

**SUBSTITUTE FOR
HOUSE BILL NO. 4857**

A bill to regulate certain contracts and transactions and involving athlete agents and student athletes in this state; to require certain disclosures; to create certain causes of action; and to provide for remedies and penalties.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "uniform athlete agents act".

3 Sec. 3. As used in this act:

4 (a) "Agency contract" means an agreement in which a
5 student-athlete authorizes a person to negotiate or solicit on
6 behalf of the student-athlete a professional sports-services con-
7 tract or an endorsement contract.

8 (b) "Athlete agent" means an individual who enters into an
9 agency contract with a student-athlete or, directly or

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1 indirectly, recruits or solicits a student-athlete to enter into
2 an agency contract and includes an individual who represents to
3 the public that he or she is an athlete agent. Athlete agent
4 does not include a spouse, parent, sibling, grandparent, or
5 guardian of the student-athlete or an individual acting solely on
6 behalf of a professional sports team or professional sports
7 organization.

8 (c) "Athletic director" means an individual responsible for
9 administering the overall athletic program of an educational
10 institution or, if an educational institution has separately
11 administered athletic programs for male students and female stu-
12 dents, the athletic program for males or the athletic program for
13 females, as appropriate.

14 (d) "Contact" means a communication, direct or indirect,
15 between an athlete agent and a student-athlete, intended to
16 recruit or solicit the student-athlete to enter into an agency
17 contract.

18 (e) "Endorsement contract" means an agreement under which a
19 student-athlete is employed or receives consideration to use on
20 behalf of the other party any value that the student-athlete may
21 have because of publicity, reputation, following, or fame
22 obtained resulting from athletic ability or performance.

23 (f) "Intercollegiate sport" means a sport played at the col-
24 legiate level for which eligibility requirements for participa-
25 tion by a student-athlete are established by a national

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1 association for the promotion or regulation of collegiate
2 athletics.

3 (g) "Person" means an individual, corporation, business
4 trust, estate, trust, partnership, limited liability company,
5 association, joint venture, government, governmental subdivision,
6 or any other legal or commercial entity.

7 (h) "Professional sports-services contract" means an agree-
8 ment under which an individual is employed, or agrees to render
9 services, as a player on a professional sports team, with a pro-
10 fessional sports organization or as a professional athlete.

11 (i) "Record" means information that is inscribed on a tangi-
12 ble medium or that is stored in an electronic or other medium and
13 is retrievable in perceivable form.

[(j) "State" means a state of the United States, the District of
Columbia, Puerto Rico, the United States Virgin Islands, or any territory
or insular possession subject to the jurisdiction of the United States.]

14 [(k)] "Student-athlete" means an individual who engages in, is
15 eligible to engage in, or may be eligible in the future to engage
16 in, any intercollegiate sport. An individual permanently ineli-
17 gible to participate in a particular intercollegiate sport is not
18 a student-athlete for purposes of that sport.

19 Sec. 5. (1) Within at least 3 days before execution of an
20 agency contract, the athlete agent shall provide to a student
21 athlete the following information in writing:

22 (a) The name of the athlete agent and the address of the
23 athlete agent's principal place of business.

24 (b) The name of the athlete agent's business or employer, if
25 applicable.

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1 (c) Any business or occupation engaged in by the athlete
2 agent for the 5 years preceding the date of the execution of the
3 agency contract.

4 (d) A description of the athlete agent's formal training as
5 an athlete agent, practical experience as an athlete agent, and
6 educational background relating to the activities as an athlete
7 agent.

8 (e) The names and addresses of 3 individuals not related to
9 the athlete agent who are willing to serve as references.

10 (f) The name, sport, and last known team for each individual
11 for whom the athlete agent acted as an athlete agent during the 5
12 years preceding the date of the execution of the agency
13 contract.

14 (g) The names and addresses of all persons who are, with
15 respect to the athlete agent's business if it is not a corpora-
16 tion, the partners, members, officers, managers, associates, or
17 profit-sharers of the business and, with respect to a corporation
18 employing the athlete agent, the officers, directors, and any
19 shareholder of the corporation having an interest of 5% or
20 greater.

21 (h) Whether the athlete agent or any person named under sub-
22 division (g) has been convicted of a crime that, if committed in
23 this state, would be a crime involving moral turpitude or a
24 felony, and identify the crime.

25 (i) Whether there has been any administrative or judicial
26 determination that the athlete agent or any person named under

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1 subdivision (g) has made a false, misleading, deceptive, or
2 fraudulent representation.

3 (j) Any instance in which the conduct of the athlete agent
4 or any person named under subdivision (g) resulted in the imposi-
5 tion of a sanction, suspension, or declaration of ineligibility
6 to participate in an interscholastic or intercollegiate athletic
7 event on a student-athlete or educational institution.

8 (k) Any sanction, suspension, or disciplinary action taken
9 against the athlete agent or any person named under subdivision
10 (g) arising out of occupational or professional conduct.

11 (l) Whether there has been any denial of an application for,
12 suspension or revocation of, or refusal to renew, the registra-
13 tion or licensure of the applicant or any person named under sub-
14 division (g) as an athlete agent in any state.

15 (2) An individual who has submitted an application for, and
16 holds a certificate of, registration or licensure as an athlete
17 agent in another state may submit a copy of the application and
18 certificate in lieu of submitting the written disclosure under
19 subsection (1).

20 Sec. 7. (1) An agency contract must be in a record and
21 signed or otherwise authenticated by the parties.

22 (2) An agency contract must state or contain all of the
23 following:

24 (a) The amount and method of calculating the consideration
25 to be paid by the student-athlete for services to be provided by
26 the athlete agent under the contract and any other consideration

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1 the athlete agent has received or will receive from any other
2 source for entering into the contract or for providing the
3 services.

4 (b) The name of any person not listed in the written disclo-
5 sure required under section 5 who will be compensated as a result
6 of the student-athlete signing the agency contract.

7 (c) A description of any expenses that the student-athlete
8 agrees to reimburse.

9 (d) A description of the services to be provided to the
10 student-athlete.

11 (e) The duration of the agency contract.

12 (f) The date of execution.

13 (3) An agency contract must contain, in close proximity to
14 the signature of the student-athlete, a conspicuous notice in
15 boldfaced type in capital letters stating the following:

16 **WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT:**

17 **(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A**
18 **STUDENT-ATHLETE IN YOUR SPORT.**

19 **(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER**
20 **ENTERING INTO THIS CONTRACT OR BEFORE YOUR NEXT SCHEDULED**
21 **ATHLETIC EVENT, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE**
22 **AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR.**

23 **(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER**
24 **SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR**
25 **ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE.**

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1 (4) An agency contract that does not substantially conform
2 to this section is voidable by the student-athlete. If a
3 student-athlete voids an agency contract, the student-athlete is
4 not required to pay any consideration under the contract or to
5 return any consideration received from the athlete agent to
6 induce the student-athlete to enter into the contract.

7 (5) The athlete agent shall give a record of the signed or
8 otherwise authenticated agency contract to the student-athlete at
9 the time of execution.

10 Sec. 9. (1) Within 72 hours after entering into an agency
11 contract or before the next scheduled athletic event in which the
12 student-athlete may participate, whichever occurs first, the ath-
13 lete agent shall give notice in a record of the existence of the
14 agency contract to the athletic director of the educational
15 institution at which the student-athlete is enrolled or the ath-
16 lete agent has reasonable grounds to believe the student-athlete
17 intends to enroll.

18 (2) Within 72 hours after entering into an agency contract
19 or before the next athletic event in which the student-athlete
20 may participate, whichever occurs first, the student-athlete
21 shall inform the athletic director of the educational institution
22 at which the student-athlete is enrolled that he or she has
23 entered into an agency contract.

24 Sec. 11. (1) A student-athlete may cancel an agency con-
25 tract by giving notice of the cancellation to the athlete agent
26 in a record within 14 days after the agency contract is signed.

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1 (2) The right to cancel an agency contract described in
2 subsection (1) cannot be waived by either party to the agency
3 contract.

4 (3) If a student-athlete cancels an agency contract, the
5 student-athlete is not required to pay any consideration under
6 the contract or to return any consideration received from the
7 athlete agent to induce the student-athlete to enter into the
8 agency contract.

9 Sec. 13. An athlete agent shall retain the following
10 records for a period of 5 years:

11 (a) The name and address of each individual represented by
12 the athlete agent.

13 (b) Any agency contract entered into by the athlete agent.

14 (c) Any direct costs incurred by the athlete agent in the
15 recruitment or solicitation of a student-athlete to enter into an
16 agency contract.

17 Sec. 15. (1) An athlete agent, with the intent to induce a
18 student-athlete to enter into an agency contract, may not do any
19 of the following:

20 (a) Give any materially false or misleading information or
21 make a materially false promise or representation.

22 (b) Furnish anything of value to a student-athlete before
23 the student-athlete enters into the agency contract.

24 (c) Furnish anything of value to any individual other than
25 the student-athlete or another athlete agent.

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1 (2) An athlete agent shall not intentionally do any of the
2 following:

3 (a) Refuse or fail to retain the records required to be
4 retained by section 13.

5 (b) Predate or postdate an agency contract.

6 (c) Fail to notify a student-athlete, before the
7 student-athlete signs or otherwise authenticates an agency con-
8 tract for a particular sport, that the signing or authentication
9 may make the student-athlete ineligible to participate as a
10 student-athlete in that sport.

11 Sec. 17. An athlete agent who violates section 15 is guilty
12 of a misdemeanor punishable by imprisonment for not more than 93
13 days or a fine of not more than \$1,000.00, or both.

14 Sec. 19. (1) An educational institution has a cause of
15 action for damages against an athlete agent or a former
16 student-athlete for damages caused by a violation of this act.
17 In an action under this section, the court may award to the pre-
18 vailing party costs and reasonable attorney fees.

19 (2) Damages of an educational institution under subsection
20 (1) include losses and expenses incurred caused by the conduct of
21 an athlete agent or former student-athlete that was in violation
22 of this act. The losses include any penalty, disqualification,
23 or suspension of the educational institution from participation
24 in athletics by a national association for the promotion and reg-
25 ulation of athletics, by an athletic conference, or by reasonable

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1 self-imposed disciplinary action taken to mitigate sanctions
2 likely to be imposed by such an organization.

3 (3) A cause of action under this section does not accrue
4 until the educational institution discovers or, by the exercise
5 of reasonable diligence, would have discovered the violation by
6 the athlete agent or former student-athlete.

7 (4) Any liability of the athlete agent or the former
8 student-athlete under this section is several and not joint.

9 (5) This act does not restrict rights, remedies, or defenses
10 of any person under law or equity.

11 Sec. 21. This act takes effect January 1, 2003.