

# 2011 AMENDMENTS TO THE MISSISSIPPI UNIFORM ATHLETE AGENTS ACT

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In 2011, the Mississippi Legislature adopted, and the Governor signed, House Bill 1190, amending the Mississippi Uniform Athlete Agents Act (the “Act”).<sup>1</sup> The Uniform Laws Commission (“ULC”) drafted the original Act in 2000, which Mississippi later adopted in 2001. Along with Mississippi, forty-two other jurisdictions have adopted some form of the Act.

During the drafting process of House Bill 1190, the Secretary of State’s office sought input from numerous representatives involved in college athletics to allow all parties to voice differing viewpoints. Those participating include: the National Collegiate Athletic Association (the “NCAA”), the universities and colleges in the State of Mississippi, the National Football League’s Player’s Association (the “NFLPA”), and athlete agents currently registered in Mississippi. The information gleaned from these sources proved vital in the construction of the legislation.

While some of these amendments introduced in House Bill 1190 are mechanical, many of the amendments have a profound effect on how athlete agents conduct business in the State. Notably, House Bill 1190 amended definitions added to the application process, inserted protection for educational institutions, and expanded the Secretary of State’s authority in investigations.

One such amendment expands the definition of “agency contract” to now include “enrollment at any educational institution that offers an athletic scholarship to the student- athlete.”<sup>2</sup> For example, if a student-athlete authorizes a person to act on behalf of the student-athlete to secure

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<sup>1</sup> H.B. 1190, Leg., Reg. Sess. (Miss. 2011). The Act took effect upon signing on April 26, 2011.

<sup>2</sup> MISS. CODE ANN. § 73-42-3(a) (2011).

an athletic scholarship to an educational institution, the agreement would now be considered an “agency contract” under the Act.<sup>3</sup>

Since most athlete agents conduct business in numerous jurisdictions, the increased requirements in the application process grant the Secretary of State the authority to investigate the background and history of the applicant. Under House Bill 1190, the athlete agent must submit “any pending litigation against the applicant in the applicant’s capacity as an agent. . . a list of all other states in which the applicant is currently licensed or registered as an athlete agent and a copy of each state’s license or registration. . . and consent to a criminal background check.”<sup>4</sup> Furthermore, if any information materially changes, the athlete agent must notify the Secretary of State within thirty days from the date the information changed.<sup>5</sup>

In addition to protecting the student-athletes, House Bill 1190 increased the protection of the educational institutions in this State. Historically, the student-athlete and the educational institutions suffer the most harm when an athlete agent violates NCAA bylaws. The student-athlete may lose his or her eligibility and the educational institution may face NCAA sanctions. Therefore, the Act now requires athlete agents to provide written notification to the student-athlete’s educational institution before soliciting the student-athlete.<sup>6</sup> However, if the athlete agent talks to the student-athlete without the intent of soliciting the student-athlete, the athlete agent does not have to notify the educational institution.<sup>7</sup> For instance, if, by chance, an athlete agent meets a student-athlete at a sporting event and is not attempting to solicit the student-athlete to enter into an agency contract, the athlete agent may speak to him or her without fear of violating the Act.

In the instance an athlete agent violates, or is thought to potentially violate the Act, the Secretary of State is now authorized to conduct public or private investigations into the violation under House Bill 1190.<sup>8</sup> In conjunction with the investigation, the Secretary of State may “administer

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<sup>3</sup> The term “person” does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization. *Id.* at § 73-42-3(b).

<sup>4</sup> *Id.* at § 73-42-9(m)-(o).

<sup>5</sup> *Id.* at § 73-42-9(3).

<sup>6</sup> *Id.* at § 73-42-21(1).

<sup>7</sup> The athlete agent must also notify the educational institution if he or she contacts the student-athlete’s spouse, parent, foster parent, guardian, sibling, aunt, uncle, grandparent, child or first cousin; or the parent, foster parent, sibling, aunt, uncle, grandparent, child or first cousin of the student-athlete’s spouse with the intent to solicit the student-athlete. *Id.* at § 73-42-21(b).

<sup>8</sup> *Id.* at § 73-42-5(3)(a)-(c)

oaths and affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require the filing of statements, and require the production of records. . . .”<sup>9</sup>

If the Secretary of State decides to suspend, revoke, deny, or declines to renew the athlete agent’s registration, the athlete agent is entitled to due process in the form of proper notice and an opportunity for a hearing with a hearing officer.<sup>10</sup> The hearing officer shall make a recommendation to the Secretary of State regarding the status of the athlete agent’s registration. Consequently, the Secretary of State shall issue his or her final order.<sup>11</sup> Any athlete agent may appeal the Secretary of State’s final order and receive a trial *de novo* before the circuit court of “the county of residence of the athlete agent, the student-athlete, or the educational institution that issued an athletic scholarship to the student-athlete.”<sup>12</sup>

Ultimately, the amended Act provides protection for the student-athletes and the educational institutions in this State. The amendments to the definitions, new requirements in the application process, increased protection of educational institutions, and expansion of the Secretary of State’s authority in investigations ensures the Act tracks changing trends in the recruitment of student-athletes by athlete agents .

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<sup>9</sup> *Id.* at § 73-42-5(4).

<sup>10</sup> *Id.* at § 73-42-13(1),

<sup>11</sup> *Id.* at § 73-42-13(2).

<sup>12</sup> *Id.* at § 73-42-13(3).