

Stricken language would be deleted from and underlined language would be added to law as it existed prior to the 82nd General Assembly.

1 State of Arkansas
2 82nd General Assembly
3 Regular Session, 1999
4

As Engrossed: S3/4/99 S3/19/99

A Bill

SENATE BILL 429

5 By: Senators D. Malone, Bradford, Riggs
6
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For An Act To Be Entitled

9 "TO AMEND VARIOUS SECTIONS OF ARKANSAS' ATHLETE AGENT
10 STATUTE; AND FOR OTHER PURPOSES."

Subtitle

11
12 "TO AMEND VARIOUS SECTIONS OF ARKANSAS'
13 ATHLETE AGENT STATUTE."
14
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16

17 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

18
19 SECTION 1. Arkansas Code 17-16-101 is amended to read as follows:
20 "17-16-101. Definitions.

21 (a) In this chapter:

22 (1) 'Person' means an individual, company, corporation,
23 association, partnership, or other legal entity;

24 (2) ~~(A)~~ 'Athlete agent' means a person that, for compensation,
25 directly or indirectly recruits or solicits an athlete to enter into an agent
26 contract or professional sport services contract with that person or that for
27 a fee procures, offers, promises, or attempts to obtain employment for an
28 athlete with a professional sports team. Provided, however, that 'athlete
29 agent' does not include any employee or other representative of a professional
30 team;

31 ~~(B) Provided, however, that "athlete agent" does not~~
32 ~~include any employee or other representative of a professional sports team and~~
33 ~~does not include any person licensed by the Supreme Court of Arkansas to~~
34 ~~practice law in the State of Arkansas;~~

35 (3) 'Agent contract' means any contract or agreement under which
36 an athlete authorizes an athlete agent to negotiate or solicit on behalf of

1 the athlete with one (1) or more professional sports teams;

2 (4) 'Athlete' means an individual who resides or is located in
3 this state and who desires to enter into professional sport services contract;
4 ~~and~~

5 (5) A 'professional sport services contract' means any contract
6 or agreement pursuant to which a person is employed or agrees to perform
7 services as a player on a professional sports team or as a professional
8 athlete-;

9 (6) 'Contact' means communication between an athlete agent and a
10 student athlete, by whatever means, directly or indirectly, for the purpose of
11 entering or soliciting entry into an agent contract;

12 (7) 'Student athlete' means any student who:

13 (A) Resides in Arkansas, and has informed, in writing, a
14 college or university of his or her intent to participate in that school's
15 intercollegiate athletics, or who does participate in that school's
16 intercollegiate athletics and is eligible to do so; or

17 (B) Does not reside in Arkansas, but has informed, in
18 writing, a college or university in Arkansas of the student's intent to
19 participate in that school's intercollegiate athletics and is eligible to do
20 so;

21 (8) 'Financial Services' means the counseling on, the making or
22 execution of investment and other financial decisions by the athlete agent on
23 behalf of the student athlete; and

24 (9) 'Participation' means practicing, competing, or otherwise
25 representing a college or university in intercollegiate athletics."

26 (b) For purposes of this chapter, execution by an athlete of a personal
27 service contract with the owner or prospective owner of a professional sports
28 team for the purpose of future athletic services is equivalent to employment
29 with a professional sports team."

30
31 SECTION 2. Arkansas Code 17-16-102 is amended by inserting additional
32 subsections at the end thereof to read as follows:

33 "(c) No person shall conduct business as an athlete agent unless the
34 person holds an active license pursuant to this chapter. If a person violates
35 this provision, he shall be guilty of a Class D felony.

36 (d) The Office of the Attorney General shall have the authority to

1 file suit against anyone who engages in any prohibited acts in order to revoke
2 their license.

3 (e)(1) A college or university may sue for damages, as well as court
4 costs and reasonable attorney's fees, as provided by this section, any person
5 who violates this chapter.

6 (2) A college or university may seek equitable relief to prevent
7 or minimize harm arising from acts or omissions which are or would be a
8 violation of this chapter.

9 (3) For purposes of this section, a college or university is
10 damaged if:

11 (A) Because of activities of the person, the college or
12 university is penalized or is disqualified or suspended from participation in
13 intercollegiate athletics by the National Collegiate Athletic Association,
14 National Association of Intercollegiate Athletics, or an intercollegiate
15 athletic conference, and

16 (B) Because of that penalty, disqualification, or
17 suspension, the college or university:

18 (i) Loses revenue from the televising of an athletic
19 contest;

20 (ii) Loses the right to grant an athletic
21 scholarship;

22 (iii) Loses the right to recruit an athlete;

23 (iv) Is prohibited from participating in postseason
24 athletic competition; or

25 (v) Forfeits an athletic contest."

26
27 SECTION 3. Arkansas Code 17-16-201(b) is amended to read as follows:

28 "(b)(1) An applicant for registration as an athlete agent must submit a
29 written application for registration to the Secretary of State on a form
30 prescribed by the Secretary of State.

31 (2) An applicant for registration must ~~pay a one hundred dollar~~
32 ~~(\$100)~~ be at least 21 years of age and pay five hundred dollars (\$500) for an
33 application and license fee at the time the application is submitted.

34 (3) The applicant must provide the following:

35 (A) The name of the applicant and the address of the
36 applicant's principal place of business;

1 (B) The business or occupation engaged in by the applicant
2 for the five (5) years immediately preceding the date of application;

3 (C) A description of the applicant's formal training,
4 practical experience, and educational background relating to the applicant's
5 professional activities as an athlete agent;

6 (D) The names and addresses of five (5) professional
7 references; ~~and~~

8 (E) The names and addresses of all persons, except bona
9 fide employees on stated salaries, that are financially interested as
10 partners, associates, or profit sharers in the operation of the business of
11 the athlete agent; ~~and~~

12 (F) Provide a statement under oath that the applicant has
13 not pled guilty or nolo contendere or been found guilty of a crime other than
14 within the last five (5) years involving perjury, the taking of a false oath,
15 embezzlement, misappropriation of funds, fraudulent conversion, forgery, mail
16 fraud, wire fraud, extortion, theft, or substantially equivalent activities."
17

18 SECTION 4. Arkansas Code 17-16-201 is amended by adding an additional
19 subsection to read as follows:

20 "(g) An applicant shall be denied a license as an athlete agent or
21 renewal of his license if the applicant has pled guilty or nolo contendere to
22 or been found guilty of a crime within the last five (5) years involving
23 perjury, the taking of a false oath, embezzlement, misappropriation of funds,
24 fraudulent conversion, forgery, mail fraud, wire fraud, extortion, theft or,
25 substantially equivalent activities."
26

27 SECTION 5. Title 17, Chapter 16, Subchapter 2 of the Arkansas Code is
28 amended to add the following sections to be appropriately numbered by the
29 Arkansas Code Revision Commission:

30 "Contracts.

31 (a) An athlete agent and a student athlete who enter into an agent
32 contract must provide written notice of the contract to the athletic director
33 of the college or university in which the student athlete is enrolled. The
34 athlete agent and the student athlete must give the notice before the
35 contracting student athlete practices or participates in any intercollegiate
36 athletic event or within seventy-two (72) hours after entering into the

1 contract, whichever comes first.

2 (b) A written contract between a student athlete and an athlete agent
3 must state the fees and percentages to be paid by the student athlete to the
4 athlete agent and must have a notice printed near the student athlete's
5 signature containing the following statement in 10-point boldfaced type.

6 'WARNING TO THE STUDENT ATHLETE: WHEN YOU SIGN THIS CONTRACT, YOU WILL
7 LIKELY IMMEDIATELY LOSE YOUR ELIGIBILITY TO COMPETE IN INTERCOLLEGIATE
8 ATHLETICS. YOU MUST GIVE WRITTEN NOTICE THAT YOU HAVE ENTERED INTO THIS
9 CONTRACT TO THE ATHLETIC DIRECTOR OF YOUR COLLEGE OR UNIVERSITY WITHIN 72
10 HOURS AFTER ENTERING INTO THIS CONTRACT OR PRIOR TO PARTICIPATING IN
11 INTERCOLLEGIATE ATHLETICS, WHICHEVER COMES FIRST. DO NOT SIGN THIS CONTRACT
12 UNTIL YOU HAVE READ IT AND FILLED IN ANY BLANK SPACES. YOU MAY CANCEL THIS
13 CONTRACT BY NOTIFYING THE ATHLETE AGENT IN WRITING OF YOUR DESIRE TO CANCEL,
14 NOT LATER THAN THE FIFTEENTH (15TH) DAY AFTER THE DATE YOU SIGN THIS CONTRACT.
15 HOWEVER, EVEN IF YOU CANCEL THIS CONTRACT, THE NCAA, NAIA, OR CONFERENCE TO
16 WHICH YOUR COLLEGE OR UNIVERSITY BELONGS MAY NOT RESTORE YOUR ELIGIBILITY TO
17 PARTICIPATE IN INTERCOLLEGIATE ATHLETICS.'

18 (c) An agent contract which does not meet the requirements of this
19 section is void and unenforceable.

20 (d) Within fifteen (15) days after the date the athletic director of
21 the college or university of the student athlete receives the notice required
22 by this section that a student athlete has entered into an athletic agent
23 contract, the student athlete shall have the right to rescind the contract
24 with the athlete agent by giving written notice to the athlete agent of the
25 student athlete's rescission of the contract. The student athlete may not
26 under any circumstances waive the student athlete's right to rescind the agent
27 contract.

28 (e) A postdated agent contract is void and unenforceable.

29 (f) An athlete agent shall not enter into an agent contract that
30 purports to or takes effect at a future time after the student athlete no
31 longer has remaining eligibility to participate in intercollegiate athletics.
32 Such a contract is void and unenforceable.

33 (g) An agent contract between a student athlete and a person not
34 licensed under this chapter is void and unenforceable."

35
36 SECTION 6. Title 17, Chapter 16, Subchapter 2 of the Arkansas Code is

1 amended by adding a section to be appropriately numbered by the Arkansas Code
2 Revision Commission.

3 "Prohibited Acts.

4 (a) The following acts shall be prohibited:

5 (1) Failure to have the appropriate language as set forth in §
6 17-16-202(b) within an executed contract;

7 (2) Failure to account for or to pay, within 30 days, assets
8 belonging to another which have come into the control of the athlete agent in
9 the course of conducting business as an athlete agent;

10 (3) Commingling money or property of another person with the
11 athlete agent's money or property. Every athlete agent shall maintain a
12 separate account in a financial institution in which shall be deposited all
13 proceeds received for another person through the athlete agent;

14 (4) Offering anything of value to any person to induce a student
15 athlete to enter into an agent contract by which the athlete agent will
16 represent the student athlete. However, negotiations regarding the athlete
17 agent's fees shall not be considered an inducement;

18 (5) Knowingly providing financial benefits from the Licensee's
19 conduct of business as an athlete agent to another athlete agent whose license
20 to practice as an athlete agent is suspended or has been permanently revoked;

21 (6) Violating or aiding and abetting another person to violate
22 the rules of the athletic conference, *National Collegiate Athletic Association*
23 or *National Association of Intercollegiate Athletics*;

24 (7) Having contact, as prohibited by this chapter, with a student
25 athlete;

26 (8) Postdating agent contracts;

27 (9) Having an athlete agent certification revoked by a player's
28 association; and

29 (10) Failure to abide by § 17-16-204(a).

30 (b) This part does not prohibit an athlete agent from:

31 (1) Sending to a student athlete written materials provided that
32 the athlete simultaneously sends an identical copy of such written materials
33 to the athletic director, student athlete's head coach, or the director's
34 designee, of the college or university in which the student athlete is
35 enrolled or to which the student athlete has provided a written intent to
36 participate in intercollegiate athletics;

1 (2) Otherwise contacting a student athlete, provided the athlete
 2 agent gives prior written notice to the student athlete's head coach, the
 3 college or university athletic director or the director's designee, of the
 4 college or university in which the student athlete is enrolled or to which the
 5 student athlete has provided a written intent to participate in
 6 intercollegiate athletics; and

7 (3) Receiving contact, by telephone, mail or in person, from a
 8 student athlete or a member of his immediate family concerning representation
 9 by the athlete agent provided the athlete agent gives written notice within
 10 seventy-two (72) hours to the student athlete's head coach, the college or
 11 university athletic director or the director's designee, of the college or
 12 university in which the student athlete is enrolled or to which the student
 13 athlete has provided a written intent to participate in intercollegiate
 14 athletics."

15
 16 SECTION 7. Title 17, Chapter 16, Subchapter 2 of the Arkansas Code is
 17 amended by adding the following section to be appropriately numbered by the
 18 Arkansas Code Revision Commission:

19 "Business Records Requirement.

20 An athlete agent who holds an active license and engages in business as
 21 an athlete agent shall establish and maintain complete financial and business
 22 records. The athlete agent shall save each entry into a financial or business
 23 record for at least four (4) years from the date of entry."

24
 25 SECTION 8. Title 17, Chapter 16, Subchapter 2 of the Arkansas Code is
 26 amended by adding the following section to be appropriately numbered by the
 27 Arkansas Code Revision Commission:

28 "Display of License Required.

29 Every actively licensed athlete agent shall post and conspicuously
 30 display the athlete agent's license, or a legible copy thereof, in each office
 31 from which the athlete agent conducts business as an athlete agent and shall
 32 provide proof of licensure to any student athlete whom the athlete agent
 33 contacts."

34
 35 SECTION 9. All provisions of this act of a general and permanent nature
 36 are amendatory to the Arkansas Code of 1987 Annotated and the Arkansas Code

1 Revision Commission shall incorporate the same in the Code.

2

3 SECTION 10. If any provision of this act or the application thereof to
4 any person or circumstance is held invalid, such invalidity shall not affect
5 other provisions or applications of the act which can be given effect without
6 the invalid provision or application, and to this end the provisions of this
7 act are declared to be severable.

8

9 SECTION 11. All laws and parts of laws in conflict with this act are
10 hereby repealed.

11

/s/ D. Malone