, or

31 negotiates to obtain employment for the athlete as a professional athlete or member of a  
32 professional sports team or organization; or

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

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

39 (4) "Educational institution" includes a public or private elementary school, secondary  
40 school, technical or vocational school, community college, college, and university.

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

45 (6) "Enrolled" means registered for courses and attending athletic practice or class.  
46 "Enrolls" has a corresponding meaning.

47 (7) "Intercollegiate sport" means a sport played at the collegiate level for which eligibility  
48 requirements for participation by a student athlete are established by a national association that  
49 promotes or regulates collegiate athletics.

50 (8) "Interscholastic sport" means a sport played between educational institutions that are  
51 not community colleges, colleges, or universities.

52 (9) "Licensed, registered, or certified professional" means an individual licensed,  
53 registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real  
54 estate broker or sales agent, tax consultant, accountant, or member of a profession, other than  
55 that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized  
56 organization that licenses, registers, or certifies members of the profession on the basis of

57 experience, education, or testing.

58 (10) "Person" means an individual, estate, business or nonprofit entity, public corporation,  
59 government or governmental subdivision, agency, or instrumentality, or other legal entity.

60 (11) "Professional-sports-services contract" means an agreement under which an  
61 individual is employed as a professional athlete or agrees to render services as a player on a  
62 professional sports team or with a professional sports organization.

63 (12) "Record" means information that is inscribed on a tangible medium or that is stored  
64 in an electronic or other medium and is retrievable in perceivable form.

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

70 (14) "Registration" means registration as an athlete agent under this article.

71 (15) "Sign" means, with present intent to authenticate or adopt a record:

72 (A) To execute or adopt a tangible symbol; or

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

75 (16) "State" means a state of the United States, the District of Columbia, Puerto Rico, the  
76 United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the  
77 United States.

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

**§21-17-3. Secretary of the State Athletic Commission; authority; procedure.**

1 (a) The Secretary of the State Athletic Commission may promulgate rules necessary to  
2 implement this article.

3 (b) By acting as an athlete agent in this state, a nonresident individual appoints the  
4 Secretary of the State Athletic Commission as the individual's agent for service of process in any  
5 civil action in this state related to the individual acting as an athlete agent in this state.

6 (c) The Secretary of the State Athletic Commission may issue a subpoena for material  
7 that is relevant to the administration of this article.

**§21-17-4. Athlete agent: registration required; void contract.**

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

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

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

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

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

**§21-17-5. Registration as athlete agent; application; requirements; reciprocal registration.**

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

6 (1) The name and date and place of birth of the applicant and the following contact

7 information for the applicant:

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

9 (B) Work and mobile telephone numbers; and

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

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

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

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

21 (5) A description of the applicant's:

22 (A) Formal training as an athlete agent;

23 (B) Practical experience as an athlete agent; and

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

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

28 (7) The name and address of each person that:

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

32 (B) Is an officer or director of a corporation employing the athlete agent or a shareholder

33 having an interest of five percent or greater in the corporation;

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

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

43 (A) The crime;

44 (B) The law-enforcement agency involved; and

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

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

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

53 (12) Whether, within ten years before the date of application, the applicant, or any person  
54 named under subdivision (7) of this subsection, was adjudicated bankrupt or was an owner of a  
55 business that was adjudicated bankrupt;

56 (13) Whether there has been any administrative or judicial determination that the  
57 applicant, or any person named under subdivision (7) of this subsection, made a false, misleading,  
58 deceptive, or fraudulent representation;



59 (14) Each instance in which conduct of the applicant, or any person named under  
60 subdivision (7) of this subsection, resulted in the imposition of a sanction, suspension, or  
61 declaration of ineligibility to participate in an interscholastic, intercollegiate, or professional athletic  
62 event on a student athlete or a sanction on an educational institution;

63 (15) Each sanction, suspension, or disciplinary action taken against the applicant, or any  
64 person named under subdivision (7) of this subsection, arising out of occupational or professional  
65 conduct;

66 (16) Whether there has been a denial of an application for, suspension or revocation of,  
67 refusal to renew, or abandonment of, the registration of the applicant, or any person named under  
68 subdivision (7) of this subsection, as an athlete agent in any state;

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

71 (18) If the applicant is certified or registered by a professional league or players  
72 association;

73 (A) The name of the league or association;

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

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

79 (19) Any additional information required by the Secretary of the State Athletic Commission.

80 (b) Instead of proceeding under subsection (a) of this section, an individual registered as  
81 an athlete agent in another state may apply for registration as an athlete agent in this state by  
82 submitting to the Secretary of the State Athletic Commission:

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

84 (2) A statement that identifies any material change in the information on the application or

85 verifies there is no material change in the information, signed under penalty of perjury; and

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

87 (c) The Secretary of the State Athletic Commission shall issue a certificate of registration  
88 to an individual who applies for registration under subsection (b) of this section if the Secretary of  
89 the State Athletic Commission determines:

90 (1) The application and registration requirements of the other state are substantially similar  
91 to or more restrictive than this article; and

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

95 (d) For purposes of implementing subsection (c) of this section, the Secretary of the State  
96 Athletic Commission shall:

97 (1) Cooperate with national organizations concerned with athlete agent issues and  
98 agencies in other states which register athlete agents to develop a common registration form and  
99 determine which states have laws that are substantially similar to or more restrictive than this  
100 article; and

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

**§21-17-6. Certificate of registration; issuance or denial; renewal.**

1 (a) Except as otherwise provided in subsection (b) of this section, the Secretary of the  
2 State Athletic Commission shall issue a certificate of registration to an applicant for registration  
3 who complies with §21-17-5(a) of this code.

4 (b) The Secretary of the State Athletic Commission may refuse to issue a certificate of  
5 registration to an applicant for registration under §21-17-5(a) of this code if the Secretary of the  
6 State Athletic Commission determines that the applicant has engaged in conduct that significantly  
7 adversely reflects on the applicant's fitness to act as an athlete agent. In making the

8 determination, the Secretary of the State Athletic Commission may consider whether the applicant

9 has:

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

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

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

16 (4) Engaged in conduct prohibited by §21-17-14 of this code;

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

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

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

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

24 (c) In making a determination under subsection (b) of this section, the Secretary of the  
25 State Athletic Commission shall consider:

26 (1) How recently the conduct occurred;

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

28 (3) Other relevant conduct of the applicant.

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

34 (e) An athlete agent registered under §21-17-5(c) of this code may renew the registration  
35 by proceeding under subsection (d) of this section or, if the registration in the other state has been  
36 renewed, by submitting to the Secretary of the State Athletic Commission copies of the application  
37 for renewal in the other state and the renewed registration from the other state. The Secretary of  
38 the State Athletic Commission shall renew the registration if the Secretary of the State Athletic  
39 Commission determines:

40 (1) The registration requirements of the other state are substantially similar to or more  
41 restrictive than this article; and

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

45 (f) A certificate of registration or renewal of registration under this article is valid for two  
46 years.

**§21-17-7. Suspension, revocation, or refusal to renew registration.**

1 (a) The Secretary of the State Athletic Commission may limit, suspend, revoke, or refuse  
2 to renew a registration of an individual registered under §21-17-6(a) of this code for conduct that  
3 would have justified refusal to issue a certificate of registration under §21-17-6(b) of this code.

4 (b) The Secretary of the State Athletic Commission may suspend or revoke the registration  
5 of an individual registered under §21-17-5(c) of this code or renewed under §21-17-6(e) of this  
6 code for any reason for which the Secretary of the State Athletic Commission could have refused  
7 to grant or renew registration or for conduct that would justify refusal to issue a certificate of  
8 registration under §21-17-6(b) of this code.

**§21-17-8. Temporary Registration.**

1 The Secretary of the State Athletic Commission may issue a temporary certificate of  
2 registration as an athlete agent while an application for registration or renewal of registration is  
3 pending.

**§21-17-9. Registration and Renewal Fees.**

1        An application for registration or renewal of registration as an athlete agent must be  
2 accompanied by a fee in the following amount:

- 3        (1) \$1,000 for an initial application for registration;
- 4        (2) \$750 for registration based on a certificate of registration issued by another state;
- 5        (3) \$350 for an application for renewal of registration; or
- 6        (4) \$250 for renewal of registration based on a renewal of registration in another state.

**§21-17-10. Required form of agency contract.**

1        (a) An agency contract must be in a record signed by the parties.  
2        (b) An agency contract must contain:  
3        (1) A statement that the athlete agent is registered as an athlete agent in this state and a  
4 list of any other states in which the agent is registered as an athlete agent;

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

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

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

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

13        (6) The duration of the contract; and

14        (7) The date of execution.

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

17        WARNING TO STUDENT ATHLETE

18        IF YOU SIGN THIS CONTRACT:

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

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

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

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

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

37           (f) At the time an agency contract is executed, the athlete agent shall give the student  
38 athlete or, if the athlete is a minor, the parent or guardian of the athlete a copy in a record of the  
39 contract and the separate acknowledgement required by subsection (d) of this section.

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

**§21-17-11. Notice to educational institution.**

1           (a) In this section, "communicating or attempting to communicate" means contacting or

2 attempting to contact by an in-person meeting, a record, or any other method that conveys or  
3 attempts to convey a message.

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

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

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

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

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

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

26 (f) An athlete agent shall give notice in a record to the athletic director of any educational  
27 institution at which a student athlete is enrolled before the agent communicates or attempts to

28 communicate with:

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

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

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

37 (h) An educational institution that becomes aware of a violation of this article by an athlete  
38 agent shall notify the Secretary of the State Athletic Commission and any professional league or  
39 players association with which the institution is aware the agent is licensed or registered of the  
40 violation.

**§21-17-12. Student athlete's right to cancel.**

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

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

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

**§21-17-13. Required records.**

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

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

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



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

6           (b) Records described in subsection (a) of this section are open to inspection by the  
7 Secretary of the State Athletic Commission during normal business hours.

**§21-17-14. Prohibited conduct.**

1           (a) An athlete agent, with the intent to influence a student athlete or, if the athlete is a  
2 minor, a parent or guardian of the athlete to enter into an agency contract, may not take any of  
3 the following actions or encourage any other individual to take or assist any other individual in  
4 taking any of the following actions on behalf of the agent:

5           (1) Give materially false or misleading information or make a materially false promise or  
6 representation;

7           (2) Furnish anything of value to the athlete before the athlete enters into the contract; or

8           (3) Furnish anything of value to an individual other than the athlete or another registered  
9 athlete agent.

10          (b) An athlete agent may not intentionally do any of the following or encourage any other  
11 individual to do any of the following on behalf of the agent:

12          (1) Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor,  
13 a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an  
14 agency contract unless registered under this article;

15          (2) Fail to create or retain or to permit inspection of the records required by §21-17-13 of  
16 this code;

17          (3) Fail to register when required by §21-17-4 of this code;

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

20          (5) Predate or postdate an agency contract; or

21          (6) Fail to notify a student athlete or, if the athlete is a minor, a parent or guardian of the

22 athlete, before the athlete, parent, or guardian signs an agency contract for a particular sport that  
23 the signing may make the athlete ineligible to participate as a student athlete in that sport.

**§21-17-15. Criminal penalty.**

1 An athlete agent who violates §21-17-14 of this code is guilty of a misdemeanor and, on  
2 conviction, is punishable by a fine not exceeding \$100,000.

**§21-17-16. Civil remedy.**

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

6 (1) Is suspended or disqualified from participation in an interscholastic or intercollegiate  
7 sporting event by or under the rules of a state or national federation or association that promotes  
8 or regulates interscholastic or intercollegiate sports; or

9 (2) Suffers financial damage.

10 (b) A plaintiff that prevails in an action under this section may recover actual damages,  
11 treble damages, punitive damages, costs, and reasonable attorney's fees. An athlete agent found  
12 liable under this section shall be deemed to have engaged in an unfair trade or deceptive practice  
13 and forfeits any right of payment for anything of benefit or value provided to the student athlete  
14 and shall refund any consideration paid to the agent by or on behalf of the athlete.

**§21-17-17. Civil penalty.**

1 The Secretary of the State Athletic Commission may assess a civil penalty against an  
2 athlete agent not to exceed \$50,000 for a violation of this article.

**§21-17-18. Uniformity of application and construction.**

1 In applying and construing this uniform act, consideration must be given to the need to  
2 promote uniformity of the law with respect to its subject matter among states that enact it.

**§21-17-19. Relation to Electronic Signatures In Global And National Commerce Act.**

1           This article modifies, limits, or supersedes the Electronic Signatures in Global and National  
2 Commerce Act, 15 U.S.C. Section 7001 et seq., but does not modify, limit, or supersede Section  
3 101(c) of that act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices  
4 described in Section 103 (b) of that act, 15 U.S.C. Section 7003(b).

**§21-17-20. Severability.**

1           If any provision of this article or its application to any person or circumstance is held invalid,  
2 the invalidity does not affect other provisions or applications of this article which can be given  
3 effect without the invalid provision or application, and to this end the provisions of this article are  
4 severable.

NOTE: The purpose of this bill is to create the Revised Uniform Athlete Agents Act; create a short title; define terms; require registration for athlete agent; void contracts if athlete agent not registered; create application process and requirements for athlete agents; establish reciprocal registration if certain conditions are met; provide authority of secretary to issue or deny applications; provide renewal requirements; provide power of secretary to suspend, revoke, or refuse to renew registration; provide for temporary registration; establish fees; require terms for validity of contract; require notice to educational institution; provide student right to cancel contract within specified period; require athlete agent retain certain records; establish prohibited conduct of athlete agent; establish criminal penalties; establish civil remedies for violations of act; establish civil penalties; require uniformity of application in construction of act; establish relation to the Electronic Signatures In Global And National Commerce Act; and provide severability.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.