

# Senate Study Bill 1246

## Bill Text

PAG LIN

1 1 Section 1. NEW SECTION. 9A.1 TITLE.  
1 2 This chapter shall be known as the "Uniform Athlete Agents  
1 3 Act".  
1 4 Sec. 2. NEW SECTION. 9A.2 DEFINITIONS.  
1 5 As used in this chapter, unless the context otherwise  
1 6 requires:  
1 7 1. "Agency contract" means an agreement in which a student  
1 8 athlete authorizes a person to negotiate or solicit on behalf  
1 9 of the student athlete a professional-sports-services contract  
1 10 or an endorsement contract.  
1 11 2. "Athlete agent" means an individual who enters into an  
1 12 agency contract with a student athlete or, directly or  
1 13 indirectly, recruits or solicits a student athlete to enter  
1 14 into an agency contract. The term includes an individual who  
1 15 represents to the public that the individual is an athlete  
1 16 agent. The term does not include a spouse, parent, sibling,  
1 17 grandparent, or guardian of the student athlete or an  
1 18 individual acting solely on behalf of a professional sports  
1 19 team or professional sports organization.  
1 20 3. "Athletic director" means an individual responsible for  
1 21 administering the overall athletic program of an educational  
1 22 institution or, if an educational institution has separately  
1 23 administered athletic programs for male students and female  
1 24 students, the athletic program for males or the athletic  
1 25 program for females, as appropriate.  
1 26 4. "Contact" means a direct or indirect communication  
1 27 between an athlete agent and a student athlete, to recruit or  
1 28 solicit the student athlete to enter into an agency contract.  
1 29 5. "Endorsement contract" means an agreement under which a  
1 30 student athlete is employed or receives consideration to use  
1 31 on behalf of the other party any value that the student  
1 32 athlete may have because of publicity, reputation, following,  
1 33 or fame obtained because of athletic ability or performance.  
1 34 6. "Intercollegiate sport" means a sport played at the  
1 35 collegiate level for which eligibility requirements for  
2 1 participation by a student athlete are established by a  
2 2 national association for the promotion or regulation of  
2 3 collegiate athletics.  
2 4 7. "Person" means an individual, corporation, business  
2 5 trust, estate, trust, partnership, limited liability company,  
2 6 association, joint venture, government, governmental  
2 7 subdivision, agency, or instrumentality, public corporation,  
2 8 or any other legal or commercial entity.  
2 9 8. "Professional-sports-services contract" means an  
2 10 agreement under which an individual is employed, or agrees to  
2 11 render services, as a player on a professional sports team,  
2 12 with a professional sports organization, or as a professional  
2 13 athlete.  
2 14 9. "Record" means information that is inscribed on a  
2 15 tangible medium or that is stored in an electronic or other  
2 16 medium and is retrievable in perceivable form.  
2 17 10. "Registration" means registration as an athlete agent  
2 18 pursuant to this chapter.  
2 19 11. "State" means a state of the United States, the  
2 20 District of Columbia, Puerto Rico, the United States Virgin  
2 21 Islands, or any territory or insular possession subject to the

2 22 jurisdiction of the United States.

2 23 12. "Student athlete" means an individual who engages in,  
2 24 is eligible to engage in, or may be eligible in the future to  
2 25 engage in, any intercollegiate sport. If an individual is  
2 26 permanently ineligible to participate in a particular  
2 27 intercollegiate sport, the individual is not a student athlete  
2 28 for purposes of that sport.

2 29 Sec. 3. NEW SECTION. 9A.3 SERVICE OF PROCESS  
2 30 SUBPOENAS.

2 31 1. By acting as an athlete agent in this state, a  
2 32 nonresident individual appoints the secretary of state as the  
2 33 individual's agent for service of process in any civil action  
2 34 in this state related to the individual's acting as an athlete  
2 35 agent in this state.

3 1 2. The secretary of state may issue subpoenas for any  
3 2 material that is relevant to the administration of this  
3 3 chapter.

3 4 Sec. 4. NEW SECTION. 9A.4 ATHLETE AGENTS REGISTRATION  
3 5 REQUIRED VOID CONTRACTS.

3 6 1. Except as otherwise provided in subsection 2, an  
3 7 individual shall not act as an athlete agent in this state  
3 8 without holding a certificate of registration under section  
3 9 9A.6 or 9A.8.

3 10 2. Before being issued a certificate of registration, an  
3 11 individual may act as an athlete agent in this state for all  
3 12 purposes except signing an agency contract, if all of the  
3 13 following occur:

3 14 a. A student athlete or another person acting on behalf of  
3 15 the student athlete initiates communication with the  
3 16 individual.

3 17 b. Within seven days after an initial act as an athlete  
3 18 agent, the individual submits an application for registration  
3 19 as an athlete agent in this state.

3 20 3. An agency contract resulting from conduct in violation  
3 21 of this section is void and the athlete agent shall return any  
3 22 consideration received under the contract.

3 23 Sec. 5. NEW SECTION. 9A.5 REGISTRATION AS ATHLETE AGENT  
3 24 FORM REQUIREMENTS.

3 25 1. An applicant for registration shall submit an  
3 26 application for registration to the secretary of state in a  
3 27 form prescribed by the secretary of state. An application  
3 28 filed under this section is a public record. The application  
3 29 shall be in the name of an individual and, except as otherwise  
3 30 provided in subsection 2, signed or otherwise authenticated by  
3 31 the applicant under penalty of perjury, and contain the  
3 32 following information:

3 33 a. The name of the applicant and the address of the  
3 34 applicant's principal place of business.

3 35 b. The name of the applicant's business or employer, if  
4 1 applicable.

4 2 c. Any business or occupation engaged in by the applicant  
4 3 for the five years immediately preceding the date of  
4 4 submission of the application.

4 5 d. A description of the applicant's qualifications,  
4 6 including:

4 7 (1) Formal training as an athlete agent.

4 8 (2) Practical experience as an athlete agent.

4 9 (3) Educational background relating to the applicant's  
4 10 activities as an athlete agent.

4 11 e. The names and addresses of three individuals not  
4 12 related to the applicant who are willing to serve as  
4 13 references.

4 14 f. The name, sport, and last known team of each individual  
4 15 for whom the applicant acted as an athlete agent during the  
4 16 five years immediately preceding the date of submission of the  
4 17 application.

4 18 g. The names and addresses of all persons who have or

4 19 claim an ownership interest in the applicant's business,  
4 20 including:

4 21 (1) The partners, members, officers, managers, associates,  
4 22 or profit-sharers of the business if it is not a corporation.

4 23 (2) The officers, directors, and any shareholder of the  
4 24 corporation having an interest of five percent or greater in a  
4 25 corporation employing the athlete agent.

4 26 h. Whether the applicant or any person named pursuant to  
4 27 paragraph "g" has been convicted of a crime that, if committed  
4 28 in this state, would be a crime involving moral turpitude or  
4 29 which is a felony, and identify the crime.

4 30 i. Whether there has been any administrative or judicial  
4 31 determination that the applicant or any person named pursuant  
4 32 to paragraph "g" has made a materially false, misleading,  
4 33 deceptive, or fraudulent representation.

4 34 j. Any instance in which the conduct of the applicant or  
4 35 any person named pursuant to paragraph "g" resulted in the  
5 1 imposition of a sanction, suspension, or declaration of  
5 2 ineligibility to participate in an interscholastic or  
5 3 intercollegiate athletic event on a student-athlete or  
5 4 educational institution.

5 5 k. Any sanction, suspension, or disciplinary action taken  
5 6 against the applicant or any person named pursuant to  
5 7 paragraph "g" arising out of occupational or professional  
5 8 conduct.

5 9 l. Whether there has been any denial of an application  
5 10 for, suspension or revocation of, or refusal to renew, the  
5 11 registration or licensure of the applicant or of any person  
5 12 named pursuant to paragraph "g" as an athlete agent in any  
5 13 state.

5 14 2. An individual who has submitted an application for, and  
5 15 holds a certificate of, registration or licensure as an  
5 16 athlete agent in another state may submit a copy of the  
5 17 application and certificate in lieu of submitting an  
5 18 application in the form prescribed pursuant to subsection 1.  
5 19 The secretary of state shall accept the application and the  
5 20 certificate from the other state as an application for  
5 21 registration in this state if the application to the other  
5 22 state:

5 23 a. Was submitted in the other state within the six-month  
5 24 period immediately preceding the submission of the application  
5 25 in this state and the applicant certifies that the information  
5 26 contained in the application in the other state is current.

5 27 b. Contains information substantially similar to or more  
5 28 comprehensive than that required in an application submitted  
5 29 in this state.

5 30 c. Was signed by the applicant under penalty of perjury.

5 31 Sec. 6. NEW SECTION. 9A.6 CERTIFICATE OF REGISTRATION  
5 32 ISSUANCE OR DENIAL RENEWAL.

5 33 1. Except as otherwise provided in subsection 2, the  
5 34 secretary of state shall issue a certificate of registration  
5 35 to an individual who complies with section 9A.5, subsection 1,  
6 1 or whose application has been accepted under section 9A.5,  
6 2 subsection 2.

6 3 2. The secretary of state may refuse to issue a  
6 4 certificate of registration if the secretary of state  
6 5 determines that the applicant has engaged in conduct that has  
6 6 a significant adverse effect on the applicant's fitness to act  
6 7 as an athlete agent. In making the determination, the  
6 8 secretary of state may consider whether the applicant has done  
6 9 the following:

6 10 a. Been convicted of a crime that, if committed in this  
6 11 state, would be a crime involving moral turpitude or a felony.

6 12 b. Made a materially false, misleading, deceptive, or  
6 13 fraudulent representation in the application or as an athlete  
6 14 agent.

6 15 c. Engaged in conduct that would disqualify the applicant

6 16 from serving in a fiduciary capacity.

6 17 d. Engaged in conduct prohibited by section 9A.14.

6 18 e. Had a certificate of registration or licensure as an  
6 19 athlete agent suspended, revoked, or denied or been refused  
6 20 renewal of a certificate of registration or licensure as an  
6 21 athlete agent in any state.

6 22 f. Engaged in conduct which resulted in the imposition of  
6 23 a sanction, suspension, or declaration of ineligibility to  
6 24 participate in an interscholastic or intercollegiate athletic  
6 25 event on a student athlete or educational institution.

6 26 g. Engaged in conduct that significantly adversely  
6 27 reflects on the applicant's credibility, honesty, or  
6 28 integrity.

6 29 3. In making a determination under subsection 2, the  
6 30 secretary of state shall consider the following:

6 31 a. How recently the conduct occurred.

6 32 b. The nature of the conduct and the context in which it  
6 33 occurred.

6 34 c. Any other relevant conduct of the applicant.

6 35 4. An athlete agent may apply to renew a certificate of  
7 1 registration by submitting an application for renewal in a  
7 2 form prescribed by the secretary of state. An application  
7 3 filed under this section is a public record. The application  
7 4 for renewal must be signed by the applicant under penalty of  
7 5 perjury and must contain current information on all matters  
7 6 required in an original application for registration.

7 7 5. An individual who has submitted an application for  
7 8 renewal of a certificate of registration or licensure in  
7 9 another state, in lieu of submitting an application for  
7 10 renewal in the form prescribed pursuant to subsection 4, may  
7 11 file a copy of the application for renewal and a valid  
7 12 certificate of registration or licensure from the other state.  
7 13 The secretary of state shall accept the application for  
7 14 renewal from the other state as an application for renewal in  
7 15 this state if the application to the other state:

7 16 a. Was submitted in the other state within the six-month  
7 17 period immediately preceding the filing in this state and the  
7 18 applicant certifies the information contained in the  
7 19 application for renewal in the other state is current.

7 20 b. Contains information substantially similar to or more  
7 21 comprehensive than that required in an application for renewal  
7 22 submitted in this state.

7 23 c. Was signed by the applicant under penalty of perjury.

7 24 6. An original certificate of registration or a renewal of  
7 25 a certificate of registration is valid for two years.

7 26 Sec. 7. NEW SECTION. 9A.7 SUSPENSION, REVOCATION, OR  
7 27 REFUSAL TO RENEW REGISTRATION.

7 28 1. The secretary of state may suspend, revoke, or refuse  
7 29 to renew a certificate of registration for conduct that would  
7 30 have justified denial of a certificate of registration under  
7 31 section 9A.6, subsection 2.

7 32 2. The secretary of state may deny, suspend, revoke, or  
7 33 refuse to renew a certificate of registration or licensure  
7 34 only after proper notice and an opportunity for a hearing held  
7 35 in accordance with chapter 17A.

8 1 Sec. 8. NEW SECTION. 9A.8 TEMPORARY REGISTRATION.

8 2 The secretary of state may issue a temporary certificate of  
8 3 registration while an application for registration or renewal  
8 4 of registration is pending.

8 5 Sec. 9. NEW SECTION. 9A.9 REGISTRATION AND RENEWAL FEES.

8 6 An application for registration or renewal of registration  
8 7 shall be accompanied by a reasonable registration or renewal  
8 8 of registration fee sufficient to offset expenses incurred in  
8 9 the administration of this chapter as established by the  
8 10 secretary of state.

8 11 Sec. 10. NEW SECTION. 9A.10 REQUIRED FORM OF CONTRACT.

8 12 1. An agency contract shall be in a record, signed, or

8 13 otherwise authenticated by the parties.

8 14 2. An agency contract shall contain the following  
8 15 information:

8 16 a. The amount and method of calculating the consideration  
8 17 to be paid by the student athlete for services to be provided  
8 18 by the athlete agent under the contract and any other  
8 19 consideration the athlete agent has received or will receive  
8 20 from any other source for entering into the contract or for  
8 21 providing the services.

8 22 b. The name of any person not listed in the application  
8 23 for registration or renewal of registration who will be  
8 24 compensated because the student athlete signed the agency  
8 25 contract.

8 26 c. The description of any expenses that the student  
8 27 athlete agrees to reimburse.

8 28 d. The description of the services to be provided to the  
8 29 student athlete.

8 30 e. The duration of the contract.

8 31 f. The date of execution of the contract.

8 32 3. An agency contract must contain, in close proximity to  
8 33 the signature of the student athlete, a conspicuous notice in  
8 34 boldface type in capital letters stating:

8 35 WARNING TO STUDENT ATHLETE

9 1 IF YOU SIGN THIS CONTRACT:

9 2 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT  
9 3 ATHLETE IN YOUR SPORT;

9 4 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS  
9 5 AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE  
9 6 AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

9 7 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER  
9 8 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE  
9 9 YOUR ELIGIBILITY.

9 10 4. An agency contract that does not conform to this  
9 11 section is voidable by the student athlete. If a student  
9 12 athlete voids an agency contract, the student athlete is not  
9 13 required to pay any consideration under the contract or to  
9 14 return any consideration received from the athlete agent to  
9 15 induce the student athlete to enter into the contract.

9 16 5. The athlete agent shall give a record of the signed or  
9 17 otherwise authenticated agency contract to the student athlete  
9 18 at the time of execution of the contract.

9 19 Sec. 11. NEW SECTION. 9A.11 NOTICE TO EDUCATIONAL  
9 20 INSTITUTION.

9 21 1. Within seventy-two hours after entering into an agency  
9 22 contract or before the next scheduled athletic event in which  
9 23 the student athlete may participate, whichever occurs first,  
9 24 the athlete agent shall give notice in a record of the  
9 25 existence of the contract to the athletic director of the  
9 26 educational institution at which the student athlete is  
9 27 enrolled or at which the athlete agent has reasonable grounds  
9 28 to believe the student athlete intends to enroll.

9 29 2. Within seventy-two hours after entering into an agency  
9 30 contract or before the next athletic event in which the  
9 31 student athlete may participate, whichever occurs first, the  
9 32 student athlete shall inform the athletic director of the  
9 33 educational institution at which the student athlete is  
9 34 enrolled or intends to enroll that the student athlete has  
9 35 entered into an agency contract.

10 1 Sec. 12. NEW SECTION. 9A.12 STUDENT ATHLETE'S RIGHT TO  
10 2 CANCEL.

10 3 1. A student athlete may cancel an agency contract by  
10 4 giving notice of the cancellation to the athlete agent in a  
10 5 record within fourteen days after the contract is signed.

10 6 2. A student athlete may not waive the right to cancel an  
10 7 agency contract.

10 8 3. If a student athlete cancels an agency contract, the  
10 9 student athlete is not required to pay any consideration under

10 10 the contract or to return any consideration received from the  
10 11 athlete agent to induce the student athlete to enter into the  
10 12 contract.

10 13 Sec. 13. NEW SECTION. 9A.13 REQUIRED RECORDS.

10 14 1. An athlete agent shall retain the following records for  
10 15 a period of five years:

10 16 a. The name and address of each individual represented by  
10 17 the athlete agent.

10 18 b. Any agency contract entered into by the athlete agent.

10 19 c. Any direct costs incurred by the athlete agent in the  
10 20 recruitment or solicitation of a student athlete to enter into  
10 21 an agency contract.

10 22 2. Records required to be retained by subsection 1 are  
10 23 open to inspection by the secretary of state during normal  
10 24 business hours.

10 25 Sec. 14. NEW SECTION. 9A.14 PROHIBITED CONDUCT.

10 26 1. An athlete agent, with the intent to induce a student  
10 27 athlete to enter into an agency contract, shall not do any of  
10 28 the following:

10 29 a. Give any materially false, misleading, deceptive, or  
10 30 fraudulent information or make a materially false promise or a  
10 31 materially false, misleading, deceptive, or fraudulent  
10 32 representation.

10 33 b. Furnish anything of value to a student athlete before  
10 34 the student athlete enters into the agency contract.

10 35 c. Furnish anything of value to any individual other than  
11 1 the student athlete or another registered athlete agent.

11 2 2. An athlete agent shall not intentionally:

11 3 a. Initiate contact with a student athlete unless  
11 4 registered under this chapter.

11 5 b. Refuse or fail to retain or permit inspection of the  
11 6 records required to be retained by section 9A.13.

11 7 c. Fail to register when required by section 9A.4.

11 8 d. Provide materially false or misleading information in  
11 9 an application for registration or renewal of registration.

11 10 e. Predate or postdate an agency contract.

11 11 f. Fail to notify a student athlete before the student  
11 12 athlete signs or otherwise authenticates an agency contract  
11 13 for a particular sport that the signing or authentication may  
11 14 make the student athlete ineligible to participate as a  
11 15 student athlete in that sport.

11 16 Sec. 15. NEW SECTION. 9A.15 CRIMINAL PENALTIES.

11 17 An athlete agent who violates section 9A.14 is guilty of a  
11 18 serious misdemeanor.

11 19 Sec. 16. NEW SECTION. 9A.16 CIVIL REMEDIES.

11 20 1. An educational institution has a right of action  
11 21 against an athlete agent or a former student athlete for  
11 22 damages caused by a violation of this chapter. In an action  
11 23 under this section, the court may award costs and reasonable  
11 24 attorney fees to the prevailing party.

11 25 2. Damages to an educational institution under subsection  
11 26 1 include losses and expenses incurred because, as a result of  
11 27 the conduct of an athlete agent or former student athlete, the  
11 28 educational institution was injured by a violation of this  
11 29 chapter or was sanctioned, declared ineligible, or suspended  
11 30 from participation in athletics by a national association for  
11 31 the promotion and regulation of athletics, by an athletic  
11 32 conference, or by reasonable self-imposed disciplinary action  
11 33 taken to mitigate sanctions likely to be imposed by such an  
11 34 organization.

11 35 3. A right of action under this section does not accrue  
12 1 until the educational institution discovers or by the exercise  
12 2 of reasonable diligence should have discovered the violation  
12 3 by the athlete agent or former student athlete.

12 4 4. Any liability of the athlete agent or the former  
12 5 student athlete under this section is several and not joint.

12 6 5. This chapter does not restrict rights, remedies, or

12 7 defenses of any person under law or equity.

12 8 Sec. 17. NEW SECTION. 9A.17 ADMINISTRATIVE PENALTY.

12 9 The secretary of state may assess a civil penalty against  
12 10 an athlete agent not to exceed twenty-five thousand dollars  
12 11 for a violation of this chapter.

12 12 Sec. 18. NEW SECTION. 9A.18 UNIFORMITY OF APPLICATION  
12 13 AND CONSTRUCTION.

12 14 In applying and construing this chapter, consideration must  
12 15 be given to the need to promote uniformity of the law with  
12 16 respect to the subject matter of this chapter among states  
12 17 that enact the uniform athlete agents Act.

12 18 Sec. 19. NEW SECTION. 9A.19 ELECTRONIC SIGNATURES IN  
12 19 GLOBAL AND NATIONAL COMMERCE ACT.

12 20 The provisions of this chapter governing the legal effect,  
12 21 validity, or enforceability of electronic records or  
12 22 signatures, and of contracts formed or performed with the use  
12 23 of such records or signatures, shall be construed as  
12 24 conforming to the requirements of section 102 of the  
12 25 Electronic Signatures in Global and National Commerce Act,  
12 26 Pub. L. No. 106-229, 114 Stat. 464 (2000), that supersede,  
12 27 modify, and limit the Electronic Signatures in Global and  
12 28 National Commerce Act.

12 29 Sec. 20. Chapter 9A, Code 2001, is repealed.

12 30 EXPLANATION

12 31 This bill repeals Code chapter 9A, which relates to the  
12 32 registration of athlete agents and replaces it with the  
12 33 uniform athlete agents Act. The uniform athlete agents Act  
12 34 provides for uniform registration, certification, and  
12 35 background checks of sports agents seeking to represent  
13 1 student athletes who are or may be eligible to participate in  
13 2 intercollegiate sports, imposes specified contract terms on  
13 3 agreements between student athletes and athlete agents, and  
13 4 provides educational institutions with a right to notice of  
13 5 the existence of a contract between an athlete agent and a  
13 6 student athlete.

13 7 The bill also provides an educational institutional with  
13 8 civil remedies against an athlete agent or a student athlete  
13 9 who violates the provisions of the chapter.

13 10 The bill also provides that an athlete agent that violates  
13 11 the prohibited activities section of the Code chapter is  
13 12 guilty of a serious misdemeanor. Prohibited activities  
13 13 include providing materially false, misleading, deceptive, or  
13 14 fraudulent information, making a materially false or  
13 15 misleading promise or a materially false, misleading,  
13 16 deceptive, or fraudulent representation, furnishing things of  
13 17 value before a contract is made with an athlete, violating the  
13 18 Code chapter's registration requirements, predating or  
13 19 postdating an agency contract, or failing to notify a student  
13 20 athlete prior to signing that signing an agency contract may  
13 21 make the student athlete ineligible to participate as a  
13 22 student athlete in that sport.

13 23 LSB 2486XC 79

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