

Senate File 385 - Enrolled

Senate File 385

AN ACT

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

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

Section 1. Section 9A.101, Code 2017, is amended to read as follows:

9A.101 Title.

This chapter ~~shall be known~~ may be cited as the *“Uniform
“Revised Uniform Athlete Agents Act” Act (2015)”*.

Sec. 2. Section 9A.102, subsection 1, Code 2017, is amended to read as follows:

1. "*Agency contract*" means an agreement ~~pursuant to~~ 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.

Sec. 3. Section 9A.102, subsection 2, Code 2017, is amended by striking the subsection and inserting in lieu thereof the following:

2. *a.* "*Athlete agent*" means an individual, whether or not registered under this chapter, who does any of the following:

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

(2) For compensation or in anticipation of compensation related to a student athlete's participation in athletics does either of the following:

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

(b) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes.

(3) In anticipation of representing a student athlete for a purpose related to the athlete's participation in athletics, does any of the following:

(a) Gives consideration to the student athlete or another person.

(b) Serves the athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions.

(c) Manages the business affairs of the athlete by providing assistance with bills, payments, contracts, or taxes.

b. "*Athlete agent*" does not include an individual who does either of the following:

(1) Acts solely on behalf of a professional sports team or organization.

(2) Is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless the individual does any of the following:

(a) Also recruits or solicits the athlete to enter into an agency contract.

(b) Also, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the athlete as a professional athlete or member of a professional sports team or organization.

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

Sec. 4. Section 9A.102, subsection 3, Code 2017, is amended to read as follows:

3. "*Athletic director*" means ~~an~~ the 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.

Sec. 5. Section 9A.102, subsection 4, Code 2017, is amended by striking the subsection and inserting in lieu thereof the following:

4. "*Educational institution*" means a public or private elementary school, secondary school, technical or vocational school, community college, college, or university.

Sec. 6. Section 9A.102, subsection 5, Code 2017, is amended to read as follows:

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.

Sec. 7. Section 9A.102, Code 2017, is amended by adding the following new subsection:

NEW SUBSECTION. 5A. "*Enrolled*" means registered for courses

and attending athletic practice or class. *“Enrolls”* has a corresponding meaning.

Sec. 8. Section 9A.102, subsection 6, Code 2017, is amended to read as follows:

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~~ that promotes or regulates collegiate athletics.

Sec. 9. Section 9A.102, Code 2017, is amended by adding the following new subsections:

NEW SUBSECTION. 6A. *“Interscholastic sport”* means a sport played between educational institutions that are not community colleges, colleges, or universities.

NEW SUBSECTION. 6B. *“Licensed, registered, or certified professional”* means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance producer, real estate broker or sales agent, tax consultant, accountant, or member of a profession, other than that of athlete agent, who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing.

Sec. 10. Section 9A.102, subsections 7 and 8, Code 2017, are amended to read as follows:

7. *“Person”* means an individual, ~~corporation~~ estate, business trust, ~~estate, trust, partnership, limited liability company, association, joint venture~~ or nonprofit entity, public corporation, government, ~~or~~ 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, as a professional athlete or agrees to render services, as a player on a professional sports team, or with a professional sports organization, ~~or as a professional athlete.~~

Sec. 11. Section 9A.102, Code 2017, is amended by adding the following new subsections:

NEW SUBSECTION. 9A. *“Recruit or solicit”* means attempt to

influence the choice of an athlete agent by a student athlete or, if the athlete is a minor, a parent or guardian of the athlete. "Recruit or solicit" does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.

NEW SUBSECTION. 10A. "Sign" means, with present intent to authenticate or adopt a record, doing any of the following:

- a. Executing or adopting a tangible symbol.
- b. Attaching to or logically associating with the record an electronic symbol, sound, or process.

Sec. 12. Section 9A.102, subsection 12, Code 2017, is amended to read as follows:

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

Sec. 13. Section 9A.103, Code 2017, is amended to read as follows:

~~9A.103 Service of process — subpoenas~~ Secretary of state — authority — procedure.

1. Chapter 17A applies to this chapter. The secretary of state may adopt rules under chapter 17A to implement this chapter.

~~2.~~ 2. 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~~ individual acting as an athlete agent in this state.

~~3.~~ 3. The secretary of state may issue ~~subpoenas~~ a subpoena for ~~any~~ material that is relevant to the administration of this chapter.

Sec. 14. Section 9A.104, subsections 2 and 3, Code 2017, are amended to read as follows:

2. Before being issued a certificate of registration under this chapter, 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~~ Not later than seven days after an initial act that requires the individual to register 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. 15. Section 9A.105, Code 2017, is amended by striking the section and inserting in lieu thereof the following:

9A.105 Registration as athlete agent — application — requirements — reciprocal registration.

1. An applicant for registration as an athlete agent shall submit an application for registration to the secretary of state in a form prescribed by the secretary of state. The applicant shall be an individual, and the application filed must be signed by the applicant under penalty of perjury. The application shall contain at least all of the following:

a. The name, date, and place of birth of the applicant and the following contact information for the applicant:

(1) The address of the applicant's principal place of business.

(2) Work and mobile telephone numbers.

(3) Any means of communicating electronically, including a facsimile number, electronic mail address, and personal, business, and employer internet sites.

b. The name of the applicant's business or employer, if applicable, including for each business or employer, its mailing address, telephone number, organization form, and the nature of the business.

c. Each social media account with which the applicant or the applicant's business or employer is affiliated.

d. Each business or occupation in which the applicant

engaged within five years before the date of the application, including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time.

e. A description of the applicant, 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.

f. The name of each student athlete for whom the applicant acted as an athlete agent within five years before the date of the application or, if the student athlete is a minor, the name of the parent or guardian of the minor, together with the athlete's sport and last known team.

g. The name and address of each person that is any of the following:

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

(2) An officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent or greater in the corporation.

h. A description of the status of any application by the applicant, or any person named under paragraph "g", for a state or federal business, professional, or occupational license, other than as an athlete agent, from a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license.

i. Whether the applicant, or any person named under paragraph "g", has pleaded guilty or no contest to, has been convicted of, or has charges pending for, a crime that would involve moral turpitude or be a felony if committed in this state, and, if so, identification of the following:

- (1) The crime.
- (2) The law enforcement agency involved.
- (3) If applicable, the date of the conviction and the fine or penalty imposed.

j. Whether, within fifteen years before the date of application, the applicant, or any person named under paragraph "g", has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence and, if so, the date and a full explanation of each proceeding.

k. Whether the applicant, or any person named under paragraph "g", has an unsatisfied judgment or a judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application.

l. Whether, within ten years before the date of application, the applicant, or any person named under paragraph "g", was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt.

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

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

o. Each sanction, suspension, or disciplinary action taken against the applicant, or any person named under paragraph "g", arising out of occupational or professional conduct.

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

q. Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent.

r. If the applicant is certified or registered by a professional league or players association, and if so, the following information:

- (1) The name of the league or association.

(2) The date of certification or registration, and the date of expiration of the certification or registration, if any.

(3) If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of, the certification or registration or any reprimand or censure related to the certification or registration.

s. Any additional information required by the secretary of state by rule.

2. Instead of proceeding under subsection 1, an individual registered as an athlete agent in another state may apply for registration as an athlete agent in this state by submitting to the secretary of state the following:

a. A copy of the application for registration in another state.

b. A statement that identifies any material change in the information on the application or verifies there is no material change in the information, signed under penalty of perjury.

c. A copy of the certificate of registration from the other state.

3. The secretary of state shall issue a certificate of registration to an individual who applies for registration under subsection 2 if the secretary of state determines the following:

a. The application and registration requirements of the other state are substantially similar to or more restrictive than this chapter.

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

4. For purposes of implementing subsection 3, the secretary of state shall do the following:

a. Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than this chapter.

b. Exchange information, including information related

to actions taken against registered athlete agents or their registrations, with those organizations and agencies.

Sec. 16. Section 9A.106, Code 2017, is amended to read as follows:

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 applicant for registration 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 to an applicant for registration under section 9A.105, subsection 1, if the secretary of state determines that the applicant has engaged in conduct that ~~has a significant adverse effect~~ significantly adversely reflects 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 Pleaded guilty or no contest to, has been convicted of, or has charges pending for,~~ a crime that would involve moral turpitude or be a felony 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~~ in any state.

f. Been refused renewal of a certificate of registration or licensure as an athlete agent in any state.

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

~~g.~~ h. 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~~ Other relevant conduct of the applicant.

4. An athlete agent registered under subsection 1 may apply to renew ~~a certificate of~~ the 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 applicant shall sign the application for renewal ~~must be signed by the applicant under penalty of perjury and must contain~~ include 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 athlete agent registered under section 9A.105, subsection 3, may renew the registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to by proceeding under subsection 4 or, may file a copy of the application for renewal and a valid certificate of if the registration or licensure from in the other state has been renewed, by submitting to the secretary of state copies of the application for renewal in the other state and the renewed registration 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 renew the registration if the secretary of state determines 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. a. Contains information The registration requirements of the other state are substantially similar to or more comprehensive restrictive than that required in an application for renewal submitted in this state chapter.

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

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

6. ~~An original~~ A certificate of registration or a renewal ~~of a certificate of registration~~ under this chapter is valid for two years.

Sec. 17. Section 9A.107, Code 2017, is amended to read as follows:

9A.107 Suspension, revocation, or refusal to renew registration.

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

2. The secretary of state may ~~deny, suspend, or revoke, or refuse to renew a certificate of the registration or licensure only after proper notice and an opportunity for a hearing held in accordance with~~ chapter 17A of an individual registered under section 9A.105, subsection 3, or renewed under section 9A.106, subsection 5, for any reason for which the secretary of state could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under section 9A.106, subsection 2.

Sec. 18. Section 9A.108, Code 2017, is amended to read as follows:

9A.108 Temporary registration.

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

Sec. 19. Section 9A.109, Code 2017, is amended to read as follows:

9A.109 Registration and renewal fees.

An application for registration or renewal of registration as an athlete agent 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. 20. Section 9A.110, Code 2017, is amended to read as follows:

9A.110 Required form of agency 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. A statement that the agent is registered as an athlete agent in this state and a list of any other states in which the agent is registered as an athlete agent.

~~a.~~ b. 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.~~ c. The name of any person not listed in the agent's application for registration or renewal of registration ~~who~~ which will be compensated because the ~~student~~ athlete signed the ~~agency~~ contract.

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

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

~~e.~~ f. The duration of the contract.

~~f.~~ g. The date of execution ~~of the contract~~.

3. ~~An~~ Subject to subsection 7, an agency contract must contain, in close proximity to the signature of the student athlete, a conspicuous notice in boldface type in capital letters and in substantially the following form 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 SIGNING THIS CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR

ATHLETIC DIRECTOR THAT YOU HAVE ENTERED INTO THIS CONTRACT AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT;
AND

[3] YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A STUDENT ATHLETE IN YOUR SPORT.

4. ~~An agency contract that does not conform to this section is voidable~~ must be accompanied by a separate record signed by the student athlete. If a student or, if the 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 is a minor, the parent or guardian of the athlete, acknowledging that signing the contract may result in the loss of the athlete's eligibility to participate in the athlete's sport.

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

5. ~~6. The~~ At the time an agency contract is executed, the athlete agent shall give the student athlete or, if the athlete is a minor, the parent or guardian of the athlete, a copy in a record of the signed or otherwise authenticated agency contract to the student athlete at the time of execution of the contract and the separate acknowledgment required by subsection 4.

7. If a student athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection 3 shall be revised accordingly.

Sec. 21. Section 9A.111, Code 2017, is amended to read as follows:

9A.111 Notice to educational institution.

1. In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.

~~1.~~ 2. Within Not later than 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.~~ 3. Within Not later than 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 ~~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 and the name and contact information of the athlete agent.

4. If an athlete agent enters into an agency contract with a student athlete and the athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the educational institution of the existence of the agency contract not later than seventy-two hours after the agent knew or should have known the athlete enrolled.

5. If an athlete agent has a relationship with a student athlete before the athlete enrolls in an educational institution and receives an athletic scholarship from the educational institution, the agent shall notify the educational institution of the relationship not later than ten days after the enrollment if the agent knows or should have known of the enrollment and either of the following applies:

a. The relationship was motivated in whole or part by the intention of the agent to recruit or solicit the athlete to enter an agency contract in the future.

b. The agent directly or indirectly recruited or solicited the athlete to enter an agency contract before the enrollment.

6. An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student athlete is enrolled before the agent communicates or attempts to communicate with either of the following for the following purposes:

a. The athlete or, if the athlete is a minor, a parent or guardian of the athlete, to influence the athlete or parent or guardian to enter into an agency contract.

b. Another individual to have that individual influence the athlete or, if the athlete is a minor, the parent or guardian of the athlete, to enter into an agency contract.

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

8. An educational institution that becomes aware of a violation of this chapter by an athlete agent shall notify the secretary of state and any professional league or players association with which the institution is aware the agent is licensed or registered of the violation.

Sec. 22. Section 9A.112, Code 2017, is amended to read as follows:

9A.112 Student athlete's right to cancel.

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

2. A student athlete ~~shall~~ or, if the athlete is a minor, the parent or guardian of the athlete, may not waive the right to cancel an agency contract.

3. If a student athlete, parent, or guardian cancels an agency contract, the ~~student~~ athlete, parent, or guardian is not required to pay any consideration under the contract or ~~to~~ return any consideration received from the athlete agent to ~~induce~~ influence the ~~student~~ athlete to enter into the contract.

Sec. 23. Section 9A.113, Code 2017, is amended to read as follows:

9A.113 Required records.

1. An athlete agent shall create and retain ~~the following~~

~~records for a period of five years~~ records of the following:

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

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

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

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

Sec. 24. Section 9A.114, Code 2017, is amended to read as follows:

9A.114 Prohibited conduct.

1. An athlete agent, with the intent to ~~induce~~ influence a student athlete or, if the student athlete is a minor, the parent or guardian of the student athlete, to enter into an agency contract, shall not ~~do~~ take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the agent:

a. Give ~~any~~ materially false, or 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~~ the athlete before the ~~student~~ athlete enters into the ~~agency~~ contract.

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

2. An athlete agent shall not intentionally do any of the following or encourage any other individual to do any of the following on behalf of the agent:

a. Initiate contact, directly or indirectly, with a student athlete or, if the athlete is a minor, a parent or guardian of the athlete, to recruit or solicit the athlete, parent, or guardian to enter an agency agreement unless registered under this chapter.

b. ~~Refuse or fail~~ Fail to create or retain or to 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 or, if the athlete is a minor, a parent or guardian of the athlete before the ~~student athlete, parent, or guardian~~ 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. 25. Section 9A.116, subsection 1, Code 2017, is amended to read as follows:

1. An educational institution ~~has a right of~~ or student athlete may bring an action for damages against an athlete agent ~~if the institution or a former student athlete for damages caused~~ is adversely affected by a an act or omission of the agent in violation of [this chapter](#). ~~In an action under [this section](#), the court may award costs and reasonable attorney fees to the prevailing party.~~ An educational institution or student athlete is adversely affected by an act or omission of the agent only if, because of the act or omission, the institution or an individual who was a student athlete at the time of the act or omission and enrolled in the institution is either of the following:

a. Suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports.

b. Suffers financial damage.

Sec. 26. Section 9A.116, subsections 2 and 3, Code 2017, are amended by striking the subsections and inserting in lieu thereof the following:

2. A plaintiff that prevails in an action under this section may recover actual damages, and costs and reasonable attorney fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any

consideration paid to the agent by or on behalf of the athlete.

3. A violation of this chapter is an unlawful practice pursuant to section 714.16, subsection 2, paragraph "p". The provisions of section 714.16, including but not limited to provisions relating to investigation, injunctive relief, and penalties, shall apply to this chapter.

Sec. 27. Section 9A.116, subsections 4 and 5, Code 2017, are amended by striking the subsections.

Sec. 28. Section 9A.117, Code 2017, is amended to read as follows:

9A.117 Administrative penalty.

The secretary of state may assess a civil penalty against an athlete agent not to exceed ~~twenty-five~~ fifty thousand dollars for a violation of [this chapter](#).

Sec. 29. Section 9A.118, Code 2017, is amended to read as follows:

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 revised uniform athlete agents Act (2015).

Sec. 30. Section 9A.119, Code 2017, is amended by striking the section and inserting in lieu thereof the following:

9A.119 Relation to Electronic Signatures in Global and National Commerce Act.

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

Sec. 31. NEW SECTION. **9A.120 Severability.**

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

Sec. 32. Section 714.16, subsection 2, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. *p.* It is an unlawful practice for an athlete agent to violate any of the provisions of chapter 9A.

CHARLES SCHNEIDER
President of the Senate

LINDA UPMEYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 385, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2018

KIM REYNOLDS
Governor