



# HOUSE BILL 230: Revised Uniform Athlete Agents Act.

2017-2018 General Assembly

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<b>Committee:</b>	House Judiciary I. If favorable, re-refer to Finance	<b>Date:</b>	March 15, 2017
<b>Introduced by:</b>	Rep. Davis	<b>Prepared by:</b>	Bill Patterson
<b>Analysis of:</b>	First Edition		Committee Co-Counsel

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**OVERVIEW:** *House Bill 230 would make a number of changes to the current law governing the regulation of athlete agents by replacing the Uniform Athlete Agents Act with the Revised Uniform Athlete Agents Act, as recommended by the General Statutes Commission.*

### CURRENT LAW:

The activities of athlete agents who represent student athletes in negotiating professional sports services contracts or endorsement contracts are regulated by the Secretary of State under the Uniform Athlete Agents Act (UAAA), Article 9 of Chapter 78C of the General Statutes, enacted as S.L. 2003-375.

The UAAA requires athlete agents to register with the Secretary of State. The applicant must disclose, among other things, past convictions of felonies or crimes involving moral turpitude, administrative or judicial determinations of false or fraudulent representations, and disciplinary action resulting from occupational or professional conduct.

All agency contracts must contain the amount of the athlete agent's compensation and how it is calculated, a description of the services to be provided, and the duration of the contract, among other things. Athlete agents must maintain certain records for five years, and with regard to such records, a student athlete who enters into an agency contract is deemed to have waived the attorney-client privilege.

The Secretary of State can refuse to register an applicant who has engaged in misconduct and can suspend, revoke, or refuse to renew the registration of a registered athlete agent for misconduct, including engaging in any of the following prohibited conduct:

- Initiating contact with a student athlete unless registered.
- Failing to retain required records or permit their inspection.
- Failing to register as required.
- Making false or misleading statements in the registration application.
- Predating or postdating an agency contract.
- Failing to notify student athletes that entering into an agency contract for a sport will make them ineligible to participate as a student athlete in that sport.

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- Giving a student athlete anything of value before the student athlete enters into an agency contract.
- Giving false or misleading information to induce a student athlete to enter into an agency contract.
- Giving anyone other than the student athlete or another athlete agent anything of value to induce the student athlete to enter into an agency contract.

An athlete agent who violates any of the last three of these prohibitions is guilty of a Class I felony.

An educational institution has a right of action against an athlete agent or former student athlete for damages resulting from a violation of Article 9, and the prevailing party in such an action may be awarded costs and attorney's fees. In addition, the Secretary of State can impose a civil penalty for violations of up to \$25,000.

**BILL ANALYSIS:** House Bill 230 would enact the recommendations of the General Statutes Commission by replacing the Uniform Athlete Agents Act with the Revised Uniform Athlete Agent Act.

**Section 1** of the Bill would repeal Article 9 of Chapter 78C.

**Section 2** would enact a new Article 10 of Chapter 78C, the Revised Uniform Athlete Agents Act, which would make the following modifications to the current law:

- Define the term "covered athlete" to include both present and former student athletes.
- Extend protection to former student athletes, defined as persons who would be eligible to participate as a student athlete except for having signed an agency contract and persons whose eligibility to participate as a student athlete expired within the past six months.
- Require athlete agents additionally to disclose the following information in their registration applications: past civil proceedings in which they have been a defendant in the past 15 years; any unsatisfied judgments against them; and any bankruptcy filings by them in the past 10 years.
- Expand the Secretary of State's disciplinary authority to include violations of Article 10 or any rules adopted pursuant to it.
- Require agency contracts additionally to state that the agent is registered in this State and to list any other states in which the agent is registered or licensed.
- Require an athlete agent to notify the educational institution:
  - If the agent has an agency contract or relationship with a covered athlete before the athlete enrolled in the educational institution.
  - If the agent is aware of a violation of Article 10 that could render a covered athlete ineligible to compete as a student athlete.
  - Before attempting to contact a covered athlete or if a covered athlete initiates contact with the agent.
- Require an educational institution to notify the Secretary of State of any violations of Article 10 of which it becomes aware.
- Eliminate the current waiver of attorney-client privilege by a student athlete who enters into an agency contract as it applies to any records the athlete agent is required to maintain under Article 10.

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- Make it a Class H felony for an unregistered athlete agent to initiate contact with a covered athlete.
- Make it a Class H felony for an athlete agent to do any of the following with the intent to influence a covered athlete (or the athlete's parents or guardians, if a minor) to enter into an agency contract:
  - Give materially false or misleading information or make a materially false promise or representation
  - Furnish anything of value to the student athlete or any other person who is not another registered athlete agent.
- Make it a Class 1 misdemeanor for an athlete agent to do any of the following:
  - Fail to retain and permit inspection of records as required.
  - Fail to register as required.
  - Provide materially false or misleading information in a registration or renewal application.
  - Predate or postdate an agency contract.
  - Fail to notify a covered athlete or their parent or guardian if a minor, prior to their signing an agency contract for a particular sport, that doing so may disqualify the covered athlete from participating in that sport as a student athlete.
- Eliminate an educational institution's right of action for damages against a former student athlete for violations of the article's requirements.
- Give a covered athlete a right of action for damages for acts or omissions of an athlete agent in violation of Article 10.
- Increase the permissible civil penalty against an athlete agent for violations of Article 10 from \$25,000 to the greater of \$250,000 or the amount of compensation the athlete agent received.

**Section 3** of the bill contains a severability clause, and **Section 4** contains conforming technical language relating to the federal Electronic Signatures in Global and National Commerce Act.

**EFFECTIVE DATE:** This act becomes effective December 1, 2017, and applies to acts or omissions occurring on or after that date. Prosecutions for acts committed prior to the effective date are not affected by this act.