



Sen. A. J. Wilhelmi

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1 AMENDMENT TO SENATE BILL 2542

2 AMENDMENT NO. _____. Amend Senate Bill 2542 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Illinois Athlete Agents Act.

6 Section 10. Declaration of public policy. Practice as an
7 athlete agent in the State of Illinois is hereby declared to
8 affect the public health, safety, and well-being of its
9 citizens and to be subject to regulation and control in the
10 public interest. It is further declared that the practice as an
11 athlete agent, as defined in this Act, merits the confidence of
12 the public, and that only qualified persons shall be authorized
13 to engage in such practice in the State of Illinois. This Act
14 shall be liberally construed to best carry out this purpose.

15 Section 15. Definitions. In this Act:

1 "Address of record" means the designated address recorded
2 by the Department in the applicant's or licensee's application
3 file or license file maintained by the Department's licensure
4 maintenance unit. It is the duty of the applicant or licensee
5 to inform the Department of any change of address, and such
6 changes must be made either through the Department's website or
7 by contacting the Department's licensure maintenance unit.

8 "Agency contract" means an agreement in which a
9 student-athlete authorizes a person to negotiate or solicit on
10 behalf of the student-athlete a professional-sports-services
11 contract or an endorsement contract.

12 "Athlete agent" means an individual who enters into an
13 agency contract with a student-athlete or, directly or
14 indirectly, recruits or solicits a student-athlete to enter
15 into an agency contract. The term includes an individual who
16 represents to the public that the individual is an athlete
17 agent. The term does not include a spouse, parent, sibling,
18 grandparent, or guardian of the student-athlete or an
19 individual acting solely on behalf of a professional sports
20 team or professional sports organization.

21 "Athletic director" means an individual responsible for
22 administering the overall athletic program of an educational
23 institution or, if an educational institution has separately
24 administered athletic programs for male students and female
25 students, the athletic program for males or the athletic
26 program for females, as appropriate.

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

4 "Department" means the Department of Financial and
5 Professional Regulation.

6 "Endorsement contract" means an agreement under which a
7 student-athlete is employed or receives consideration to use on
8 behalf of the other party any value that the student-athlete
9 may have because of publicity, reputation, following, or fame
10 obtained because of athletic ability or performance.

11 "Intercollegiate sport" means a sport played at the
12 collegiate level for which eligibility requirements for
13 participation by a student-athlete are established by a
14 national association for the promotion or regulation of
15 collegiate athletics.

16 "License" means an person holding licensure as an athlete
17 agent pursuant to this Act.

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

23 "Professional-sports-services contract" means an agreement
24 under which an individual is employed, or agrees to render
25 services, as a player on a professional sports team, with a
26 professional sports organization, or as a professional

1 athlete.

2 "Record" means information that is inscribed on a tangible
3 medium or that is stored in an electronic or other medium and
4 is retrievable in perceivable form.

5 "Secretary" means the Secretary of Financial and
6 Professional Regulation.

7 "State" means a State of the United States, the District of
8 Columbia, Puerto Rico, the United States Virgin Islands, or any
9 territory or insular possession subject to the jurisdiction of
10 the United States.

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

17 "Licensed athlete agent" means an individual who is
18 licensed under this Act to engage as an athlete agent in
19 Illinois.

20 Section 20. Exemptions. Nothing in this Act shall be
21 construed to prohibit practice as an athlete agent for the
22 following:

23 (a) practice as an athlete agent by officers and employees
24 of the United States government within the scope of their
25 employment.

1 (b) practice as an athlete agent by any person licensed in
2 this State under any other Act from engaging in the practice
3 for which he is licensed.

4 Section 25. Restrictions and limitations.

5 (a) No person without a license under this Act or who is
6 otherwise exempt from this Act shall: (i) in any manner hold
7 himself or herself out to the public as a licensed athlete
8 agent; (ii) attach the title "licensed athlete agent" to his or
9 her name; or (iii) render or offer to render to any individual,
10 athlete or other person or entity any services or activities
11 constituting the practice of an athlete agent as defined in
12 this Act.

13 (b) A person shall be construed to practice, render or
14 offer to practice as an athlete agent, within the meaning and
15 intent of this Act, if that person: (i) by verbal claim, sign,
16 advertisement, letterhead, card, or any other means,
17 represents himself or herself to be an athlete agent or through
18 the use of some title implies that he or she is an athlete
19 agent or is licensed under this Act; (ii) holds himself or
20 herself out as able to perform or does perform services or work
21 defined in this Act as the practice of an athlete agent; or
22 (iii) provides services as an athlete agent as set forth in
23 this Act.

24 Individuals practicing as an athlete agent in Illinois as
25 of the effective date of this Act may continue to practice as

1 provided in this Act until the Department has adopted rules
2 implementing this Act. To continue practicing as an athlete
3 agent after the adoption of rules, individuals shall apply for
4 licensure within 90 days after the effective date of the rules.
5 If an application is received during the 90 day period, then
6 the individual may continue to practice until the Department
7 acts to grant or deny licensure. If an application is not filed
8 within the 90 day period, then the individual must cease
9 practice as an athlete agent at the conclusion of the 90 day
10 period and until the Department acts to grant a license to the
11 individual.

12 Section 30. Practice pending licensure; void contracts.

13 (a) Except as otherwise provided in Section 20 or in
14 subsection (b) of this Section, an individual may not act as an
15 athlete agent in this State without holding a license issued
16 under this Act.

17 (b) Before being issued a license, an individual may act as
18 an athlete agent in this State for all purposes except signing
19 an agency contract if:

20 (1) a student-athlete or another person acting on
21 behalf of the student-athlete initiates communication with
22 the individual; and

23 (2) within 7 days after an initial act as an athlete
24 agent, the individual submits an application and the
25 application and fee have been received by the Department

1 for licensure as an athlete agent in this State.

2 (c) An agency contract resulting from conduct in violation
3 of this Section is void and the athlete agent shall return any
4 consideration received under the contract.

5 Section 35. Powers and duties of the Department. Subject to
6 the provisions of this Act, the Department may:

7 (1) Conduct or authorize examinations, at the
8 discretion of the Department, to ascertain the fitness and
9 qualifications of applicants for licensure and issue
10 licenses to those who are found to be fit and qualified.

11 (2) Prescribe rules for a method of examination of
12 candidates if required.

13 (3) Conduct hearings on proceedings to revoke,
14 suspend, or otherwise discipline or take non-disciplinary
15 action.

16 (4) Promulgate rules required for the administration
17 of this Act.

18 Section 40. Application for original license. Applications
19 for original licenses shall be made to the Department on forms
20 prescribed by the Department and accompanied by the required
21 fee. All applications shall contain the information that, in
22 the judgment of the Department, will enable the Department to
23 pass on the qualifications of the applicant for a license to
24 practice as an athlete agent.

1 Section 45. Qualifications for licensure.

2 (a) A person is qualified for licensure as an athlete agent
3 if that person:

4 (1) is at least 21 years of age;

5 (2) has applied in writing on forms prepared and
6 furnished by the Department;

7 (3) has not engaged or is not engaged in any practice
8 or conduct that would be grounds for disciplining a
9 licensee under this Act;

10 (4) pays the required non-refundable fee as set forth
11 in rule;

12 (5) submits an application which is signed or otherwise
13 authenticated by the applicant under penalty of perjury
14 which contains the following information:

15 (A) the name and social security number of the
16 applicant, and the address of the applicant's
17 principal place of business;

18 (B) the name of the applicant's business or
19 employer, if applicable;

20 (C) any business or occupation engaged in by the
21 applicant for the five years next preceding the date of
22 submission of the application;

23 (D) a description of the applicant's:

24 (i) education or formal training as an athlete
25 agent;

1 (ii) work history, including but not limited
2 to any practical experience as an athlete agent;
3 and

4 (iii) educational background;

5 (E) the names and addresses of all persons who are:

6 (i) with respect to the athlete agent's
7 business if it is not a corporation, the partners,
8 members, officers, managers, associates, or
9 profit-sharers of the business; and

10 (ii) with respect to a corporation employing
11 the athlete agent, the officers, directors, and
12 any shareholder of the corporation having an
13 interest of five percent or greater;

14 (F) the names and addresses of 3 individuals not
15 related to the applicant who are willing to serve as
16 references; and

17 (G) the name, sport, and last known team for each
18 individual for whom the applicant acted as an athlete
19 agent during the 5 years next preceding the date of
20 submission of the application; and

21 (7) has complied with all other requirements of this
22 Act and rules established for the implementation of this
23 Act.

24 (b) Applicants have 3 years from the date of application to
25 complete the application process. If the process has not been
26 completed in 3 years, then the application shall be denied, the

1 fee shall be forfeited, and the applicant must reapply and meet
2 the requirements in effect at the time of reapplication.

3 Section 50. Licensure by endorsement.

4 (a) The Department may, in its discretion, grant a license
5 on submission of the required application and payment of the
6 required non-refundable fee to any person who, at the time of
7 application, is licensed by another state or the United States
8 or of a foreign country or province whose standards, in the
9 opinion of the Department, were substantially equivalent at the
10 date of his or her licensure in the other jurisdiction to the
11 requirements then in force in this State or to any person who
12 at the time of his or her licensure possessed individual
13 qualifications that were substantially equivalent to the
14 requirements of this Act.

15 (b) The Department may adopt rules to further define the
16 licensing criteria under this Section.

17 (c) Applicants have 3 years from the date of application to
18 complete the application process. If the process has not been
19 completed in 3 years, then the application shall be denied, the
20 fee shall be forfeited, and the applicant must reapply and meet
21 the requirements in effect at the time of reapplication.

22 Section 55. Licenses; renewals; restoration; person in
23 military service.

24 (a) The expiration date and renewal period for each license

1 issued under this Act shall be set by rule. As a condition for
2 renewal of a license, the licensee may be required to complete
3 continuing education under requirements set forth in rules of
4 the Department.

5 (b) Any person who has permitted his or her license to
6 expire may have his or her license restored by making
7 application to the Department and filing proof acceptable to
8 the Department of fitness to have his or her license restored,
9 which may include sworn evidence certifying to active practice
10 in another jurisdiction satisfactory to the Department,
11 complying with any continuing education requirements, and
12 paying the required restoration fee.

13 (c) If the person has not maintained an active practice in
14 another jurisdiction satisfactory to the Department, then the
15 Department shall determine, by an evaluation program
16 established by rule, the person's fitness to resume active
17 status and may require the person to complete a period of
18 evaluated experience. However, any person whose license
19 expired while (i) in federal service on active duty with the
20 Armed Forces of the United States or called into service or
21 training with the State Militia, or (ii) in training or
22 education under the supervision of the United States
23 preliminary to induction into the military service may have his
24 or her license renewed or restored without paying any lapsed
25 renewal fees if, within 2 years after honorable termination of
26 the service, training or education, except under condition

1 other than honorable, he or she furnishes the Department with
2 satisfactory evidence to the effect that he or she has been so
3 engaged and that the service, training, or education has been
4 so terminated.

5 (d) Any person who notifies the Department , in writing on
6 forms prescribed by the Department, may place his or her
7 license on inactive status and shall be excused from the
8 payment of renewal fees until the person notifies the
9 Department in writing of the intention to resume active
10 practice.

11 (e) Any person requesting his or her license be changed
12 from inactive to active status shall be required to pay the
13 current renewal fee and shall also demonstrate compliance with
14 any applicable continuing education requirements.

15 (f) Any license whose license is nonrenewed or on inactive
16 status shall not engage in the practice as an athlete agent as
17 set forth in this Act in the State of Illinois and use the
18 title or advertise that he or she performs the services of an
19 athlete agent.

20 (g) Any person violating subsection (f) of this Section
21 shall be considered to be practicing without a license and will
22 be subject to the disciplinary provisions of this Act.

23 (h) The Department may adopt additional Rules in order to
24 effectively administer the provisions in this Section

25 Section 60. Fees.

1 (a) The fees for the administration and enforcement of this
2 Act, including but not limited to original licensure, renewal,
3 and restoration fees, shall be set by the Department by rule.
4 The fees shall not be refundable.

5 (b) All fees and other monies collected under this Act
6 shall be deposited in the General Professions Dedicated Fund.

7 Section 65. Roster. The Department shall maintain a roster
8 of names and addresses of all persons who hold valid licenses
9 and all persons whose licenses have been suspended, revoked or
10 otherwise disciplined within the previous year. This roster
11 shall be available upon request and payment of the required fee
12 as set forth by Rule.

13 Section 70. Returned checks; fines. Any person who delivers
14 a check or other payment to the Department that is returned to
15 the Department unpaid by the financial institution upon which
16 it is drawn shall pay to the Department, in addition to the
17 amount already owed to the Department, a fine of \$50. The fines
18 imposed by this Section are in addition to any other discipline
19 provided under this Act for unlicensed practice or practice on
20 a nonrenewed license. The Department shall notify the person
21 that payment of fees and fines shall be paid to the Department
22 by certified check or money order within 30 calendar days of
23 the notification. If, after the expiration of 30 days from the
24 date of the notification, the person has failed to submit the

1 necessary remittance, then the Department shall automatically
2 terminate the license or deny the application, without hearing.
3 If, after termination or denial, the person seeks a license,
4 then he or she shall apply to the Department for restoration or
5 issuance of the license and pay all fees and fines due to the
6 Department. The Department may establish a fee for the
7 processing of an application for restoration of a license to
8 pay all expenses of processing this application. The Secretary
9 may waive the fines due under this Section in individual cases
10 where the Secretary finds that the fines would be unreasonable
11 or unnecessarily burdensome.

12 Section 75. Grounds for disciplinary action.

13 (a) The Department may refuse to issue or renew, or may
14 revoke, suspend, place on probation, reprimand, or take other
15 disciplinary or non-disciplinary action as the Department may
16 deem appropriate, including imposing fines not to exceed
17 \$10,000 for each violation, with regard to any license for any
18 one or combination of the following:

19 (1) Making a material misstatement in furnishing
20 information to the Department.

21 (2) Violating this Act, or the rules adopted pursuant
22 to this Act.

23 (3) Conviction of or entry of a plea of guilty or nolo
24 contendere, finding of guilt, jury verdict, or entry of
25 judgment or by sentencing of any crime, including but not

1 limited to convictions, preceding sentences of
2 supervision, conditional discharge or first offender
3 probation, to any crime that is a felony under the laws of
4 the United States or any state or territory thereof or that
5 is a misdemeanor of which as essential element is
6 dishonesty, or any crime that is directly related to the
7 practice of the profession.

8 (4) Making any misrepresentation for the purpose of
9 obtaining licensure or violating any provision of this Act
10 or the rules adopted under this Act pertaining to
11 advertising.

12 (5) Professional incompetence.

13 (6) Gross malpractice.

14 (7) Aiding or assisting another person in violating any
15 provision of this Act or rules adopted under this Act.

16 (8) Failing, within 60 days, to provide information in
17 response to a written request made by the Department.

18 (9) Engaging in dishonorable, unethical, or
19 unprofessional conduct of a character likely to deceive,
20 defraud, or harm the public.

21 (10) Inability to practice with reasonable judgment,
22 skill or safety as a result of habitual or excessive use or
23 addiction to alcohol, narcotics, stimulants or any other
24 chemical agent or drug.

25 (11) Denial of any application as an athlete agent or
26 discipline by another state, District of Columbia,

1 territory, or foreign nation, if at least one of the
2 grounds for the discipline is the same or substantially
3 equivalent to those set forth in this Section.

4 (12) A finding by the Department that the licensee,
5 after having his or her license placed on probationary
6 status, has violated the terms of probation.

7 (13) Willfully making or filing false records or
8 reports in his or her practice, including but not limited
9 to, false records filed with State agencies or departments.

10 (14) Inability to practice the profession with
11 reasonable judgment, skill, or safety as a result of a
12 physical illness, including but not limited to
13 deterioration through the aging process or loss of motor
14 skill, or a mental illness or disability.

15 (15) Solicitation of professional services other than
16 permitted advertising.

17 (16) Conviction of or cash compromise of a charge or
18 violation of the Illinois Controlled Substances Act
19 regulating narcotics.

20 (17) Gross, willful, or continued overcharging for
21 professional services, including filing false statements
22 for collection of fees for which services are not rendered.

23 (18) Practicing under a false or, except as provided by
24 law, an assumed name.

25 (19) Fraud or misrepresentation in applying for, or
26 procuring, a license under this Act or in connection with

1 applying for renewal of a license under this Act.

2 (20) Any instance in which the conduct of the applicant
3 or any person named pursuant to item (5) of subsection (a)
4 of Section 45 resulted in the imposition of a sanction,
5 suspension, or declaration of ineligibility to participate
6 in an interscholastic or intercollegiate athletic event on
7 a student-athlete or educational institution.

8 (21) Any instance in which the conduct of any person
9 named pursuant to item (5) of subsection (a) of Section 45
10 resulted in the denial of an application as an athlete
11 agent or discipline of a license as an athlete agent by
12 another state, District of Columbia, territory, or foreign
13 nation, if at least one of the grounds for the discipline
14 is the same or substantially equivalent to those set forth
15 in this Section.

16 (22) Committing any of the activities set forth in
17 subsection (b) of Section 175 of this Act.

18 (b) A person holding a license under this Act or has
19 applied for licensure under this Act who, because of a physical
20 or mental illness or disability, including but not limited to
21 deterioration through the aging process or loss of motor skill,
22 is unable to practice the profession with reasonable judgment,
23 skill, or safety may be required by the Department to submit to
24 care, counseling or treatment by physicians approved or
25 designated by the Department as a condition, term or
26 restriction for continued, reinstated or renewed licensure to

1 practice. Submission to care, counseling or treatment as
2 required by the Department shall not be considered discipline
3 of the license. If the licensee refuses to enter into a care,
4 counseling, or treatment agreement or fails to abide by the
5 terms of the agreement, then the Department may file a
6 complaint to suspend, revoke, or otherwise discipline the
7 license of the individual. The Secretary may order the license
8 suspended immediately, pending a hearing by the Department.
9 Fines shall not be assessed in disciplinary actions involving
10 physical or mental illness or impairment.

11 (c) The determination by a circuit court that a licensee is
12 subject to involuntary admission or judicial admission as
13 provided in the Mental Health and Developmental Disabilities
14 Code, as amended, operates as an automatic suspension. The
15 suspension will end only upon a finding by a court that the
16 licensee is no longer subject to the involuntary admission or
17 judicial admission and issues an order so finding and
18 discharging the licensee; and upon review of the order by the
19 Secretary or his or her designee the licensee may be allowed to
20 resume his or her practice.

21 (d) The Department may refuse to issue or may suspend
22 without hearing as provided for in the Code of Civil Procedure
23 the license of any person who fails to file a return, or to pay
24 the tax, penalty or interest shown in a filed return, or to pay
25 any final assessment of the tax, penalty, or interest as
26 required by any tax Act administered by the Illinois Department

1 of Revenue, until such time as the requirements of any such tax
2 Act are satisfied.

3 (e) In enforcing this Section, the Department upon a
4 showing of a possible violation may compel an individual
5 licensed to practice under this Act, or who has applied for
6 licensure under this Act, to submit to a mental or physical
7 examination, or both, as required by and at the expense of the
8 Department. The Department may order the examining physician to
9 present testimony concerning the mental or physical
10 examination of the licensee or applicant. No information shall
11 be excluded by reason of any common law or statutory privilege
12 relating to communications between the licensee or applicant
13 and the examining physician. The examining physicians shall be
14 specifically designated by the Department. The individual to be
15 examined may have, at his or her own expense, another physician
16 of his or her choice present during all aspects of this
17 examination. Failure of an individual to submit to a mental or
18 physical examination, when directed, shall be grounds for the
19 immediate suspension of his or her license until the individual
20 submits to the examination if the Department finds that the
21 refusal to submit to the examination was without reasonable
22 cause as defined by rule.

23 In instances in which the Secretary immediately suspends a
24 person's license for his or her failure to submit to a mental
25 or physical examination, when directed, a hearing on that
26 person's license must be convened by the Department within 15

1 days after the suspension and completed without appreciable
2 delay.

3 In instances in which the Secretary otherwise suspends a
4 person's license pursuant to the results of a compelled mental
5 or physical examination a hearing on that person's license must
6 be convened by the Department within 15 days after the
7 suspension and completed without appreciable delay. The
8 Department shall have the authority to review the subject
9 individual's record of treatment and counseling regarding the
10 impairment to the extent permitted by applicable federal
11 statutes and regulations safeguarding the confidentiality of
12 medical records.

13 An individual licensed under this Act and affected under
14 this Section shall be afforded an opportunity to demonstrate to
15 the Department that he or she can resume practice in compliance
16 with acceptable and prevailing standards under the provisions
17 of his or her license.

18 Section 80. Required form of contract.

19 (a) An agency contract must be in a record, signed or
20 otherwise authenticated by the parties.

21 (b) An agency contract must state or contain the following:

22 (1) the amount and method of calculating the
23 consideration to be paid by the student-athlete for
24 services to be provided by the athlete agent under the
25 contract and any other consideration the athlete agent has

1 received or will receive from any other source for entering
2 into the contract or for providing the services;

3 (2) the name of any person not listed in the
4 application for registration or renewal of registration
5 who will be compensated because the student-athlete signed
6 the agency contract;

7 (3) a description of any expenses that the
8 student-athlete agrees to reimburse;

9 (4) a description of the services to be provided to the
10 student-athlete;

11 (5) the duration of the contract; and

12 (6) the date of execution.

13 (c) An agency contract must contain, in close proximity to
14 the signature of the student-athlete, a conspicuous notice in
15 boldface type in capital letters stating:

16 WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT:

17 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A
18 STUDENT-ATHLETE IN YOUR SPORT;

19 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS
20 AFTER ENTERING INTO THIS CONTRACT OR BEFORE YOUR NEXT
21 SCHEDULED ATHLETIC EVENT, WHICHEVER OCCURS FIRST, BOTH YOU
22 AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR;
23 AND

24 (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER
25 SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE

1 YOUR ELIGIBILITY.

2 (d) An agency contract that does not conform to this
3 Section is voidable by the student-athlete. If a
4 student-athlete voids an agency contract, then the
5 student-athlete is not required to pay any consideration under
6 the contract or to return any consideration received from the
7 athlete agent to induce the student-athlete to enter into the
8 contract.

9 (e) The athlete agent shall give a record of the signed or
10 otherwise authenticated agency contract to the student-athlete
11 at the time of execution.

12 Section 85. Student-athlete's right to cancel.

13 (a) A student-athlete may cancel an agency contract by
14 giving notice of the cancellation to the athlete agent in a
15 record within 14 days after the contract is signed.

16 (b) A student-athlete may not waive the right to cancel an
17 agency contract.

18 (c) If a student-athlete cancels an agency contract, then
19 the student-athlete is not required to pay any consideration
20 under the contract or to return any consideration received from
21 the athlete agent to induce the student-athlete to enter into
22 the contract.

23 Section 90. Notice to educational institution.

1 (a) Within 72 hours after entering into an agency contract
2 or before the next scheduled athletic event in which the
3 student-athlete may participate, whichever occurs first, the
4 athlete agent shall give notice in a record of the existence of
5 the contract to the athletic director of the educational
6 institution at which the student-athlete is enrolled or the
7 athlete agent has reasonable grounds to believe the
8 student-athlete intends to enroll.

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

15 Section 95. Required records.

16 (a) An athlete agent shall retain the following records for
17 a period of 5 years:

18 (1) the name and address of each individual represented
19 by the athlete agent;

20 (2) any agency contract entered into by the athlete
21 agent; and

22 (3) any direct costs incurred by the athlete agent in
23 the recruitment or solicitation of a student-athlete to
24 enter into an agency contract.

25 (b) Records required by subsection (a) of this Section to

1 be retained shall be open to inspection by the Department
2 during normal business hours.

3 Section 100. Injunctive action; cease and desist order.

4 (a) If any person violates the provisions of this Act, then
5 the Secretary, in the name of the People of the State of
6 Illinois, through the Attorney General or the State's Attorney
7 of the county in which the violation is alleged to have
8 occurred, may petition for an order enjoining the violation or
9 for an order enforcing compliance with this Act. Upon the
10 filing of a verified petition, the court with appropriate
11 jurisdiction may issue a temporary restraining order, without
12 notice or bond, and may preliminarily and permanently enjoin
13 the violation. If it is established that the person has
14 violated or is violating the injunction, then the court may
15 punish the offender for contempt of court. Proceedings under
16 this Section are in addition to, and not in lieu of, all other
17 remedies and penalties provided by this Act.

18 (b) Whenever, in the opinion of the Department, a person
19 violates any provision of this Act, the Department may issue a
20 rule to show cause why an order to cease and desist should not
21 be entered against that person. The rule shall clearly set
22 forth the grounds relied upon by the Department and shall allow
23 at least 7 days from the date of the rule to file an answer
24 satisfactory to the Department. Failure to answer to the
25 satisfaction of the Department shall cause an order to cease

1 and desist to be issued.

2 Section 105. Investigations; notice and hearing. The
3 Department may investigate the actions of any applicant or of
4 any person or persons rendering or offering to render services
5 as an athlete agent or any person holding or claiming to hold a
6 license as a as an athlete agent. The Department shall, before
7 revoking, suspending, placing on probation, reprimanding, or
8 taking any other disciplinary or non-disciplinary action
9 action under Section 75 of this Act, at least 30 days before
10 the date set for the hearing, (i) notify the accused in writing
11 of the charges made and the time and place for the hearing on
12 the charges, (ii) direct him or her to file a written answer to
13 the charges with the Department under oath within 20 days after
14 the service on him or her of the notice, and (iii) inform the
15 accused that, if he or she fails to answer, default will be
16 taken against him or her or that his or her license may be
17 suspended, revoked, placed on probationary status, or other
18 disciplinary action taken with regard to the license, including
19 limiting the scope, nature, or extent of his or her practice,
20 as the Department may consider proper. At the time and place
21 fixed in the notice, the Department shall proceed to hear the
22 charges and the parties or their counsel shall be accorded
23 ample opportunity to present any pertinent statements,
24 testimony, evidence, and arguments. The Department may
25 continue the hearing from time to time. In case the person,

1 after receiving the notice, fails to file an answer, his or her
2 license may, in the discretion of the Department, be suspended,
3 revoked, placed on probationary status, or the Department may
4 take whatever disciplinary action considered proper, including
5 limiting the scope, nature, or extent of the person's practice
6 or the imposition of a fine, without a hearing, if the act or
7 acts charged constitute sufficient grounds for that action
8 under this Act. The written notice may be served by personal
9 delivery or by certified mail to the address specified by the
10 accused in his or her last notification with the Department.

11 Section 110. Record of proceedings; transcript. The
12 Department, at its expense, shall preserve a record of all
13 proceedings at the formal hearing of any case. The notice of
14 hearing, complaint, all other documents in the nature of
15 pleadings, written motions filed in the proceedings, the
16 transcripts of testimony, the report of the Hearing Officer,
17 and orders of the Department shall be in the record of the
18 proceeding. The Department shall furnish a transcript of such
19 record to any person interested in such hearing upon payment of
20 the fee required under Section 2105-115 of the Department of
21 Professional Regulation Law (20 ILCS 2105/2105-115).

22 Section 115. Subpoenas; depositions; oaths. The Department
23 has the power to subpoena documents, books, records or other
24 materials and to bring before it any person and to take

1 testimony either orally or by deposition, or both, with the
2 same fees and mileage and in the same manner as prescribed in
3 civil cases in the courts of this State.

4 The Secretary, the designated hearing officer, and other
5 parties designated by the Department have the power to
6 administer oaths to witnesses at any hearing that the
7 Department is authorized to conduct, and any other oaths
8 authorized in any Act administered by the Department.

9 Section 120. Compelling testimony. Any circuit court, upon
10 application of the Department or designated hearing officer may
11 enter an order requiring the attendance of witnesses and their
12 testimony, and the production of documents, papers, files,
13 books, and records in connection with any hearing or
14 investigation. The court may compel obedience to its order by
15 proceedings for contempt.

16 Section 125. Findings and recommendations. At the
17 conclusion of the hearing, the Hearing Officer shall present to
18 the Secretary a written report of its findings of fact,
19 conclusions of law, and recommendations. The report shall
20 contain a finding whether or not the accused person violated
21 this Act or its rules or failed to comply with the conditions
22 required in this Act or its rules. The Hearing Officer shall
23 specify the nature of any violations or failure to comply and
24 shall make its recommendations to the Secretary. In making

1 recommendations for any disciplinary actions, the Hearing
2 Officer may take into consideration all facts and circumstances
3 bearing upon the reasonableness of the conduct of the accused
4 and the potential for future harm to the public, including but
5 not limited to previous discipline of the accused by the
6 Department, intent, degree of harm to the public and likelihood
7 of harm in the future, any restitution made by the accused, and
8 whether the incident or incidents contained in the complaint
9 appear to be isolated or represent a continuing pattern of
10 conduct. In making its recommendations for discipline, the
11 Hearing Officer shall endeavor to ensure that the severity of
12 the discipline recommended is reasonably related to the
13 severity of the violation.

14 The report of findings of fact, conclusions of law, and
15 recommendation of the Hearing Officer may, but shall not be
16 required to be, the basis for the Department's order refusing
17 to issue, restore, or renew a license, or otherwise
18 disciplining a licensee. If the Secretary disagrees with the
19 recommendations of the Hearing Officer, then the Secretary may
20 issue an order in contravention. The finding is not admissible
21 in evidence against the person in a criminal prosecution
22 brought for a violation of this Act, but the hearing and
23 finding are not a bar to a criminal prosecution brought for a
24 violation of this Act.

25 Section 130. Rehearing. At the conclusion of the hearing, a

1 copy of the Hearing Officer's report shall be served upon the
2 applicant or licensee by the Department, either personally or
3 as provided in this Act for the service of a notice of hearing.
4 Within 20 days after service, the applicant or licensee may
5 present to the Department a motion in writing for a rehearing,
6 which shall specify the particular grounds for rehearing. The
7 Department may respond to the motion for rehearing within 20
8 days after its service on the Department. If no motion for
9 rehearing is filed, then upon the expiration of the time
10 specified for filing such a motion, or if a motion for
11 rehearing is denied, then upon denial, the Secretary may enter
12 an order in accordance with recommendations of the Hearing
13 Officer except as provided in Section 135 of this Act. If the
14 applicant or licensee orders from the reporting service and
15 pays for a transcript of the record within the time for filing
16 a motion for rehearing, then the 20-day period within which a
17 motion may be filed shall commence upon the delivery of the
18 transcript to the applicant or licensee.

19 Section 135. Secretary; rehearing. Whenever the Secretary
20 believes that substantial justice has not been done in the
21 revocation, suspension, or refusal to issue, restore, or renew
22 a license, or other discipline of an applicant or licensee, he
23 or she may order a rehearing the same or a different Hearing
24 Officer.

1 Section 140. Appointment of a hearing officer. The
2 Secretary has the authority to appoint any attorney licensed to
3 practice law in the State of Illinois to serve as the hearing
4 officer in any action for refusal to issue, restore, or renew a
5 license or to discipline a licensee. The hearing officer has
6 full authority to conduct the hearing. The hearing officer
7 shall report his or her findings of fact, conclusions of law,
8 and recommendations to the Secretary. If the Secretary
9 disagrees with the recommendation of the hearing officer, then
10 the Secretary may issue an order in contravention of the
11 recommendation.

12 Section 145. Order or certified copy; prima facie proof. An
13 order or certified copy thereof, over the seal of the
14 Department and purporting to be signed by the Secretary, is
15 prima facie proof that:

16 (1) the signature is the genuine signature of the
17 Secretary; and

18 (2) the Secretary is duly appointed and qualified.

19 Section 150. Restoration of suspended or revoked license.
20 At any time after the successful completion of a term of
21 suspension or revocation of a license, the Department may
22 restore it to the licensee, unless after an investigation and a
23 hearing the Department determines that restoration is not in
24 the public interest.

1 Section 155. Surrender of license. Upon the revocation or
2 suspension of a license, the licensee shall immediately
3 surrender his or her license to the Department. If the licensee
4 fails to do so, then the Department has the right to seize the
5 license.

6 Section 160. Summary suspension of a license. The Secretary
7 may summarily suspend a license, without a hearing,
8 simultaneously with the institution of proceedings for a
9 hearing provided for in Section 105 of this Act, if the
10 Secretary finds that evidence in the Secretary's possession
11 indicates that the continuation of practice as an athlete agent
12 would constitute an imminent danger to the public. In the event
13 that the Secretary summarily suspends a license, without a
14 hearing, a hearing must be commenced within 30 days after the
15 suspension has occurred and concluded as expeditiously as
16 practical.

17 Section 165. Administrative review; venue.

18 (a) All final administrative decisions of the Department
19 are subject to judicial review under the Administrative Review
20 Law and its rules. The term "administrative decision" is
21 defined as in Section 3-101 of the Code of Civil Procedure.

22 (b) Proceedings for judicial review shall be commenced in
23 the circuit court of the county in which the party applying for

1 review resides, but if the party is not a resident of Illinois,
2 the venue shall be in Sangamon County.

3 Section 170. Certifications of record; costs. The
4 Department shall not be required to certify any record to the
5 court, to file an answer in court, or to otherwise appear in
6 any court in a judicial review proceeding unless and until the
7 Department has received from the plaintiff payment of the costs
8 of furnishing and certifying the record, which costs shall be
9 determined by the Department. Failure on the part of the
10 plaintiff to file the receipt in court is grounds for dismissal
11 of the action.

12 Section 175. Criminal penalties.

13 (a) Any person who is found to have violated any provision
14 of this Act is guilty of a Class A misdemeanor. On conviction
15 of a second or subsequent offense the violator shall be guilty
16 of a Class 4 felony.

17 (b) In addition, an athlete agent or an individual holding
18 oneself out as an athlete agent shall be guilty of a Class A
19 misdemeanor if he or she, with the intent to induce a
20 student-athlete to enter into an agency contract, does any of
21 the following:

22 (1) gives any materially false or misleading
23 information or makes a materially false promise or
24 representation;

1 (2) furnishes anything of value to a student-athlete
2 before the student-athlete enters into the agency
3 contract;

4 (3) furnishes anything of value to any individual other
5 than the student-athlete or another athlete agent;

6 (4) initiates contact with a student-athlete unless
7 registered under this Act;

8 (5) refuses or fails to retain or permit inspection of
9 the records as required under this Act;

10 (6) provides materially false or misleading
11 information in an application for licensure;

12 (7) predates or postdates an agency contract; or

13 (8) fails to notify a student-athlete before the
14 student-athlete signs or otherwise authenticates an agency
15 contract for a particular sport that the signing or
16 authentication may make the student-athlete ineligible to
17 participate as a student-athlete in that sport.

18 Section 180. Civil penalties.

19 (a) In addition to any other penalty provided by law, any
20 person who violates this Act shall forfeit and pay a civil
21 penalty to the Department in an amount not to exceed \$10,000
22 for each violation as determined by the Department. The civil
23 penalty shall be assessed by the Department in accordance with
24 the provisions of this Act.

25 (b) The Department has the authority and power to

1 investigate any and all unlicensed activity.

2 (c) The civil penalty shall be paid within 60 days after
3 the effective date of the order imposing the civil penalty. The
4 order shall constitute a judgment and may be filed and
5 execution had thereon in the same manner as any judgment from
6 any court of record.

7 (d) All moneys collected under this Section shall be
8 deposited into the General Fund.

9 Section 185. Civil remedies; educational institutions.

10 (a) An educational institution has a right of action
11 against an athlete agent or a former student-athlete for
12 damages caused by a violation of this Act. In an action under
13 this Section, the court may award to the prevailing party costs
14 and reasonable attorney's fees.

15 (b) Damages of an educational institution under subsection
16 (a) include losses and expenses incurred because, as a result
17 of the conduct of an athlete agent or former student-athlete,
18 the educational institution was injured by a violation of this
19 Act or was penalized, disqualified, or suspended from
20 participation in athletics by a national association for the
21 promotion and regulation of athletics, by an athletic
22 conference, or by reasonable self-imposed disciplinary action
23 taken to mitigate sanctions likely to be imposed by such an
24 organization.

25 (c) A right of action under this Section does not accrue

1 until the educational institution discovers or by the exercise
2 of reasonable diligence would have discovered the violation by
3 the athlete agent or former student-athlete.

4 (d) Any liability of the athlete agent or the former
5 student-athlete under this Section is several and not joint.

6 (e) This Act does not restrict rights, remedies, or
7 defenses of any person under law or equity.

8 Section 190. Consent order. At any point in the proceedings
9 as provided in Sections 100 through 145 and Section 165, both
10 parties may agree to a negotiated consent order. The consent
11 order shall be final upon signature of the Secretary.

12 Section 195. Illinois Administrative Procedure Act;
13 application. The Illinois Administrative Procedure Act is
14 expressly adopted and incorporated in this Act as if all of the
15 provisions of that Act were included in this Act, except that
16 the provision of paragraph (d) of Section 10-65 of the Illinois
17 Administrative Procedure Act, which provides that at hearings
18 the registrant or licensee has the right to show compliance
19 with all lawful requirements for retention or continuation or
20 renewal of the license, is specifically excluded. For the
21 purpose of this Act, the notice required under Section 10-25 of
22 the Illinois Administrative Procedure Act is considered
23 sufficient when mailed to the last known address of a party.

1 Section 200. Home rule. The regulation and licensing as an
2 athlete agent are exclusive powers and functions of the State.
3 A home rule unit may not regulate or license an athlete agent
4 or the practice as an athlete agent, except as provided under
5 Section 20 of this Act. This Section is a denial and limitation
6 of home rule powers and functions under subsection (h) of
7 Section 6 of Article VII of the Illinois Constitution.

8 Section 205. Relation to electronic signatures in Global
9 and National Commerce Act. This Act modifies, limits, and
10 supersedes the federal Electronic Signatures in Global and
11 National Commerce Act, 15 U.S.C. Section 7001, et seq., but
12 does not modify, limit, or supersede Section 101(c) of that
13 Act, 15 U.S.C. Section 7001(c), or authorize electronic
14 delivery of any of the notices described in Section 103(b) of
15 that Act, 15 U.S.C. Section 7003(b).

16 Section 210. Severability. The provisions of this Act are
17 severable under Section 1.31 of the Statute on Statutes.

18 Section 215. Agent for service of process. By acting as an
19 athlete agent in this State, a nonresident individual appoints
20 the Department as the individual's agent for service of process
21 in any civil action in this State related to the individual's
22 acting as an athlete agent in this State."