

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 204 of the Regular Session

State of Arkansas

As Engrossed: H2/7/11

88th General Assembly

A Bill

Regular Session, 2011

HOUSE BILL 1061

By: Representatives Sanders, McLean, Pennartz, English, D. Hutchinson, Summers, Hickerson, Rice, D. Meeks, Shepherd, Westerman, Hyde, J. Roebuck, Kerr, T. Rogers, Deffenbaugh, Steel, Stubblefield, T. Thompson, Branscum, Tyler, Vines, Webb

By: Senators J. Hutchinson, Files, J. Key, Bookout, J. Jeffress, Irvin, Laverty, P. Malone, Salmon

For An Act To Be Entitled

AN ACT TO AMEND ARKANSAS LAW CONCERNING ATHLETE AGENTS; DECLARING AN EMERGENCY; AND FOR OTHER PURPOSES.

Subtitle

THE ATHLETE AGENT REFORM ACT OF 2011.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. This act shall be known and may be cited as the "Athlete Agent Reform Act of 2011".

SECTION 2. Arkansas Code § 17-16-102 is amended to read as follows:

7-16-102. Definitions.

In this subchapter:

(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)(A) "Athlete agent" means an individual who enters into an agency contract with a student-athlete or, 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, grandparent, or guardian of the student-athlete or an individual acting~~



1 ~~solely on behalf of a professional sports team or professional sports~~
2 ~~organization.~~

3 (B) "Athlete agent" includes without limitation an
4 individual who:

5 (i) Is authorized by a student-athlete to enter into
6 an agreement;

7 (ii) Works for or on behalf of an athlete agent; or

8 (iii) Represents to the public that he or she is an
9 athlete agent.

10 (C) "Athlete agent" does not include a spouse, parent,
11 sibling, grandparent, or guardian of the student-athlete or an individual
12 acting solely on behalf of a professional sports team, professional sports
13 organization, or educational institution, unless that individual offers,
14 solicits for himself or herself, solicits on the student-athlete's behalf, or
15 solicits on behalf of the student-athlete's family or friends any form of a
16 financial benefit or gift not allowed by the regulations or bylaws of the
17 National Collegiate Athletic Association as they existed on January 1, 2011.

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

23 (4) "Contact" means a communication, direct or indirect, between
24 an athlete agent and a student-athlete, to recruit or solicit the student-
25 athlete to enter into an agency contract.

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

31 (6) "Family" means any person related to a student-athlete by
32 blood, marriage, or adoption.

33 ~~(6)~~(7) "Intercollegiate sport" means a sport played at the
34 collegiate level for which eligibility requirements for participation by a
35 student-athlete are established by a national association for the promotion
36 or regulation of collegiate athletics.

1 ~~(7)~~(8) "Person" means an individual, corporation, business
2 trust, estate, trust, partnership, limited liability company, association,
3 joint venture, government; governmental subdivision, agency, or
4 instrumentality; public corporation, or any other legal or commercial entity.

5 ~~(8)~~(9) "Professional-sports-services contract" means an
6 agreement under which an individual is employed, or agrees to render
7 services, as a player on a professional sports team, with a professional
8 sports organization, or as a professional athlete.

9 ~~(9)~~(10) "Record" means information that is inscribed on a
10 tangible medium or that is stored in an electronic or other medium and is
11 retrievable in perceivable form.

12 ~~(10)~~(11) "Registration" means registration as an athlete agent
13 pursuant to this subchapter.

14 ~~(11)~~(12) "State" means a State of the United States, the
15 District of Columbia, Puerto Rico, the United States Virgin Islands, or any
16 territory or insular possession subject to the jurisdiction of the United
17 States.

18 ~~(12)~~(13) "Student-athlete" means an individual who engages in,
19 is eligible to engage in, or may be eligible in the future to engage in, any
20 intercollegiate sport. If an individual is permanently ineligible to
21 participate in a particular intercollegiate sport, the individual is not a
22 student-athlete for purposes of that sport.

23
24 SECTION 3. Arkansas Code § 17-16-111 is amended to read as follows:
25 17-16-111. Notice to educational institution.

26 (a)(1) If a student-athlete is enrolled in an educational institution,
27 an athlete agent shall provide notice to the athletic director of the
28 educational institution at which the student-athlete is enrolled before
29 contacting the student-athlete.

30 (2) If an athlete agent intentionally or unintentionally
31 contacts a student-athlete enrolled in an educational institution, the
32 athlete agent shall notify the athletic director of the educational
33 institution at which the student-athlete is enrolled within seventy-two (72)
34 hours of the contact.

35 ~~(a)~~(b) Within seventy-two (72) hours after entering into an agency
36 contract or verbally agreeing to enter into an agency contract, or before the

1 next scheduled athletic event in which the student-athlete may participate,
2 whichever occurs first, the athlete agent shall give notice in a record of
3 the existence of the contract or verbal agreement to the athletic director of
4 the educational institution at which the student-athlete is enrolled or the
5 athlete agent has reasonable grounds to believe the student-athlete intends
6 to enroll.

7 ~~(b)~~(c) Within seventy-two (72) hours after entering into an agency
8 contract or verbally agreeing to enter into an agency contract, or before the
9 next athletic event in which the student-athlete may participate, whichever
10 occurs first, the student-athlete shall inform the athletic director of the
11 educational institution at which the student-athlete is enrolled that he or
12 she has entered into an agency contract or has verbally agreed to enter into
13 an agency contract.

14
15 SECTION 4. Arkansas Code § 17-16-114(a), concerning prohibited conduct
16 by athlete agents, is amended to read as follows:

17 (a) An athlete agent, with the intent to induce a student-athlete to
18 enter into an agency contract, may not:

19 (1) give any materially false or misleading information or make
20 a materially false promise or representation;

21 (2) furnish ~~anything~~ a good or service of value or arrange for a
22 good or service of value to be furnished to a student-athlete before the
23 student-athlete enters into the agency contract; or

24 (3) furnish ~~anything~~ a good or service of value or arrange for a
25 good or service of value to be furnished to any individual other than the
26 student-athlete or another registered athlete agent.

27
28 SECTION 5. Arkansas Code § 17-16-115 is amended to read as follows:

29 17-16-115. Criminal penalties.

30 (a) An athlete agent who violates § 17-16-114(a) is guilty of a Class
31 D felony.

32 (b) An athlete agent who violates § 17-16-114(b) is guilty of a Class
33 A misdemeanor.

34
35 SECTION 6. Arkansas Code § 17-16-117 is amended to read as follows:

36 17-16-117. Administrative penalty.

1 The Attorney General may seek a civil penalty, in any court of
2 competent jurisdiction, against an athlete agent not to exceed ~~fifty thousand~~
3 ~~dollars (\$50,000)~~ two hundred fifty thousand dollars (\$250,000) for a
4 violation of this subchapter.

5
6 SECTION 7. Arkansas Code Title 17, Chapter 16, Subchapter 1 is amended
7 to add additional sections to read as follows:

8 17-16-123. Revocation of registration.

9 (a)(1) A court of competent jurisdiction may revoke a certificate of
10 registration before, during, or after a proceeding seeking a criminal, civil,
11 or administrative penalty under this subchapter.

12 (2) When revoking a certificate of registration, a court of
13 competent jurisdiction may declare a person ineligible to reapply for a
14 certificate of registration for a period of time not to exceed five (5)
15 years.

16 (b) A court of competent jurisdiction may revoke registration under
17 this section in lieu of or in addition to other criminal, civil, or
18 administrative penalties under this subchapter.

19
20 SECTION 8. EMERGENCY CLAUSE. It is found and determined by the
21 General Assembly of the State of Arkansas that this bill reforms the athlete
22 agent laws of Arkansas to protect student athletes from unscrupulous actions
23 by athlete agents; that the issues sought to be addressed by this act are
24 currently ongoing and present problems for student athletes and institutions
25 of higher education; and that the reforms instituted by this act should
26 become effective as soon as possible to address these issues. Therefore, an
27 emergency is declared to exist and this act being immediately necessary for
28 the preservation of the public peace, health, and safety shall become
29 effective on:

30 (1) The date of its approval by the Governor;

31 (2) If the bill is neither approved nor vetoed by the Governor,
32 the expiration of the period of time during which the Governor may veto the
33 bill; or

34 (3) If the bill is vetoed by the Governor and the veto is
35 overridden, the date the last house overrides the veto.

/s/Sanders

APPROVED: 03/08/2011

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36