



CHESTER J. CULVER
GOVERNOR

OFFICE OF THE GOVERNOR

PATTY JUDGE
LT. GOVERNOR

April 2, 2009

The Honorable Michael Mauro
Secretary of State
State Capitol Building
LOCAL

Dear Mr. Secretary:

I hereby transmit:

Senate File 199, an Act relating to the uniform athlete agents Act and providing remedies and penalties.

The above Senate File is hereby approved this date.

Sincerely,

A handwritten signature in black ink, appearing to read "Chester J. Culver".

Chester J. Culver
Governor

CJC:bdj

cc: Secretary of the Senate
Chief Clerk of the House





SENATE FILE 199

AN ACT
RELATING TO THE UNIFORM ATHLETE AGENTS ACT AND PROVIDING
REMEDIES AND PENALTIES.

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

Section 1. NEW SECTION. 9A.101 TITLE.

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

Sec. 2. NEW SECTION. 9A.102 DEFINITIONS.

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

1. "Agency contract" means an agreement pursuant to 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 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. "Athlete agent" includes an individual who represents to the public that the individual is an athlete agent. "Athlete agent" does not include a spouse, parent, sibling, grandparent, or guardian of the student athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. "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.

3. "Athletic director" means an 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.

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

5. "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.

6. "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 for the promotion or regulation of collegiate athletics.

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

8. "Professional sports services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

9. "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.

10. "Registration" means registration as an athlete agent pursuant to this chapter.

11. "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.

12. "Student athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student athlete for purposes of that sport.

Sec. 3. NEW SECTION. 9A.103 SERVICE OF PROCESS -- SUBPOENAS.

1. By acting as an athlete agent in this state, a nonresident individual appoints the secretary of state as the individual's agent for service of process in any civil action in this state related to the individual's acting as an athlete agent in this state.

2. The secretary of state may issue subpoenas for any material that is relevant to the administration of this chapter.

Sec. 4. NEW SECTION. 9A.104 ATHLETE AGENTS -- REGISTRATION REQUIRED -- VOID CONTRACTS.

1. Except as otherwise provided in subsection 2, an individual shall not act as an athlete agent in this state without holding a certificate of registration under section 9A.106 or 9A.108.

2. Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if all of the following occur:

a. A student athlete or another person acting on behalf of the student athlete initiates communication with the individual.

b. Within seven days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in this state.

3. 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.

Sec. 5. NEW SECTION. 9A.105 REGISTRATION AS ATHLETE AGENT -- FORM -- REQUIREMENTS.

1. An applicant for registration shall submit an application for registration to the secretary of state in a form prescribed by the secretary of state. An application filed under this section is a public record. The application shall be in the name of an individual and, except as otherwise provided in subsection 2, signed or otherwise authenticated by the applicant under penalty of perjury, and contain the following information:

a. The name of the applicant and the address of the applicant's principal place of business.

b. The name of the applicant's business or employer, if applicable.

c. Any business or occupation engaged in by the applicant for the five years immediately preceding the date of submission of the application.

d. A description of the applicant's qualifications, including:

(1) Formal training as an athlete agent.

(2) Practical experience as an athlete agent.

(3) Educational background relating to the applicant's activities as an athlete agent.

e. The names and addresses of three individuals not related to the applicant who are willing to serve as references.

f. The name, sport, and last known team of each individual for whom the applicant acted as an athlete agent during the five years immediately preceding the date of submission of the application.

g. The names and addresses of all persons who have or claim an ownership interest in the applicant's business, including:

(1) The partners, members, officers, managers, associates, or profit-sharers of the business if it is not a corporation.

(2) The officers, directors, and any shareholder of the corporation having an interest of five percent or greater in a corporation employing the athlete agent.

h. Whether the applicant or any person named pursuant to paragraph "g" has been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or which is a felony, and identify the crime.

i. Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph "g" has made a materially false, misleading, deceptive, or fraudulent representation.

j. Any instance in which the conduct of the applicant or any person named pursuant to paragraph "g" resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on, of, or by a student athlete or educational institution.

k. Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to

paragraph "g" arising out of occupational or professional conduct.

1. Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or of any person named pursuant to paragraph "g" as an athlete agent in any state.

2. 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 1. 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 complies with all of the following:

a. Was submitted in the other state within the six-month period immediately preceding the submission of the application in this state and the applicant certifies that the information contained in the application in the other state is current.

b. Contains information substantially similar to or more comprehensive than that required in an application submitted in this state.

c. Was signed by the applicant under penalty of perjury.

Sec. 6. NEW SECTION. 9A.106 CERTIFICATE OF REGISTRATION -- ISSUANCE OR DENIAL -- RENEWAL.

1. Except as otherwise provided in subsection 2, the secretary of state shall issue a certificate of registration to an individual who complies with section 9A.105, subsection 1, or whose application has been accepted under section 9A.105, subsection 2.

2. The secretary of state may refuse to issue a certificate of registration 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 done the following:

a. Been convicted of a crime that, if committed in this state, would be a crime involving moral turpitude or a felony.

b. Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent.

c. Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity.

d. Engaged in conduct prohibited by section 9A.114.

e. Had a certificate of registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of a certificate of registration or licensure as an athlete agent in any state.

f. Engaged in conduct which resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on, of, or by a student athlete or educational institution.

g. Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

3. In making a determination under subsection 2, the secretary of state shall consider the following:

a. How recently the conduct occurred.

b. The nature of the conduct and the context in which it occurred.

c. Any other relevant conduct of the applicant.

4. An athlete agent may apply to renew a certificate of 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.

5. An individual who has submitted an application for renewal of a certificate of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection 4, 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 complies with all of the following:

a. Was submitted in the other state within the six-month period immediately preceding the filing in this state and the applicant certifies the information contained in the application for renewal in the other state is current.

b. Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state.

c. Was signed by the applicant under penalty of perjury.

6. An original certificate of registration or a renewal of a certificate of registration is valid for two years.

Sec. 7. NEW SECTION. 9A.107 SUSPENSION, REVOCATION, OR REFUSAL TO RENEW REGISTRATION.

1. The secretary of state may suspend, revoke, or refuse to renew a certificate of registration for conduct that would have justified denial of a certificate of registration under section 9A.106, subsection 2.

2. The secretary of state may deny, suspend, revoke, or refuse to renew a certificate of registration or licensure only after proper notice and an opportunity for a hearing held in accordance with chapter 17A.

Sec. 8. NEW SECTION. 9A.108 TEMPORARY REGISTRATION.

The secretary of state may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

Sec. 9. NEW SECTION. 9A.109 REGISTRATION AND RENEWAL FEES.

An application for registration or renewal of registration shall be accompanied by a reasonable registration or renewal of registration fee sufficient to offset expenses incurred in the administration of this chapter as established by the secretary of state.

Sec. 10. NEW SECTION. 9A.110 REQUIRED FORM OF CONTRACT.

1. An agency contract shall be in a record, signed, or otherwise authenticated by the parties.

2. An agency contract shall contain the following information:

a. 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.

b. 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.

c. The description of any expenses that the student athlete agrees to reimburse.

d. The description of the services to be provided to the student athlete.

e. The duration of the contract.

f. The date of execution of the contract.

3. An agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters 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, 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.

4. 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.

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

Sec. 11. NEW SECTION. 9A.111 NOTICE TO EDUCATIONAL INSTITUTION.

1. Within seventy-two 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 at which the athlete agent has reasonable grounds to believe the student athlete intends to enroll.

2. Within seventy-two hours after entering into an agency contract or before the next 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 or intends to enroll that the student athlete has entered into an agency contract.

Sec. 12. NEW SECTION. 9A.112 STUDENT ATHLETE'S RIGHT TO CANCEL.

1. A student athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen days after the contract is signed.

2. A student athlete shall not waive the right to cancel an agency contract.

3. 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.

Sec. 13. NEW SECTION. 9A.113 REQUIRED RECORDS.

1. An athlete agent shall retain the following records for a period of five years:

a. The name and address of each individual represented by the athlete agent.

b. Any agency contract entered into by the athlete agent.

c. Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student athlete to enter into an agency contract.

2. Records required to be retained pursuant to subsection 1 are open to inspection by the secretary of state during normal business hours.

Sec. 14. NEW SECTION. 9A.114 PROHIBITED CONDUCT.

1. An athlete agent, with the intent to induce a student athlete to enter into an agency contract, shall not do any of the following:

a. Give any materially false, misleading, deceptive, or fraudulent information or make a materially false promise or a materially false, misleading, deceptive, or fraudulent representation.

b. Furnish anything of value to a student athlete before the student athlete enters into the agency contract.

c. Furnish anything of value to any individual other than the student athlete or another registered athlete agent.

2. An athlete agent shall not intentionally:

a. Initiate contact with a student athlete unless registered under this chapter.

b. Refuse or fail to retain or permit inspection of the records required to be retained by section 9A.113.

c. Fail to register when required by section 9A.104.

d. Provide materially false or misleading information in an application for registration or renewal of registration.

e. Predate or postdate an agency contract.

f. Fail to notify a student 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.

Sec. 15. NEW SECTION. 9A.115 CRIMINAL PENALTIES.

An athlete agent who violates section 9A.114 is guilty of a serious misdemeanor.

Sec. 16. NEW SECTION. 9A.116 CIVIL REMEDIES.

1. 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 chapter. In an action under this section, the court may award costs and reasonable attorney fees to the prevailing party.

2. Damages to an educational institution under subsection 1 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 chapter or was sanctioned, declared ineligible, 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 association.

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

4. Any liability of the athlete agent or the former student athlete under this section is several and not joint.

5. This chapter does not restrict rights, remedies, or defenses of any person under law or equity.

Sec. 17. NEW SECTION. 9A.117 ADMINISTRATIVE PENALTY.

The secretary of state may assess a civil penalty against an athlete agent not to exceed twenty-five thousand dollars for a violation of this chapter.

Sec. 18. NEW SECTION. 9A.118 UNIFORMITY OF APPLICATION AND CONSTRUCTION.

In applying and construing this chapter, consideration must be given to the need to promote uniformity of the law with respect to the subject matter of this chapter among states that enact the uniform athlete agents Act.


Sec. 19. NEW SECTION. 9A.119 ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT.

The provisions of this chapter 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, shall be construed as conforming to the requirements of section 102 of the federal Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 114 Stat. 464 (2000), codified at 15 U.S.C. § 7001 et seq., as amended.

Sec. 20. Code sections 9A.1 through 9A.12, Code 2009, are repealed.



JOHN P. KIBBIE
President of the Senate



PATRICK J. MURPHY
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 199, Eighty-third General Assembly.



MICHAEL E. MARSHALL
Secretary of the Senate

Approved April 2nd, 2009



CHESTER J. CULVER
Governor