

CHAPTER 1247**CITIZENS' AIDE ACCESS TO CONFIDENTIAL RECORDS***H.F. 2406*

AN ACT relating to access by the citizens' aide to confidential records and proceedings.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 601G.9, subsection 3, Code 1987, is amended to read as follows:

3. Request and receive from each agency assistance and information as necessary in the performance of the duties of the office. The Notwithstanding section 22.7, pursuant to an investigation the citizens' aide may examine the any and all records and documents of any agency unless its custodian demonstrates that the examination would violate federal law or result in the denial of federal funds to the agency. If the document sought is required by law to be kept confidential, the agency may refuse access until the citizens' aide demonstrates that the document is relevant or material to an investigation authorized under subsection 1. Confidential documents provided to the citizens' aide by other agencies shall continue to maintain their confidential status. If the citizens' aide is provided access to the confidential document, the The citizens' aide is subject to the same policies and penalties regarding the confidentiality of the document as an employee of the agency. The citizens' aide may enter and inspect premises within any agency's control and may observe proceedings and attend hearings, with the consent of the interested party, including those held under a provision of confidentiality, conducted by any agency unless the agency demonstrates that the attendance or observation would violate federal law or result in the denial of federal funds to that agency. This subsection does not permit the examination of records or access to hearings and proceedings which are the work product of an attorney under section 22.7, subsection 4, or which are privileged communications under section 622.10.

Approved May 14, 1988

CHAPTER 1248**ATHLETE AGENTS' REGISTRATION***H.F. 2432*

AN ACT relating to the registration and regulation of persons seeking to represent a student athlete for compensation in negotiations intended to result in employment with a professional sports team, prohibiting certain actions relating to student athletes and their families, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. NEW SECTION. 9A.1 TITLE.

This chapter shall be known as the "Registration of Athlete Agents Act".

Sec. 2. NEW SECTION. 9A.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Athlete agent" means a person representing a student athlete for compensation or any person who, directly or indirectly, recruits or solicits a student athlete to enter into an agent contract or professional sports services contract with the person, or who for a fee procures, offers, promises, or attempts to obtain employment for a student athlete with a professional

sports team. "Athlete agent" does not include an individual licensed to practice as an attorney in this state when the individual is acting as a representative for a student athlete, unless the attorney also represents the student athlete in negotiations for an agent contract.

2. "Student athlete" means an individual enrolled at an institution of higher education who is eligible to participate in intercollegiate sports contests as a member of a sports team of an institution of higher education, or who is receiving partial or full financial assistance by way of an athletic scholarship and may in the future be eligible to participate in intercollegiate sports contests as a member of a sports team of an institution of higher education.

3. "Institution of higher education" means a public or private college or university in this state.

Sec. 3. NEW SECTION. 9A.3 REGISTRATION REQUIREMENTS FOR ATHLETE AGENTS.

1. An athlete agent shall register with, and obtain a certificate of registration from, the secretary of state before contacting, either directly or indirectly, a student athlete concerning the possibility of the athlete agent's representing the student athlete. The athlete agent may apply for a certificate of registration by submitting the forms provided for that purpose and must provide all the information required by the secretary of state, including all of the following:

- a. Name of the applicant and the address of the applicant's principal place of business.
- b. Business or occupation engaged in by the applicant for the five years immediately preceding the date of application.
- c. The athlete agent's educational background, training, and experience relating to being an athlete agent.
- d. Names and addresses of all persons, except bona fide employees on stated salaries, who are financially interested as partners, associates, or profit sharers in the operation of the business of the athlete agent.
- e. Record of all felony charges and convictions, and all misdemeanor charges and convictions of the athlete agent.
- f. Record of all felony charges and convictions, and misdemeanor charges and convictions of all persons, except bona fide employees, who are financially interested as partners, associates, or profit sharers in the operation of the business of the athlete agent.
- g. Record of all sanctions issued to or disciplinary actions taken against the athlete agent or against any student athlete or any institution of higher education in connection with any transaction or occurrence involving the athlete agent.
- h. Additional information as deemed appropriate by the secretary of state.

2. In addition to the requirements of subsection 1, an athlete agent who is not a resident of this state must file with the secretary of state an irrevocable consent to service of process on a form prescribed by the secretary. The consent to service shall be signed by the athlete agent, or by an authorized representative of the athlete agent, and notarized. If the athlete agent is a corporation, the consent to service shall be accompanied by a copy of the corporation's authorization to do business in this state and a copy of the resolution of the corporation authorizing the consent to service. The consent to service shall indicate that service upon the secretary of state is sufficient service upon the athlete agent, if the plaintiff forwards by certified mail one copy of the service to the business address of the athlete agent on file at the office of the secretary of state.

3. A certificate of registration issued under this section is valid for one year from the date of issuance. A registered athlete agent may renew the certificate by filing a renewal application in the form prescribed by the secretary of state, accompanied by any applicable renewal fee.

4. The secretary of state shall:

- a. Establish a reasonable registration fee sufficient to offset expenses incurred in the administration of this chapter.

b. Adopt rules necessary for the implementation and administration of this chapter.

Sec. 4. NEW SECTION. 9A.3A RESIDENT AGENT REQUIRED.

A person registered under this chapter as an athlete agent who is not a resident of this state, or does not have a principal place of business in this state, shall not engage in any activity as an athlete agent in this state unless that person has entered into an agreement with a person who is a resident of this state or whose principal place of business is in this state, who is licensed pursuant to section 602.10101, and who is registered under this chapter as an athlete agent, to act on behalf of the nonresident athlete agent. The agreement shall provide that the resident athlete agent shall act as attorney in fact, on whom all process in any action involving the nonresident athlete agent may be served, as well as any other duties as negotiated by the nonresident and resident athlete agent. The agreement shall be filed with the secretary of state and shall include the name and address of the resident athlete agent.

Sec. 5. NEW SECTION. 9A.4 DENIAL OF CERTIFICATE OF REGISTRATION.

The secretary of state may deny, suspend, or revoke an athlete agent's certificate of registration, following a hearing where a determination is made that the athlete agent has engaged in any of the following activities:

1. Made false or misleading statements of a material nature in the athlete agent's application for a certificate of registration or renewal of a certificate of registration.

2. Misappropriated funds, or engaged in other specific acts such as embezzlement, theft, or fraud, which in the judgment of the secretary of state would render the athlete agent unfit to serve in a fiduciary capacity.

3. Engaged in other conduct, including, but not limited to, conduct contributing to sanctions or disciplinary action against any student athlete or institution of higher education, whether within this state or not, which in the judgment of the secretary of state relates to the athlete agent's fitness to serve in a fiduciary capacity.

4. Engaged in a material violation of this chapter or a rule adopted pursuant to this chapter, as shown by a preponderance of the evidence. The suspension or revocation of an agent's registration may be reviewed pursuant to chapter 17A.

Sec. 6. NEW SECTION. 9A.5 BOND REQUIRED FROM ATHLETE AGENT.

1. An athlete agent shall have on file with the secretary of state before the issuance or renewal of a registration certificate, a surety bond executed by a surety company authorized to do business in this state in the sum of twenty-five thousand dollars, which bond shall be continuous in nature until canceled by the surety. A surety shall provide at least thirty days notice in writing to the agent and to the secretary of state indicating the surety's intent to cancel the bond and the effective date of the cancellation. The surety bond shall be for the benefit of the citizens of this state and shall be conditioned upon the athlete agent's willingness to comply with this chapter, pay all amounts due to any individual or group of individuals when due, and pay all damages caused to any student athlete or institution of higher education by reason of intentional misstatement, misrepresentation, fraud, deceit or any unlawful or negligent acts or omissions by the registered athlete agent or the athlete agent's representative or employee while acting within the scope of employment. This section shall not limit the recovery of damages to the amount of the surety bond.

2. The bond shall be made in a form prescribed by the secretary of state and written by a company authorized by the secretary of state to do business within the state.

Sec. 7. NEW SECTION. 9A.5A AGENT CONTRACT.

1. An agent contract to be entered into by a registered athlete agent and a student athlete who has not previously signed a contract of employment with a professional sports team shall be on a form approved by the secretary of state. Approval of the form shall not be withheld unless the proposed form is unfair, unjust, or oppressive to the student athlete. If the form

of the contract is in compliance with any players association form contract, the contract shall be approved by the secretary of state.

2. The agent contract shall have printed on the face of the contract in bold print the following: "The athlete agent is registered with the secretary of state. Registration does not imply approval or endorsement by the secretary of state of the specific terms and conditions of this contract or competence of the athlete agent. You have the right to terminate this contract within five calendar days after it is signed. You may jeopardize your standing as a student athlete by entering into this contract under the rules for eligibility established by or adhered to by your institution of higher education."

3. A registered athlete agent shall file with the secretary of state a schedule of fees chargeable and collectible from a student athlete who has not previously signed a contract of employment with a professional sports team and shall file a description of the various professional services to be rendered in return for each fee. The athlete agent may impose charges only in accordance with the fee schedule. Changes in the fee schedule may be made from time to time, except that a change shall not become effective until the seventh day after the date the change is filed with the secretary of state.

Sec. 8. NEW SECTION. 9A.6 PROHIBITED ACTIVITIES.

A person shall not do any of the following:

1. Act or offer to act as an athlete agent unless registered pursuant to this chapter.
2. Engage in conduct which violates, or causes or contributes to causing a student or institution of higher education to violate, any rule or regulation adopted by the national collegiate athletic association governing student athletes and their relationship with athlete agents and institutions of higher education.
3. Except as provided in subsection 5, enter into a written or oral agreement by which the athlete agent will represent a student athlete, or give anything of value to a student athlete, until after completion of the student athlete's last intercollegiate athletic contest including any postseason contest.
4. Enter into an agreement before the student athlete's last intercollegiate contest that purports to take effect at a time after that contest is completed.
5. Enter into an agreement where the athlete agent gives, offers, or promises anything of value to an employee or student of an institution of higher education in return for the referral of a student athlete by the employee or student.
6. Interfere with, impede, or obstruct the administration and enforcement of this chapter.

Sec. 9. NEW SECTION. 9A.7 ON-CAMPUS ATHLETE AGENT INTERVIEWS.

If an institution of higher education located in this state elects to permit athlete agent interviews on its campus during a student athlete's final year as a student athlete, a registered athlete agent may interview the student athlete to discuss the registered athlete agent's representation of the student athlete in the marketing of the student athlete's athletic ability and reputation. The registered athlete agent shall strictly adhere to the conditions imposed by each institution with regard to the time, place, manner, and duration of the interviews.

Sec. 10. NEW SECTION. 9A.8 CONTRACT VOID.

An agent contract negotiated by an athlete agent who has failed to comply with the provisions of this chapter is void. If the contract is void pursuant to this section, the athlete agent does not have a right of repayment of anything of value received by the student athlete as an inducement to enter into an agent contract or received by a student athlete before completion of the student athlete's last intercollegiate contest, and the athlete agent shall refund any consideration paid to the athlete agent by the student athlete or on the student athlete's behalf.

Sec. 11. NEW SECTION. 9A.9 PENALTIES — ENFORCEMENT.

1. The attorney may institute a legal proceeding against an athlete agent on behalf of the state, and shall institute legal proceedings at the request of the secretary of state, to enforce this chapter.

2. A person who knowingly and willfully violates a provision of this chapter is subject to a civil penalty in an amount not to exceed ten thousand dollars.

3. A person who violates a provision of section 9A.6 commits a serious misdemeanor.

Sec. 12. NEW SECTION. 9A.10 COSTS.

A student athlete and an institution of higher education are entitled to recover reasonable attorney's fees and court costs against an athlete agent found to be in violation of this chapter.

Sec. 13. NEW SECTION. 722.11 STUDENT ATHLETE PROHIBITIONS.

1. DEFINITIONS. As used in this section:

a. "Immediate family member" means a spouse, child, stepchild, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or guardian of a person named in this paragraph.

b. "Institution of higher education" means an institution of higher education under the control of the state board of regents, a merged area school, or a private college or university located in this state.

c. "Student athlete" means a person who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program. The term includes a person who has applied, is eligible to apply, or who may be eligible to apply in the future to an institution of higher education.

2. PROHIBITIONS.

a. Except as provided in paragraphs "c" and "d", a person shall not give, offer, promise, or attempt to give any money or other thing of value to a student athlete or immediate family member of a student athlete for either of the following purposes:

(1) To induce, encourage, or reward the student athlete's application, enrollment, or attendance at an institution of higher education in order to have the student athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution.

(2) To induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

b. A person shall not aid or abet an act described in paragraph "a".

c. As used in this subsection, "person" does not include any of the following:

(1) An institution of higher education or any of its officers or employees if the institution, officer, or employee is acting in accordance with an official written policy of the institution.

(2) An immediate family member of the student athlete.

d. An intercollegiate athletic award approved or administered by the institution of higher education that the student athlete attends is not an inducement, encouragement or reward under paragraph "a".

e. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits an aggravated misdemeanor.

3. PROHIBITIONS FOR STUDENT ATHLETES.

a. Except as provided in paragraph "b", a student athlete or immediate family member of the student athlete, shall not solicit or accept money or anything of value for any of the purposes described in subsection 2, paragraph "a". A person shall not aid or abet an act described in this paragraph.

b. This subsection does not apply to money or other things of value that a student athlete receives from any of the following:

(1) An institution of higher education, its officers, or employees if the institution, officer, or employee offered money or other thing of value in accordance with an official written policy

of the institution or if the thing of value is an intercollegiate athletic award approved or administered by that institution.

(2) An immediate family member of the student athlete.

c. A person who engages in conduct knowing or having reason to know that the conduct violates this subsection commits a serious misdemeanor.

Approved May 14, 1988

CHAPTER 1249

HUMAN SERVICES PROGRAMS

H.F. 2456

AN ACT relating to programs for which appropriations to the department of human services are required, providing an effective date, and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 135B.9, Code 1987, is amended to read as follows:

135B.9 INSPECTIONS AND CONSULTATIONS — PROTECTION AND ADVOCACY AGENCY INVESTIGATIONS.

The department of inspections and appeals shall make or cause to be made such inspections as it may deem necessary. The state Iowa department of public health shall, with the advice of the hospital licensing board, prescribe by regulations that any licensee or applicant for license desiring to make specified types of alteration or addition to its facilities or to construct new facilities shall before commencing such alteration, addition or new construction, submit plans and specifications therefor to the department of inspections and appeals for preliminary inspection and approval or recommendations with respect to compliance with the regulations and standards herein authorized.

In the state hospital-schools and state mental health institutes operated by the department of human services, the designated protection and advocacy agency as provided in section 135C.2, subsection 4, shall have the authority to investigate all complaints of abuse and neglect of persons with developmental disabilities or mental illnesses if the complaints are reported to the protection and advocacy agency or if there is probable cause to believe that the abuse has occurred. Such authority shall include the examination of all records pertaining to the care provided to the residents and contact or interview with any resident, employee, or any other person who might have knowledge about the operation of the institution.

Sec. 2. Section 135B.12, Code 1987, is amended to read as follows:

135B.12 INFORMATION CONFIDENTIAL.

Information received by the department of inspections and appeals and the protection and advocacy agency through filed reports, inspection, or as otherwise authorized under this chapter, shall not be disclosed publicly in such manner as to identify individuals or hospitals, except in a proceeding involving the question of licensure or the denial, suspension or revocation of a license or civil suit or administrative action by or on behalf of a patient.

Sec. 3. Section 135C.2, subsection 4, Code Supplement 1987, is amended to read as follows:

4. The protection and advocacy agency designated in the state, under Pub. L. No. 98-527, the developmental disabilities Act of 1984, and Pub. L. No. 99-319, the protection and advocacy for mentally ill individuals Act of 1986, and Pub. L. No. 100-146, the federal Developmental