

**1999 DRAFTING REQUEST**

**Bill**

Received: **05/22/1999**

Received By: **kunkemd**

Wanted: **As time permits**

Identical to LRB:

For: **Steve Wieckert (608) 266-3070**

By/Representing: **James Bonneville**

This file may be shown to any legislator: NO

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Occupational Reg. - prof lic**

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Regulation of athletic agents

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/P1	kunkemd 07/29/1999	wjackson 07/30/1999	martykr 07/30/1999	_____	lrb-docadmin 07/30/1999		State
	kunkemd 08/31/1999	wjackson 09/01/1999		_____			
/P2	kunkemd 0912911999	wjackson 09/29/1999	hhagen 09/01/1999	_____	lrb-docadmin 09/01/1999		State
/1	kunkemd 10/15/1999	wjackson 10/18/1999	jfrantze 09/29/1999	_____	lrb-docadmin 0912911999		State
/2			martykr 10/18/1999	_____	lrb-docadmin 10/18/1999	lrb_docadmin	State 01/19/2000

Vers.      Drafted      Reviewed      Typed      Proofed      Submitted      Jacketed      Required

FE Sent For: 09/29/1999, 01/19/2000.

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*Km 10/18*      *JH Km 10/18*

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FE Sent For:

*to 9/29 to /rh  
9/29  
~~to 10/18~~*  
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FE Sent For:

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99-3119/?

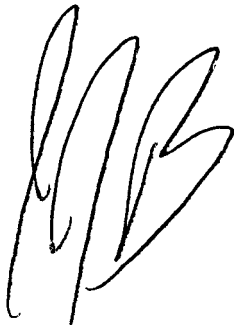
Memo

To: Steve Miller  
From: James Bonneville (Wieckert)  
Date: 5/20/99  
Subject: Athlete-Agent Bill

I have attached a draft of a bill from another area (with some of my own notes on it) for it to be drafted.

If you have any questions, please feel free to contact me at 266-3070

This bill deals with the  
registration of sports agents



## EXECUTIVE DIRECTOR

FRED H. MILLER, University of Oklahoma, College of Law, 300 Timberdell Road, Norman, OK 73019, *Executive Director*

WILLIAM J. PIERCE, 1505 Roxbury Road, Ann Arbor, MI 48 104, *Executive Director Emeritus*

### Copies of thii Act may be obtained from:

NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS

211 E. Ontario Street, Suite 1300

Chicago, Illinois 60611

312/915-0195

## ARTICLE 1

### GENERAL PROVISIONS

**SECTION 101. SHORT TITLE.** This [Act] may be cited as Uniform Athlete-Agents Act.

**SECTION 102. DEFINITIONS.** In this [Act]:

- (1) “Athlete-Agent” means an individual who enters into an agent-contract with a student-athlete or who, directly or indirectly, contacts, recruits, or solicits a student-athlete to enter into an agent-contract, a professional sports-services-contract, or an endorsement contract.
- (2) “Agent-contract” means an agreement under which a student-athlete authorizes an athlete-agent to negotiate or solicit on behalf of the student-athlete a professional sports-services- contract or an endorsement contract.
- (3) “Athletic Director” means the individual discharging the duties of coordinating and administering the overall athletic program for an educational institution attended by a student- athlete.
- (4) “Contact” means a communication by whatever means between an athlete-agent and a student-athlete, to induce or attempt to induce a student-athlete to enter into an agent-contract, professional

sports-services-contract, or an endorsement contract.

(5) "Educational institution" means a public or private junior high school, high school, junior college, college, or university that a student-athlete attends, last attended, or to which the student-athlete has expressed written intention to attend.

(6) "Endorsement contract" means any contract or agreement pursuant to which an individual is employed or receives remuneration for any value or utility that the individual may have because of publicity, reputation, fame, or following obtained because of athletic ability or performance.

(7) "Person" means an individual, corporation, business

trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(8) "Professional sports-services-contract" means an agreement pursuant to which a student-athlete is employed or agrees to render services as a player on a professional sports team or organization or as a professional athlete.

(9) "Registration" means registration as an athlete-agent pursuant to this [Act].

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

~~(11) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sporting event, contest, exhibition, or program.~~

**SECTION 103. ADMINISTRATION.**

The ~~Secretary of State~~ <sup>Dept of Financial Inst</sup> shall administer this [Act].

**ARTICLE 2**

**REGISTRATION**

4/10/99

**SECTION 201. ATHLETE-AGENT REGISTRATION.**

(a) An applicant for registration as an athlete-agent shall submit a written application for registration to the ~~Secretary of State~~ <sup>DFI</sup> on a form prescribed by the ~~Secretary of State~~ <sup>DFI</sup>. The application shall include:

(1) the name of the applicant and the address of the applicant's principal place of business;

(2) the name of the applicant's firm or employer;

(3) the business or occupation engaged in by the applicant for the five years immediately preceding the date of application;

(4) a description of the applicant's formal training, practical experience, and educational background relating to the applicant's activities as an athlete-agent;

(5) the names and addresses of three professional references;

(6) the names and addresses of all individuals represented by the applicant as an athlete-agent during the past five years;

(7) the names and addresses of all persons who have a financial interest in the operation of the business of the athlete agent as partners, associates, or profit-sharers, except bona fide employees on stated salaries;

(8) any crime, other than a minor traffic offense, of which the applicant has been convicted;

(9) any administrative or judicial determination that the applicant has made a material false, misleading, deceptive, untrue, or fraudulent representation as an athlete-agent or in any document related to the business of the athlete-agent;

(10) any sanction, suspension, or declaration of ineligibility to participate in one or more interscholastic or intercollegiate athletic events imposed on any education institution in any proceeding arising from, or related to, the actions of the applicant;

(11) any proceeding before a professional board, association, secretary, committee, or other entity resulting from disciplinary charges or other allegations of misconduct against the applicant, and the outcome of the proceeding; and

(12) any revocation or suspension of the applicant's registration in this state or another state.

*(included under (11))*

*reciprocal registrant*

(b) An individual licensed or registered as an athlete-agent in another state may comply with subsection (a) by filing proof of licensure or registration in that other state if the [Secretary of State] determines that the requirements for licensure or registration in the other state are equal to or more stringent than those imposed by this [act].

(c) The application must:

(1) be accompanied by payment of the appropriate fee;

(2) be accompanied by evidence of liability insurance or cash equivalent as prescribed in Section 204.

(3) contain any other information required by the [Secretary of State]; and

(4) be made under penalty of perjury;

**SECTION 202. ISSUANCE OF REGISTRATION AND GROUNDS FOR DENIAL, SUSPENSION, OR REVOCATION OF REGISTRATION CERTIFICATE.**

*Discipline*

(a) The ~~[Secretary of State]~~ shall issue a certificate of registration to an individual who complies with Section 201, unless the ~~[Secretary of State]~~ determines that the applicant:

*DFI*

- (1) ~~has been convicted of a crime other than a minor traffic offense;~~ *Subj to ch 111, etc*
- (2) ~~has knowingly made a material false, misleading, deceptive, untrue, or fraudulent representation as an athlete-agent;~~
- (3) ~~has engaged in acts which would render the applicant unfit to serve in a fiduciary capacity;~~
- (4) ~~has made material false or misleading statements in the application;~~
- (5) ~~has committed any act prohibited under Section 401; or~~
- (6) ~~has had a registration suspended, revoked, or denied in any State or has been the subject of disciplinary action by a players association.~~ ?

(b) ~~A certificate of registration is valid for 12 months.~~ *2 yrs*

(c) The ~~[Secretary of State]~~ *DFI* may revoke a registration for any of the grounds listed in subsection (a).

(d) The [Secretary of State] may deny, suspend, or revoke a registration upon the discovery of new evidence that the applicant had committed an act which would justify denying the issuance of a certificate under subsection (a).

(e) If the [Secretary of State] determines that grounds for denial of a registration exists, the [Secretary of State] may grant the applicant a registration certificate if the applicant demonstrates by clear and convincing evidence that the applicant is nonetheless fit to serve as an athlete-agent. In making such a determination, the [Secretary] shall consider:

- (1) ~~the time interval between the disqualifying conduct and the application;~~
- (2) ~~the nature of the disqualifying conduct and the context in which it occurred;~~ (3) any activities of the applicant since the conduct that demonstrate that the disqualifying conduct is unlikely to recur; and
- (4) ~~whether~~ the applicant otherwise meets all requirements for registration under Section 201.

(f) An athlete-agent may apply to renew the registration by filing a renewal application in the form prescribed by the [Secretary of State]. The renewal application must include any information not contained in, or different from, the original application.

(g) When an application for registration or renewal is made and the registration process has not been completed, the ~~[Secretary of State]~~ *DFI* may issue a temporary certificate of registration that is valid for no more than ~~10 days~~ *DFI*.

**SECTION 203. REGISTRATION FEE.**

Each application for temporary or permanent registration, or renewal of registration must be

accompanied by a fee in the following amounts:

- (1) [\$] for an initial application for registration;
- (2) [\$] for an application for registration based upon a certificate of registration issued by another State;
- (3) [\$] for renewal of registration; and
- (4) [\$] for issuance of a temporary registration.

**SECTION 204. LIABILITY INSURANCE.**

(a) With an application for registration, the applicant shall provide evidence of liability insurance in the amount of [~~One Hundred Thousand Dollars~~] [~~(\$100,000)~~], or cash equivalent.

*One Million*

*[\$1,000,000]*

(b) If an athlete-agent fails to provide evidence of a liability insurance policy or cash equivalent to the ~~Secretary of State~~ within 30 days after receipt of a notice of cancellation issued by an insurer, the ~~Secretary of State~~ shall suspend the certificate of registration issued to that athlete-agent until the athlete-agent provides evidence of a valid liability insurance policy.

*DFI*  
*DFI*

**ARTICLE 3**

**AGENT-CONTRACTS**

**SECTION 301. FORM.**

(a) An agent-contract shall be in writing and shall be signed by the student-athlete, and if the student-athlete is a minor, signed by the parent or guardian of the student-athlete.

(b) An agent-contract must include:

*already covered under (1) ?*

- (1) A recitation of the compensation that the athlete-agent will receive from the student-athlete;
- (2) the name of any person who will share or benefit from the compensation;
- (3) ~~a description of any expenses~~ the student-athlete agrees to reimburse the athlete-agent and the ~~percentages to be paid by the student-athlete~~ and other compensation to be paid by any other source;
- (4) a description of the professional services to be provided to the student-athlete; and
- (5) the term of the contract.

(c) Every agent-contract shall contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

**WARNING TO STUDENT-ATHLETE: IF YOU SIGN THIS CONTRACT, YOU WILL LOSE YOUR ELIGIBILITY TO COMPETE IN YOUR SPORT. TALK TO YOUR COACH BEFORE YOU SIGN THIS CONTRACT. YOU AND YOUR ATHLETE-AGENT BOTH ARE**

**REQUIRED TO TELL YOUR ATHLETIC DIRECTOR IF YOU DO SIGN THIS CONTRACT. IF YOU SIGN, YOU MAY CANCEL THIS CONTRACT WITHIN SEVEN DAYS OF SIGNING IT. CANCELLATION OF THE CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.**

(d) An agent-contract not in compliance with this section is voidable by the student- athlete.

*protects the instit.*

**SECTION 302. NOTICE TO EDUCATIONAL INSTITUTION.**

*Confirmation*

(a) Within 72 hours after entering into an agent-contract or prior to the student-athlete's participation in the next athletic event, whichever comes first, the athlete-agent shall notify the athletic director of the educational institution at which the student-athlete is enrolled or the educational institution the athlete-agent has reasonable grounds to believe the student-athlete intends to enroll that the contract exists.

(b) Within 72 hours after entering into an agent-contract or before the student-athlete participates in the next athletic event, whichever occurs first, the student-athlete shall give written notice to the athletic director of the student-athlete's educational institution that he or she has entered into an agent-contract.

**SECTION 303. STUDENT-ATHLETE'S RIGHT TO CANCEL.**

*Keep in - rescission even if lose eligibility*

(a) A student-athlete may cancel an agent-contract by giving written notice to the athlete- agent of the cancellation within seven days after the date on which the contract is signed.

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

(c) If a student-athlete cancels an agent-contract, the student-athlete is not obligated to pay any fee. or compensation to the athlete-agent, and the student-athlete is not required to return anything of value received from the agent to induce the signing of the contract. However, if the student-athlete received a benefit or thing of value from the agent that was not given to induce the signing of the contract, the student-athlete shall be required to return the benefit or thing of value.

**ARTICLE 4**

**PROHIBITED ACTS**

**SECTION 401. ATHLETE-AGENTS PROHIBITED ACTS.**

(a) An athlete agent may not do any of the following to induce a student-athlete to enter into an agent-contract:

- (1) intentionally give any false or misleading information or intentionally make any false promises or representations;
- (2) offer or provide anything of value or benefit to a student-athlete other than services under the contract; and
- (3) provide anything of value or benefit to any individual other than the student-athlete.





(b) An athlete-agent may not do any of the following:

(1) postdate any agent-contract, professional sports services contract, or endorsement contract;

(2) make or cause to be made any false, fraudulent, or misleading statements, representation, notice, or advertisement concerning the business of the athlete-agent;

(3) do business as an athlete-agent without complying with this [Act];

(4) contact a student-athlete before being registered under this [act];

(5) contact a student-athlete before notifying the athletic director of the student-athlete's educational institution; or

*coach*

*NOT  
Necy*

(6) Refuse or wilfully fail to maintain or permit inspection of the records required by Section 501.

**SECTION 402. PROHIBITION OF INDIVIDUALS ACTING AS ATHLETE-AGENTS WITHOUT REGISTRATION.**

(a) Except as otherwise provided in subsection (b), an individual may not <sup>act</sup> act as an athlete-agent within this State, or contact a student-athlete who is attending or has expressed a written intention to attend an educational institution in this State, prior to registration with the [Secretary of State]. No person may contact a student-athlete prior to obtaining a certificate of registration from the [Secretary of State].

(b) An individual who is not registered as an athlete-agent in this state may contact a student-athlete if:

(1) The student-athlete or an individual on behalf of the student-athlete initiates the relationship with the individual; and

(2) Within seven days of the contact made by the individual in response to the student-athlete's initiating the relationship, the individual:

A. files an application for registration as an athlete-agent in the state, and

B. notifies the student-athlete's athletic director of the contact.

**ARTICLE 5**

**RECORDKEEPING REQUIREMENTS**

**SECTION 501. RECORDKEEPING.**

(a) An athlete-agent shall maintain the following records for a period of five years:

- (1) the name and address of each student-athlete represented by the athlete-agent;
- (2) the amount of any compensation collected;
- (3) any contract entered into between the athlete-agent and a student-athlete; and
- (4) any expenses paid or gifts provided by the athlete-agent in the recruitment or attempted recruitment of the student-athlete.

(b) Records required under subsection (a) shall be open to inspection by the [Secretary of State] during normal business hours.

## ARTICLE 6

### SANCTIONS FOR VIOLATIONS

#### SECTION 601. CIVIL REMEDY.

(a) An athlete-agent who violates this [Act] is liable for actual damages and reasonable attorney's fees caused by the violation.

(b) An educational institution may recover actual provable damages and reasonable attorney's fees if, because of activities of an athlete-agent, the educational institution is penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by self-imposed disciplinary action to mitigate sanctions.

(c) Nothing in this ~~[Act]~~ limits common law rights, remedies, or defenses.

(d) A claim under this section does not accrue until the educational institution discovers or should have discovered the alleged violation by the athlete-agent.

#### SECTION 602. ADMINISTRATIVE PENALTY.

The <sup>DFI</sup>~~[Secretary of State]~~ may assess a civil penalty not to exceed [\$25,000] for any violation of this [Act],

#### SECTION 603. MISDEMEANOR.

(a) A violations of this [Act] by an athlete-agent is a misdemeanor punishable by a fine of not more than [\$] or imprisonment of not more than one year.

## ARTICLE 7

### MISCELLANEOUS PROVISIONS

#### SECTION 701. APPLICATION AND CONSTRUCTION.

In applying and construing this Uniform Act, consideration must be given to the need to promote

i uniformity of the law with respect to the subject matter of this [Act] among States enacting it.

**SECTION 702. SEVERABILITY,**

If any provision of this [Act] or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this [Act] which can be given effect without the invalid provision or application, and to this end the provisions of this [Act] are severable.

**SECTION 703. REPEALS.**

The following acts and parts of acts are hereby repealed:

**SECTION 704, EFFECTIVE DATE.** This [Act] takes effect\_\_\_\_\_.



- Disability Ins. -

- Education

- Fed & state legis.

Process for athletes

- easy for athletes to register whether registered or not  
flexible enough to deal w/ new people who want to do this

INFORMATION MODEL vs. prohibitions

- athletes that are no longer students

- enrolled but not graduated

- Student athlete

still enrolled, used up eligibility

- SR - conclusion of bowl

- NPKS - connect w/ school

- before eligibility is used up

is when most contacts are made

NCAA:

professional sports panel to get involved

- registers

- coach notification is impt

NCAA regulations

(Btw seasons - student athlete still considered) federally when to lose eligibility

- INFO
- Flexibility <sup>with</sup> registrat
- eligibility

what is improper contact  
wrt/ NCAA rules

late August

- compliance guy:

get copies of NCAA:

- with  
eligibility  
Q's

Tim Bald  
NCAA Compliance  
W: 265-2973  
FAX 265-3244

on vacation  
next week

summer issue?

notification  
- family  
- advisor or agent  
(legal request to  
notif. if advising  
wrt/agent choice)

- Simple:  
- flexibility

High school vs. college  
- Sport?

Keep in mind - diff. sports

- diff. educational instit. involves
- out-of-state ~~best~~ school but w/i state?

∴ Keep in broad



D-NOTE

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

Tomorrow  
7/30  
by 3:00 pm  
if possible

Gen Cat

1 AN ACT ..., relating to: regulation of athletic agents, granting rule-making  
2 authority and providing a penalty.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the **state** fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

3 SECTION 1. 440.08 (2) (a) 14d. of the statutes is created to read:  
4 440.08 (2) (a) 14d. Athletic agent: January 1 of each odd-numbered year; \$47.  
5 SECTION 2. Subchapter XII of chapter 440 [precedes 440.991 of the statutes is  
6 created to read:

**CHAPTER 440**

**SUBCHAPTER XII**

**ATHLETIC AGENTS**

7  
8  
9



1           **440.99 Definitions.** In this subchapter:

2           **(1)** “Agent contract” means an agreement under which a student athlete  
3 authorizes an athletic agent to negotiate or solicit on behalf of the student athlete  
4 a professional sports services contract or endorsement contract.

5           **(2)** “Athletic agent” means an individual who enters into an agent contract with  
6 a student athlete or who contacts, recruits or solicits a student athlete to enter into  
7 an agent contract, professional sports services contract or endorsement contract.

8           **(3)** “Athletic director” means the individual responsible for coordinating and  
9 administering the overall athletic program for an educational institution.

10           **(4)** “Compensation” means direct or indirect payment, including the  
11 expectation of payment whether or not actually received.

12           **(5)** “Contact” means a communication by any means between an athletic agent  
13 and student athlete to induce or attempt to induce the student athlete to enter into  
14 an agent contract, professional sports services contract or endorsement contract.

15           **(6)** “Educational institution” means a public or private junior or senior high  
16 school or postsecondary school that a student athlete attends, has last attended or  
17 to which the student athlete has expressed written intention to attend.

18           **(7)** “Endorsement contract” means any contract or agreement pursuant to  
19 which an individual is employed or receives compensation for any value or utility  
20 that the individual may have due to publicity, reputation, fame or following because  
21 of athletic ability or performance.

22           **(8)** “Jurisdiction” means a state or territory of the United States or another  
23 country.

1 (9) "Professional sports services contract" means an agreement pursuant to  
2 which a student athlete is employed or agrees to render services as a player on a  
3 professional sports team or organization or as a professional athlete.

4 (10) "Registrant" means an individual who is registered under this subchapter.

5 (11) "Student athlete" means an individual who engages in, is eligible to engage  
6 in or may be eligible in the future to engage in any intercollegiate sporting event,  
7 contest, exhibition or program.

8 **440.991 Registration required.** (1) Except as provided in sub. (2),<sup>✓</sup> no  
9 individual may act as an athletic agent or contact a student athlete who is attending  
10 or has expressed a written intention to attend an educational institution in this state  
11 unless the individual is registered under s. 440.992.<sup>✓</sup>

12 (2) An individual who is not registered under s. 440.992<sup>J</sup> may contact a student  
13 athlete who is attending or has expressed a written intention to attend an  
14 educational institution in this state if each of the following is satisfied:

15 (a) The student athlete or a person acting on behalf of the student athlete  
16 initiates the contact.

17 (b) No later than 7 days after the contact, the individual submits an application  
18 to the department for registration under s. 440.992<sup>✓</sup> and notifies the athletic director  
19 of the educational institution or the student athlete's head coach about the contact.

20 **440.992 Registration of athletic agents.** (1) The department shall register  
21 an individual as an athletic agent if the individual does each of the following:

22 (a) Submits an application to the department on a form provided by the  
23 department.

24 (b) Pays the fee specified in s. 440.05 (1).<sup>✓</sup>

1 (c) Submits evidence satisfactory to the department that he or she has in effect  
2 the malpractice liability insurance coverage specified in s. 440.993 (1). ✓

3 (d) Subject to ss. 111.321~ 111.322 and 111.335, submits evidence satisfactory  
4 to the department that he or she does not have an arrest or conviction record.

5 (2) An application under sub. (1) shall require the applicant to provide each of  
6 the following:

7 (a) The name of the applicant and the address of his or her principal place of  
8 business.

9 (b) The name of the applicant's firm or employer.

10 (c) The business or occupation in which the applicant has been engaged during  
11 the 5<sup>1</sup>/<sub>1</sub> year period immediately preceding the date of the application.

12 (d) A description of the applicant's formal training, practical experience and  
13 educational background that relates to the applicant's activities as an athletic agent.

14 (e) The names and addresses of 3 professional references.

15 (f) The names and addresses of each individual represented by the applicant  
16 as an athletic agent during the 5<sup>1</sup>/<sub>1</sub> year period immediately preceding the date of the  
17 application.

18 (g) The names and addresses of each person that has a financial interest in the  
19 operation of the applicant's business as an athletic agent, including partners,  
20 associates or profit-sharers, but not including salaried employees.

21 (h) A description of each crime for which the applicant has been convicted.

22 (i) A description of any administrative or judicial determination that the  
23 applicant has made a false, misleading, deceptive, untrue or fraudulent  
24 representation as an athletic agent or in any document related to the business of an  
25 athletic agent.

1 (j) A description of any sanction, suspension or declaration of ineligibility to  
2 participate in an interscholastic or intercollegiate athletic event that has been  
3 imposed on an educational institution in any proceeding arising from or related to  
4 the acts or omissions of the applicant.

5 (k) A description of any proceeding involving allegations of misconduct or  
6 professional disciplinary charges against the applicant related to his or her acts or  
7 omissions as an athletic agent and a description of the outcome of each such  
8 proceeding.

9 (L) Any other information required by the department.

10 (3) Upon application and payment of the fee specified in s. 440.05 (2),<sup>✓</sup> the  
11 department may register an individual as an athletic agent if the individual has been  
12 issued a similar license, registration or certificate by another jurisdiction that has  
13 licensure, registration or certification requirements that the department determines  
14 are at least as stringent as the registration requirements of this subchapter.

15 (4) The renewal date and renewal fee for registrations granted under this  
16 section are specified in s. 440.08 (2) (a)! Renewal applications shall be submitted to  
17 the department on a form provided by the department and shall include evidence  
18 satisfactory to the department that the applicant has in effect the malpractice  
19 liability insurance coverage specified in s. 440.993 (1).<sup>✓</sup>

20 **440.993 Malpractice liability insurance. (1)** Each individual registered  
21 as an athletic agent under this subchapter shall have in effect malpractice liability  
22 insurance coverage in an amount that is not less than \$1,000,000 per occurrence and  
23 \$1,000,000 for all occurrences in one year.

1 (2) No later than 30 days after a registrant receives from an insurer notice of  
2 cancellation of the malpractice liability insurance coverage specified in sub. (1), the  
3 the registrant shall do one of the following:

4 (a) Provide the department with evidence that he or she has in effect the  
5 malpractice liability insurance coverage specified in sub. (1).<sup>✓</sup>

6 (b) Notify the department that he or she does not have in effect the malpractice  
7 liability insurance coverage specified in sub. (1).<sup>✓</sup>

8 (3) The department shall suspend the registration of an individual who makes  
9 a notification under sub. (2) (b) and shall reinstate the registration upon receiving  
10 notice that the individual has in effect the malpractice liability insurance coverage  
11 specified in sub. (1).<sup>✓</sup>

12 **440.994 Agent contracts. (1)** An agent contract shall be in writing, signed  
13 by the student athlete and, if the student athlete is under the age of 18 years, signed  
14 by the student athlete's parent or guardian.

15 (2) An agent contract shall include each of the following:

16 (a) A recitation of the compensation that the athletic agent will receive from  
17 the student athlete.

18 (b) A description of any compensation that the athletic agent will receive from  
19 a source other than the student athlete.

20 (c) The name of any person who will share or benefit from the compensation  
21 received from the student athlete.

22 (d) A description of any expenses for which the student athlete agrees to  
23 reimburse the athletic agent.

24 (e) A description of the professional services to be provided to the student  
25 athlete.

1 (f) The duration of the contract.

2 (g) The following statement, in boldface type and capital letters, in close

3 proximity to the signature of the student athlete. **WARNING TO STUDENT**

4 **ATHLETE: IF YOU SIGN THIS CONTRACT YOU WILL LOSE YOUR**

5 **ELIGIBILITY TO PARTICIPATE IN YOUR SPORT. TALK TO YOUR HEAD**

6 **COACH BEFORE YOU SIGN THIS CONTRACT. YOU AND YOUR ATHLETIC**

7 **AGENT BOTH ARE REQUIRED TO TELL YOU<sub>r</sub> ATHLETIC DIRECTOR OR**

8 **HEAD COACH IF YOU SIGN THIS CONTRACT. IF YOU SIGN THIS CONTRACT,**

9 **YOU MAY CANCEL THE CONTRACT WITHIN 7 DAYS OF SIGNING IT.**

10 **CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR**

11 **ELIGIBILITY.** *Keep period*

12 (3) An agent contract that does not satisfy the requirements of this section is  
13 voidable by the student athlete.

14 (4) A student athlete may cancel an agent contract by providing written notice  
15 to the athletic agent of the cancellation within 7 days after the date on which the  
16 agent contract is signed by the student athlete. A student athlete may not waive the  
17 right to cancel an agent contract that is provided under this subsection.

18 (5) If a student athlete cancels an agent contract under sub. (4),<sup>✓</sup> the student  
19 athlete is not obligated to pay any compensation to the athletic agent or return  
20 anything of value received from the athletic agent in order to induce the student  
21 athlete to enter into the agent contract. A student athlete who cancels an agent  
22 contract under sub. (4) shall return to the athletic agent anything of value that was  
23 not provided by the athletic agent in order to induce the student athlete to enter into  
24 the agent contract.

1           **440.995 Notice to educational institution. (1)** In this section, “educational  
2 institution” means an educational institution at which a student athlete is enrolled  
3 or an educational institution that an athletic agent has reasonable grounds to believe  
4 that a student athlete intends to enroll in the future.

5           (2) Within 72 hours after entering into an agent contract or before the student  
6 athlete’s participation in the next athletic event, whichever occurs first, the athletic  
7 agent shall notify the student athlete’s head coach or athletic director of the student  
8 athlete’s educational institution.

9           (3) Within 72 hours after entering into an agent contract or before the student  
10 athlete’s participation in the next athletic event, whichever occurs first, the student  
11 athlete shall provide written notice to the student athlete’s head coach or athletic  
12 director of the student athlete’s educational institution that the student athlete has  
13 entered into an agent contract.

14           (4) The department may promulgate rules establishing requirements and  
15 procedures for the notice required under this section.

16           **440.996 Prohibitions. (1)** An athletic agent may not do any of the following  
17 in order to induce a student athlete to enter into an agent contract:

18           (a) Intentionally provide any false or misleading information or intentionally  
19 make any false promise or representation.

20           (b) Offer or provide anything of value or benefit to a student athlete, other than  
21 services under the agent contract.

22           (c) Provide anything of value or benefit to any individual other than the student  
23 athlete.

24           (2) An athletic agent may not do any of the following:

1 (a) Postdate an agent contract, professional sports services contract or  
2 endorsement contract.

3 (b) Make or cause to be made any false, fraudulent or misleading statement,  
4 representation, notice or advertisement relating to the business of the athletic agent.

5 (c) Do business as an athletic agent without complying with the requirements  
6 of this subchapter.

7 (d) Contact a student athlete before being registered under this subchapter.

8 (e) Contact a student athlete before notifying the student athlete's head coach  
9 or the athletic director of the student athlete's educational institution, as defined in  
10 s. 440.995 (1).<sup>✓</sup>

11 **440.997 Recordkeeping requirements. (1)** An athletic agent shall  
12 maintain each of the following records for a period of 5 years:

13 (a) The name and address of each student athlete represented by the athletic  
14 agent.

15 (b) The amount of any compensation received from each student athlete  
16 represented by the athletic agent.

17 (c) Any agent contract entered into between the athletic agent and a student  
18 athlete.

19 (d) A record of any expenses paid or gifts provided by the athletic agent in the  
20 recruitment or attempted recruitment of a student athlete.

21 (2) An athletic agent shall permit the department to inspect the records  
22 specified in sub. (1) during normal business hours.

23 **440.998 Disciplinary proceedings and actions. (1)** Subject to the rules  
24 promulgated under s. 440.03 (1),<sup>✓</sup> the department may ~~make investigations~~ <sup>investigate</sup> and ~~and~~  
~~✗~~



1            <sup>investigations</sup> and  
 2            conduct hearings to determine whether a violation of this subchapter or any rule  
 3            promulgated under this subchapter has occurred.

4            (2) Subject to the rules promulgated under s. 440.03 (1), the department may  
 5            reprimand a registrant, or may deny, limit, suspend or revoke a registration, if an  
 6            applicant or registrant has done any of the following:

7            (a) Made a material misstatement in an application for a registration or for  
 8            renewal of a registration.

9            (b) Knowingly made a false, misleading, deceptive, untrue or fraudulent  
 10           representation as an athletic agent.

11           (c) Engaged in acts that would render the applicant or registrant unfit to serve  
 12           in a fiduciary capacity

13           (d) Been the subject of disciplinary action by a player's association.

14           (e) Had a registration suspended, revoked or denied in another jurisdiction.

15           (f) Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the  
 16           circumstances of which substantially relate to the business of an athletic agent.

17           (g) Violated this subchapter or any rule promulgated under this subchapter.

18           (3) In determining whether to reprimand a registrant or deny, limit, suspend  
 19           or revoke a registration under sub. (2), the department shall consider whether the  
 20           registrant or applicant has provided clear and convincing evidence that the  
 21           registrant or applicant is fit to serve as an athletic agent notwithstanding the action  
 22           specified in sub. (2) that the registrant or applicant has committed. The department  
 23           shall also consider each of the following:

24           (a) The timing and nature of the action that the registrant or applicant  
 committed and the context in which it occurred.

1 (b) Any activities of the registrant or applicant subsequent to the action that  
2 the registrant or applicant committed that demonstrate that the registrant or  
3 applicant is not likely to commit the action again.

4 **440.999 Penalty; civil remedy. (1)** A person who violates this subchapter  
5 or any rule promulgated under this subchapter may be fined not more than \$25,000  
6 or imprisoned for not more than <sup>one</sup>~~3~~ year or both.

7 (2) A person injured by a violation of this subchapter or any rule promulgated  
8 under this subchapter may bring a civil action to recover damages together with  
9 costs, disbursements and, notwithstanding s. 814.04 (1),<sup>↓</sup> reasonable attorney fees.

10 (3) An educational institution may recover damages together with costs,  
11 disbursements and, notwithstanding s. 814.04 (1),<sup>↓</sup> reasonable attorney fees from an  
12 athletic agent if, because of the activities of the athletic agent, the educational  
13 institution is penalized, disqualified or suspended from participation in athletics by  
14 a national association for the promotion and regulation of athletics, by an athletic  
15 conference or by self-imposed disciplinary action to mitigate sanctions.

16 **SECTION 3. Effective date.**

17 (1) This act takes effect on the first day of the 3rd month beginning after  
18 publication.

19 (END)

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3119/P1dn

MDK:/.....

Wlj

Representative Wieckert:

Please review this preliminary draft very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The registration renewal fee of \$47 is DORL's base renewal fee for all credentials. In its next budget proposal, DORL will recalculate the fee based on DORL's cost of regulating athletic agents.

2. The draft requires an athletic agent to provide certain notices to either the athletic director or a student athlete's head coach. The model legislation upon which the draft is based requires notice to only the athletic director.

3. The draft requires an applicant for registration to describe each crime for which he or she has been convicted. The model legislation has an exception for minor traffic offenses. If you want to include this exception, it will be necessary to clarify what constitutes a minor traffic offense. On a related point, note that the draft is consistent with other licensing requirements under current law in that a registration may be denied only for convictions the circumstances of which substantially relate to the business of athletic agent. This is accomplished by the references to ss. 111.321, 111.322 and 111.335, stats.

4. The draft allows, but does not require, DOR to promulgate rules regarding the notice that is required under proposed s. 440.995. Is this okay?

5. The draft has ~~6~~<sup>three</sup> month delayed effective date in order to give individuals the opportunity to comply with the draft. Is ~~6~~<sup>three</sup> months okay?

6. The severability section of the model legislation is not necessary because s. 990.001 (11), stats., provides that the unconstitutionality of any provision of the statutes does not affect other provisions that can be given effect independently of the unconstitutional provision.

7. The application and construction section of the model legislation is not included because it is our policy to generally not include statements of legislative intent in the statutes.

8. The draft makes other changes to the model legislation in order to make the draft consistent with our drafting style.

If you have any questions or redraft instructions, please contact me. I will prepare an analysis for the next version of this draft after you have had the opportunity to review this version.

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [Mark.Kunkel@legis.state.wi.us](mailto:Mark.Kunkel@legis.state.wi.us)



PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

*Dr. 100, 177* *DATCP - subpoena power to determine how ticket came Texas legislation*

*100-26, Dr.* *10-776?* *check rest of chapter*

*Analysis - monitor period*

*www.ncag.org*  
*athletic agent*  
*statute*

1 **AN ACT** to create 440.08 (2) (a) 14d. and subchapter XII of chapter 440 [precedes  
 2 440.991 of the statutes; **relating to:** regulation of athletic agents, granting  
 3 rule-making authority and providing a penalty.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

4 **SECTION 1.** 440.08 (2) (a) 14d. of the statutes is created to read:  
 5 440.08 (2) (a) 14d. Athletic agent: January 1 of each odd-numbered year; \$47.  
 6 **SECTION 2.** Subchapter XII of chapter 440 [precedes 440.991 of the statutes is  
 7 created to read:

**CHAPTER 440**

## SUBCHAPTER XII

## ATHLETIC AGENTS

**440.99 Definitions.** In this subchapter:

(1) "Agent contract" means an agreement under which a student athlete authorizes an athletic agent to negotiate or solicit on behalf of the student athlete a professional sports services contract or endorsement contract.

(2) "Athletic agent" means an individual who enters into an agent contract with a student athlete <sup>or who acts on behalf of a student athlete</sup> or who contacts, recruits or solicits a student athlete to enter into an agent contract, professional sports services contract or endorsement contract. <sup>(see summary's (Gary))</sup>

(3) "Athletic director" means the individual responsible for coordinating and administering the overall athletic program for an educational institution.

(4) "Compensation" means direct or indirect <sup>no limiting</sup> payment including the expectation of payment whether or not actually received. anything of value

(5) "Contact" means a communication by any means between an athletic agent and student athlete to induce or attempt to induce the student athlete to enter into an agent contract, professional sports services contract or endorsement contract. <sup>see Gary document</sup>

(6) "Educational institution" means a public or private junior or senior high school or postsecondary school that a student athlete attends, has last attended or to which the student athlete has expressed written intention to attend.

(7) "Endorsement contract" means any contract or agreement pursuant to which an individual is employed or receives compensation for any value or utility that the individual may have due to publicity, reputation, fame or following because of athletic ability or performance.

(8) "Jurisdiction" means a state or territory of the United States or another country.

1 (9) "Professional sports services contract" means an agreement pursuant to  
2 which a student athlete is employed or agrees to render services as a player on a  
3 professional sports team or organization or as a professional athlete.

4 (10) "Registrant" means an individual who is registered under this subchapter.

5 (11) "Student athlete" means an individual who engages in, is eligible to engage  
6 in or may be eligible in the future to engage in any intercollegiate sporting event,  
7 contest, exhibition or program.

8 **440.991 Registration required. (1)** Except as provided in sub. (2), no  
9 individual may act as an athletic agent or contact a student athlete who is attending  
10 or has expressed a written intention to attend an educational institution in this state  
11 unless the individual is registered under s. 440.992.

12 (2) An individual who is not registered under s. 440.992 may contact a student  
13 athlete who is attending or has expressed a written intention to attend an  
14 educational institution in this state if each of the following is satisfied:

15 (a) The student athlete or a person acting on behalf of the student athlete  
16 initiates the contact.

17 (b) No later than 7 days after the contact, the individual submits an application  
18 to the department for registration under s. 440.992 and notifies the athletic director  
19 of the educational institution or the student athlete's head coach about the contact.

20 **440.992 Registration of athletic agents. (1)** The department shall register  
21 an individual as an athletic agent if the individual does each of the following:

22 (a) Submits an application to the department on a form provided by the  
23 department.

24 (b) Pays the fee specified in s. 440.05 (1).

1 (c) Submits evidence satisfactory to the department that he or she has in effect  
2 the malpractice liability insurance coverage specified in s. 440.993 (1).

3 (d) Subject to ss. 111.321, 111.322 and 111.335, submits evidence satisfactory  
4 to the department that he or she does not have an arrest or conviction record.

5 (2) An application under sub. (1) shall require the applicant to provide each of  
6 the following:

*ADD requirement - M. Gary - player or ass'n registration  
& must be registered w/ sport players assoc - to go after persons who play that sport (make enforceable)*

7 (a) The name of the applicant and the address of his or her principal place of  
8 business.

9 (b) The name of the applicant's firm or employer.

10 (c) The business or occupation in which the applicant has been engaged during  
11 the 5-year period immediately preceding the date of the application.

12 (d) A description of the applicant's formal training, practical experience and  
13 educational background that relates to the applicant's activities as an athletic agent.

14 (e) The names and addresses of 3 professional references.

15 (f) The names and addresses of each individual represented by the applicant  
16 as an athletic agent during the 5-year period immediately preceding the date of the  
17 application.

18 (g) The names and addresses of each person that has a financial interest in the  
19 operation of the applicant's business as an athletic agent, including partners,  
20 associates or profit-sharers, but not including salaried employees.

21 (h) A description of each crime for which the applicant has been convicted.

22 (i) A description of any administrative or judicial determination that the  
23 applicant has made a false, misleading, deceptive, untrue or fraudulent  
24 representation as an athletic agent or in any document related to the business of an  
25 athletic agent.



1 (j) A description of any sanction, suspension or declaration of ineligibility to  
2 participate in an interscholastic or intercollegiate athletic event that has been  
3 imposed on an educational institution in any proceeding arising from or related to  
4 the acts or omissions of the applicant.

5 (k) A **description** of any proceeding involving allegations of misconduct or  
6 professional disciplinary charges against the applicant related to his or her acts or  
7 omissions as an athletic agent and a description of the outcome of each such  
8 proceeding.

9 (L) Any other information required by the department.

10 (3) Upon application and payment of the fee specified in s. 440.05 (2), the  
11 department may register an individual as an athletic agent if the individual has been  
12 issued a similar license, registration or certificate by another jurisdiction that has  
13 licensure, registration or certification requirements that the department determines  
14 are at least as stringent as the registration requirements of this subchapter.

15 (4) The renewal date and renewal fee for registrations granted under this  
16 section are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to  
17 the department on a form provided by the department and shall include evidence  
18 satisfactory to the department that the applicant has in effect the malpractice  
19 liability insurance coverage specified in s. 440.993 (1).

20 **440.993 Malpractice liability insurance. (1)** Each individual registered  
21 as an athletic agent under this subchapter shall have in effect malpractice liability  
22 insurance coverage in an amount that is not less than \$1,000,000 per occurrence and  
23 \$1,000,000 for all occurrences in one year.

1           (2) No later than 30 days after a registrant receives from an insurer notice of  
2           cancellation of the malpractice liability insurance coverage specified in sub. (1), the  
3           the registrant shall do one of the following:

4           (a) Provide the department with evidence that he or she has in effect the  
5           malpractice liability insurance coverage specified in sub. (1).

6           (b) Notify the department that he or she does not have in effect the malpractice  
7           liability insurance coverage specified in sub. (1).

8           (3) The department shall suspend the registration of an individual who makes  
9           a notification under sub. (2) (b) and shall reinstate the registration upon receiving  
10          notice that the individual has in effect the malpractice liability insurance coverage  
11          specified in sub. (1).

12          **440.994 Agent contracts: (1)** An agent contract shall be in **writing**, signed  
13          by the student athlete and, if the student athlete is under the age of 18 years, signed  
14          by the student athlete's parent or guardian.

15          (2) An agent contract shall include each of the following:

16          (a) A recitation of the compensation that the athletic agent will receive from  
17          the student athlete.

18          (b) A **description** of any compensation that the athletic agent will receive from  
19          a source other than the student athlete.

20          (c) The name of any person who will share or benefit from the compensation  
21          received from the student athlete.

22          (d) A **description** of any expenses for which the student athlete agrees to  
23          reimburse the athletic agent.

24          (e) A **description** of the professional services to be provided to the student  
25          athlete.

- ADD def'n must give appeal - make to player before SIGNING

1 (f) The duration of the contract.

2 (g) The following statement, in boldface type and capital letters, in close  
3 proximity to the signature of the student athlete: WARNING TO STUDENT  
4 ATHLETE: IF YOU SIGN THIS CONTRACT YOU WILL LOSE YOUR  
5 ELIGIBILITY TO PARTICIPATE IN YOUR SPORT. TALK TO YOUR HEAD  
6 COACH BEFORE YOU SIGN THIS CONTRACT. YOU AND YOUR ATHLETIC  
7 AGENT BOTH ARE REQUIRED TO TELL YOUR ATHLETIC DIRECTOR OR  
8 HEAD COACH IF YOU SIGN THIS CONTRACT. IF YOU SIGN THIS CONTRACT,  
9 YOU MAY CANCEL THE CONTRACT WITHIN 7 DAYS OF SIGNING IT.  
10 CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR  
11 ELIGIBILITY. ADD language about 72 hour notice 440.495

NOTIFY

12 (3) An-agent contract that does not satisfy the requirements of this section is  
13 voidable by the student athlete.

14 (4) A student athlete may cancel an agent contract by providing written notice  
15 to the athletic agent of the cancellation within 7 days after the date on which the  
16 agent contract is signed by the student athlete. A student athlete may not waive the  
17 right to cancel an agent contract that is provided under this subsection.

18 (5) If a student athlete cancels an agent contract under sub. (4), the student  
19 athlete is not obligated to pay any compensation to the athletic agent or return  
20 anything of value received from the athletic agent in order to induce the student  
21 athlete to enter into the agent contract. A student athlete who cancels an agent  
22 contract under sub. (4) shall return to the athletic agent anything of value that was  
23 not provided by the athletic agent in order to induce the student athlete to enter into  
24 the agent contract.

of expanded def'n of "agent" to include runner  
atml.  
- must give anything of value back to agent

1           **440.995 Notice to educational institution.** (1) In this section, “educational  
2 institution” means an educational institution at which a student athlete is enrolled  
3 or an educational institution that an athletic agent has reasonable grounds to believe  
4 that a student athlete intends to enroll in the future.

5           (2) Within 72 hours after entering into an agent contract or before the student  
6 athlete’s participation in the next athletic event, whichever occurs first, the athletic  
7 agent shall notify the student athlete’s head coach or athletic director of the student  
8 athlete’s educational institution.

9           (3) Within 72 hours after entering into an agent contract or before the student  
10 athlete’s participation in the next athletic event, whichever occurs first, the student  
11 athlete shall provide written notice to the student athlete’s head coach or athletic  
12 director of the student athlete’s educational institution that the student athlete has  
13 entered into an agent contract.

14           (4) The department may promulgate rules establishing requirements and  
15 procedures for the notice required under this section.

16           **440.996 Prohibitions.** (1) An athletic agent may not do any of the following  
17 in order to induce a student athlete to enter into an agent contract:

18           (a) Intentionally provide any false or misleading information or intentionally  
19 make any false promise or representation.

20           (b) Offer or provide anything of value or benefit to a student athlete, other than  
21 services under the agent contract.

22           (c) Provide anything of value or benefit to any individual other than the student  
23 athlete.

24           (2) An athletic agent may not do any of the following:

1 (a) Postdate an agent contract, professional sports services contract or  
2 endorsement contract.

3 (b) Make or cause to be made any false, fraudulent or misleading statement,  
4 representation, notice or advertisement relating to the business of the athletic agent.

5 (c) Do business as an athletic agent without complying with the requirements  
6 of this subchapter.

7 (d) Contact a student athlete before being registered under this subchapter.

8 (e) Contact a student athlete before notifying the student athlete's head coach  
9 or the athletic director of the student athlete's educational institution, as defined in  
10 s. 440.995 (1).

11 **440.997 Recordkeeping requirements.** (1) An athletic agent shall <sup>on basis, for now</sup>  
12 maintain each of the following records for a period of 5 years:

13 (a) The name and address of each student athlete represented by the athletic  
14 agent.

15 (b) The amount of any compensation received from each student athlete  
16 represented by the athletic agent.

17 (c) Any agent contract entered into between the athletic agent and a student  
18 athlete.

19 (d) A record of any expenses paid or gifts <sup>anything thing of value</sup> provided by the athletic agent in the  
20 recruitment or attempted recruitment of a student athlete. <sup>more expensive than "gift"</sup>

21 (2) An athletic agent shall permit the department to inspect the records  
22 specified in sub. (1) during normal business hours.

23 **440.998 Disciplinary proceedings and actions.** (1) Subject to the rules  
24 promulgated under s. 440.03 (1), the department may conduct investigations and

1 hearings to determine whether a violation of this subchapter or any rule  
2 promulgated under this subchapter has occurred.

3 (2) Subject to the rules promulgated under s. 440.03 (1), the department may  
4 reprimand a registrant, or may deny, limit, suspend or revoke a registration, if an  
5 applicant or registrant has done any of the following:

6 (a) Made a material misstatement in an application for a registration or for  
7 renewal of a registration.

8 (b) Knowingly made a false, misleading, deceptive, untrue or fraudulent  
9 representation as an athletic agent.

10 (c) Engaged in acts that would render the applicant or **registrant** unfit to serve  
11 in a fiduciary capacity.

12 (d) Been the subject of disciplinary action by a player's association.

13 (e) Had a registration suspended, revoked or denied in another jurisdiction.

14 (f) Subject to ss. **111.321, 111.322** and 111.335, been convicted of an offense the  
15 circumstances of which substantially relate to the business of an athletic agent.

16 (g) Violated this subchapter or any rule promulgated under this subchapter.

17 (h) ADD ineligibility - Gary - pg 2 item (2)

18 (3) In determining whether to reprimand a registrant or deny, limit, suspend  
19 or revoke a registration under sub. (2), the department shall consider whether the  
20 registrant or applicant has provided clear and convincing evidence that the  
21 registrant or applicant is fit to serve as an athletic agent notwithstanding the action  
22 specified in sub. (2) that the registrant or applicant has committed. The department  
23 shall also consider each of the following:

24 (a) The timing and nature of the action that the registrant or applicant  
committed and the context in which it occurred.

*Student athlete*

1 (b) Any activities of the registrant or applicant subsequent to the action that  
2 the registrant or applicant committed that demonstrate that the registrant or  
3 applicant is not likely to commit the action again.

4 **440.999 Penalty; civil remedy.** (1) A person who violates this subchapter  
5 or any rule promulgated under this subchapter may be fined not more than \$25,000  
6 or imprisoned for not more than one year or both.

7 (2) ~~A person~~ injured by a violation of this subchapter or any rule promulgated  
8 under this subchapter may bring a civil action to recover damages together with  
9 costs, disbursements and, notwithstanding s. 814.04 (1), reasonable attorney fees.

10 (3) An educational institution may recover damages together with costs,  
11 disbursements and, notwithstanding s. 814.04 (I), reasonable attorney fees from an  
12 athletic agent if, because of the activities of the athletic agent, the educational  
13 institution is penalized, disqualified or suspended from participation in athletics by  
14 a national association for the promotion and regulation of athletics, by an athletic  
15 conference or by self-imposed disciplinary action to mitigate sanctions.

16 **SECTION 3. Effective date.**

17 (1) This act takes effect on the first day of the 3rd month beginning after  
18 publication,

19 (END)

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3119/P1dn  
MDK:wlj:km

July 30, 1999

Representative Wieckert:

Please review this preliminary draft very carefully to make sure that it achieves your intent. In particular, please note the following:

1. The registration renewal fee of \$47 is DORL's base renewal fee for all credentials. In its next budget proposal, DORL will recalculate the fee based on DORL's cost of regulating athletic agents.

2. The draft requires an athletic agent to provide certain notices to either the athletic director or a student athlete's head coach. The model legislation upon which the draft is based requires notice to only the athletic director.

3. The draft requires an applicant for registration to describe each crime for which he or she has been convicted. The model legislation has an exception for minor traffic offenses. If you want to include this exception, it will be necessary to clarify what constitutes a minor traffic offense. On a related point, note that the draft is consistent with other licensing requirements under current law in that a registration may be denied only for convictions the circumstances of which substantially relate to the business of athletic agent. This is accomplished by the references to ss. 111.321, 111.322 and 111.335, stats.

4. The draft allows, but does not require, DORL to promulgate rules regarding the notice that is required under proposed s. 440.995. Is this okay?

5. The draft has three-month delayed effective date in order to give individuals the opportunity to comply with the draft. Is three-months okay?

6. The severability section of the model legislation is not necessary because s. 990.001 (11), stats., provides that the unconstitutionality of any provision of the statutes does not affect other provisions that can be given effect independently of the unconstitutional provision.

7. The application and construction section of the model legislation is not included because it is our policy to generally not include statements of legislative intent in the statutes.

8. The draft makes other changes to the model legislation to make the draft consistent with our drafting style.



If you have any questions or redraft instructions, please contact me. I will prepare an analysis for the next version of this draft after you have had the opportunity to review this version.

Mark D. Kunkel  
Legislative Attorney  
Phone: (608) 266-0131  
E-mail: [Mark.Kunkel@legis.state.wi.us](mailto:Mark.Kunkel@legis.state.wi.us)

David--

Thanks for the opportunity to review and comment on the legislation being proposed by Representative Wieckert to regulate the activities of sports agents.

I offer the following comments with the qualification that I am not an attorney nor expert in the field of agents or contract law. It should also be noted that issues and problems associated with sports agents are not pervasive at the Division III level of competition. However, during my nearly eight years as a compliance representative with the NCAA, I did have some involvement in this area during the course of my campus visits and did serve on a special committee to review agent and professionalism issues.

I will attempt to provide my comments in a progression similar to the manner in which the legislation is presented.

#### 440.99 Definitions

(2) "Athletic Agent" should also reference any individuals acting on behalf of an agent (e.g., runner). This should hold true throughout the legislation so that any reference to an "athletic agent" includes these other individuals directed by the agent to act on their behalf. This is a big problem on many campuses wherein other students are often recruited by the agent to act as a go-between (i.e., runner)

(4) "Compensation" should include any material benefits (e.g., transportation, clothing, gifts,) or services (e.g., legal advice) not just "payment"

*By the way, I think of  
VAL.02.*

#### 440.992 Registration of athletic agents.

(2) application. The application should include whether the agent is registered with any recognized players' associations (e.g., NFLPA, NBAPA, MLBPA) and/or has ever been disciplined (e.g., suspended) by any such organization. The prospective applicant must be "in-good standing" with the pertinent players' association.

#### 440.994 Agent contracts.

(2-g) The warning statement on the contract should include a very explicit requirement that the S-A notify his/her athletics director

and/or head coach within 72 hours or prior to the next scheduled date of competition (whichever comes first) upon entering into this contract. The reason for this is that most S-A's are not going to read or be privy to this legislation--only what's in the contract itself.

(5) The stipulations included to return or not return items/benefits/services provided by the agent here are confusing and ambiguous--who is going to determine whether the benefits provided by the agent were for the purpose of inducing the S-A to sign with the agent??

440.996 Prohibitions.

(2-e) It appears that the absence of any reference to contacting a student-athlete prior to notifying the institution's athletics director and/or head coach in 440.995 (1) has already been noted on the copy I reviewed.

440.998 Disciplinary proceedings and actions.

(2) add a reference "engaging in acts that render a student-athlete ineligible under the rules of the national association (e.g., NCAA) and/or amateur organization governing that sport."

Other general comments:

References to benefits provided to student-athletes should include the student-athletes relatives and friends. Agents will often provide these benefits to individuals (e.g., family members) other than the student-athlete him/herself as way of inducing them to sign.

Ideally, there should be a stipulation that an agent contact the S-A's athletics director and/or coach prior to making contact with the S-A. This is important because NCAA rules prohibit an enrolled S-A from entering into either a written or ORAL agreement with an agent. This may present some viable legal challenges.

Dave, I trust my comments will be helpful in the formulation of this legislation. I applaud Representative Wieckert for his efforts in regulating this very troubling area. Please do not hesitate to contact me if I can be of any further assistance or any of my comments require explanation.

Thanks again,

Gary

cc: Tim Bald

Tomorrow  
9/1 by  
4:00pm

O-NOTE

P2

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM not  
sun

WPO: Please check  
Auto Refs.

Re gen cat.

1 **AN ACT** to create 440.08 (2) (a) 14d. and subchapter XII of chapter 440 [precedes  
2 440.99] of the statutes, relating to: regulation of athletic agents, granting  
3 rule-making authority and providing a penalty.

**Analysis by the Legislative Reference Bureau**

This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

**The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:**

4 **SECTION 1.** 440.08 (2) (a) 14d. of the statutes is created to read:  
5 440.08 (2) (a) 14d. Athletic agent: January 1 of each odd-numbered year; \$47.

6 **SECTION 2.** Subchapter XII of chapter 440 [precedes 440.99] of the statutes is  
7 created to read:

**CHAPTER 440**

INSERT 2-3  
~~SUBCHAPTER XII~~  
~~ATHLETIC AGENTS~~

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~~410.99 Definitions~~ In this ~~subchapter~~ <sup>section</sup>:

(a) "Agent contract" means an agreement under which a student athlete authorizes an athletic agent to negotiate or solicit on behalf of the student athlete a professional sports services contract or endorsement contract.

(b) "Athletic agent" means an individual who enters into an agent contract with a student athlete <sup>or</sup> who contacts, recruits or solicits a student athlete to enter into an agent contract, professional sports services contract or endorsement contract.

INSERT 2-9

(c) "Athletic director" means the individual responsible for coordinating and administering the overall athletic program for an educational institution.

INSERT 2-12

(d) "Compensation" means direct or indirect payment, including the expectation of <sup>such</sup> payment whether or not actually received.

(e) "Contact" means a communication by any means between an athletic agent and student athlete to induce or attempt to induce the student athlete to enter into an agent contract, professional sports services contract or endorsement contract.

(f) "Educational institution" means a public or private junior or senior high school or postsecondary school that a student athlete attends, has last attended or to which the student athlete has expressed written intention to attend.

(g) "Endorsement contract" means any contract or agreement pursuant to which an individual is employed or receives compensation for any value or utility that the individual may have due to publicity, reputation, fame or following because of athletic ability or performance.

(h) "Jurisdiction" means a state or territory of the United States or another country.

(1) <sup>(i)</sup> ~~440~~ "Professional sports services contract" means an agreement pursuant to which a student athlete is employed or agrees to render services as a player on a professional sports team or organization or as a professional athlete.

(4) <sup>(j)</sup> ~~440~~ "Registrant" means an individual who is registered under this <sup>section</sup> ~~chapter~~.

(5) <sup>(k)</sup> ~~440~~ "Student athlete" means an individual who engages in, is eligible to engage in or may be eligible in the future to engage in any intercollegiate sporting event, contest, exhibition or program.

(11) ~~440.991~~ **Registration required.** <sup>(a)</sup> ~~(1)~~ Except as provided <sup>par. (b) ↓</sup> ~~in sub. (2)~~, no individual may act as an athletic agent or contact a student athlete who is attending or has expressed a written intention to attend an educational institution in this state unless the individual is registered under ~~440.992~~ <sup>sub. (3) ↓</sup>.

(12) <sup>(b)</sup> ~~440~~ An individual who is not registered under ~~440.992~~ <sup>sub. (3) ↓</sup> may contact a student athlete who is attending or has expressed a written intention to attend an educational institution in this state if each of the following is satisfied:

(15) <sup>1.</sup> ~~440~~ The student athlete or a person acting on behalf of the student athlete initiates the contact.

(17) <sup>2.</sup> ~~440~~ No later than 7 days after the contact, the individual submits an application to the department for registration under ~~440.992~~ <sup>(sub. (3) ↓</sup> and notifies the athletic director of the educational institution or the student athlete's head coach about the contact.

(18) ~~440.992~~ **Registration of athletic agents.** <sup>(a)</sup> ~~(1)~~ The department shall register an individual as an athletic agent if the individual does each of the following:

(22) <sup>(1.)</sup> ~~440~~ Submits an application to the department on a form provided by the department. <sup>(INSERT 3-24 ↓</sup>

(24) <sup>(2.)</sup> ~~440~~ Pays the fee specified in ~~440.992~~.

(1) <sup>2.</sup> ~~111.321~~ Submits evidence satisfactory to the department that he or she has in effect  
 2 the malpractice liability insurance coverage specified in ~~111.321~~ <sup>sub.(4)(a)</sup>

(3) <sup>4.</sup> ~~111.321~~ Subject to ss. 111.321, 111.322 and **111.335**, submits evidence satisfactory  
 4 to the department that he or she does not have an arrest or conviction record.

(b) ~~111.321~~ An application under ~~sub.(4)~~ <sup>par.(a)</sup> shall require the applicant to provide each of  
 6 the following:

(1.) ~~111.321~~ The name of the applicant and the address of his or her principal place of  
 8 business.

a. ~~111.321~~ The name of the applicant's firm or employer.

3. ~~111.321~~ The business or occupation in which the applicant has been engaged during  
 11 the 5-year period immediately preceding the date of the application.

4. ~~111.321~~ A description of the applicant's formal training, practical experience and  
 13 educational background that relates to the applicant's activities as an athletic agent.

5. ~~111.321~~ The names and addresses of 3 professional references.

6. ~~111.321~~ The names and addresses of each individual represented by the applicant  
 16 as an athletic agent during the 5-year period immediately preceding the date of the  
 17 application.

3. ~~111.321~~ The names and addresses of each person that has a financial interest in the  
 19 operation of the applicant's business as an athletic agent, including partners,  
 20 associates or profit-sharers, but not including salaried employes.

4. ~~111.321~~ A description of each crime for which the applicant has been convicted.

9. ~~111.321~~ A description of any administrative or judicial determination that the  
 23 applicant has made a false, misleading, deceptive, untrue or fraudulent  
 24 representation as an athletic agent or in any document related to the business of an  
 25 athletic agent.



INSERT 5-8 ↓

1

<sup>10.</sup> A description of any sanction, suspension or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event that has been imposed on an educational institution in any proceeding arising from or related to the acts or omissions of the applicant.

5

<sup>11.</sup> A description of any proceeding involving allegations of misconduct or professional disciplinary charges against the applicant related to his or her acts or omissions as an athletic agent and a description of the outcome of each such proceeding.

9

<sup>13.</sup> Any other information required by the department.

INSERT 5-10

10

<sup>13.</sup> Upon application and payment of the fee specified in s. 440.05 (2), the department may register an individual as an athletic agent if the individual has been issued a similar license, registration or certificate by another jurisdiction that has licensure, registration or certification requirements that the department determines are at least as stringent as the registration requirements of this ~~subchapter~~ <sup>section</sup>.

14

~~(14) The renewal date and renewal fee for registrations granted under this section are specified in s. 440.08 (2) (a). Renewal applications shall be submitted to the department on a form provided by the department and shall include evidence satisfactory to the department that the applicant has in effect the malpractice liability insurance coverage specified in s. 440.083 (1) (a).~~

20

<sup>140,000</sup> ~~(14)~~ **Malpractice liability insurance.** (1) Each individual registered as an athletic agent under this ~~subchapter~~ <sup>section</sup> shall have in effect malpractice liability insurance coverage in an amount that is not less than \$1,000,000 per occurrence and \$1,000,000 for all occurrences in one year.

23

INSERT 5-14 ↓

1 ~~(b)~~ (b) No later than 30 days after a registrant receives from an insurer notice of  
 2 cancellation of the malpractice liability insurance coverage specified in ~~sub. (a)~~ <sup>par. (a)</sup>, the  
 3 the registrant shall do one of the following:

4 ~~(1)~~ (1.) Provide the department with evidence that he or she has in effect the  
 5 malpractice liability insurance coverage specified in ~~sub. (a)~~ <sup>par. (a)</sup> ↓

6 ~~(2)~~ (2.) Notify the department that he or she does not have in effect the malpractice  
 7 liability insurance coverage specified in ~~sub. (a)~~ <sup>par. (a)</sup> ↓

8 ~~(c)~~ (c) The department shall suspend the registration of an individual who makes  
 9 a notification under ~~sub. (b)~~ <sup>par. (b) 2. ↓</sup> and shall reinstate the registration upon receiving  
 10 notice that the individual has in effect the malpractice liability insurance coverage  
 11 specified in ~~sub. (a)~~ <sup>par. (a) ↓</sup>

12 ~~40.994~~ Agent contracts. (1) (An agent contract shall be in writing, signed  
 13 by the student athlete and, if the student athlete is under the age of 18 years, signed  
 14 by the student athlete's parent or guardian.

15 ~~(b)~~ (b) An agent contract shall include each of the following:

16 ~~(1)~~ (1.) A recitation of the compensation that the athletic agent will receive from  
 17 the student athlete.

18 ~~(2)~~ (2.) A description of any compensation that the athletic agent will receive from  
 19 a source other than the student athlete.

20 ~~(3)~~ (3.) The name of any person who will share or benefit from the compensation  
 21 received from the student athlete.

22 ~~(4)~~ (4.) A description of any expenses for which the student athlete agrees to  
 23 reimburse the athletic agent.

24 ~~(5)~~ (5.) A description of the professional services to be provided to the student  
 25 athlete.

1           <sup>(6)</sup>  
~~(f)~~ The duration of the contract.

2           <sup>(7)</sup>  
~~(g)~~ The following statement, in boldface type and capital letters, in close  
3 proximity to the signature of the student athlete: WARNING TO STUDENT  
4 ATHLETE: IF YOU SIGN THIS CONTRACT YOU WILL LOSE YOUR  
5 ELIGIBILITY TO PARTICIPATE IN YOUR SPORT. TALK TO YOUR HEAD  
6 COACH BEFORE YOU SIGN THIS CONTRACT. YOU AND YOUR ATHLETIC  
7 AGENT BOTH ARE REQUIRED TO ~~CALL~~ <sup>NOTIFY</sup> YOUR ATHLETIC DIRECTOR OR  
8 HEAD COACH IF YOU SIGN THIS CONTRACT. <sup>INSERT 7-8</sup> IF YOU SIGN THIS CONTRACT,  
9 YOU MAY CANCEL THE CONTRACT WITHIN 7 DAYS OF SIGNING IT.  
10 CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR  
11 ELIGIBILITY

12           <sup>(c)</sup>  
~~(b)~~ An agent contract that does not satisfy the requirements of this <sup>subsection</sup> ~~section~~ is  
13 voidable by the student athlete.

14           <sup>(d)</sup>  
~~(a)~~ A student athlete may cancel an agent contract by providing written notice  
15 to the athletic agent of the cancellation within 7 days after the date on which the  
16 agent contract is signed by the student athlete. A student athlete may not waive the  
17 right to cancel an agent contract that is provided under this <sup>subsection, paragraph</sup> ~~subsection~~.

18           <sup>(e)</sup>  
~~(b)~~ If a student athlete cancels an agent contract under <sup>par. (d)</sup> ~~sub. (a)~~, the student  
19 athlete is not obligated to pay any compensation to the athletic agent or return  
20 anything of value received from the athletic agent in order to induce the student  
21 athlete to enter into the agent contract. A student athlete who cancels an agent

22 contract under <sup>par. (d)</sup> ~~sub. (a)~~ shall return to the athletic agent anything of value that was  
23 ~~provided~~ provided by the athletic agent in order to induce <sup>to</sup> the student athlete to enter into  
24 the agent contract.

SECTION 2

*No. 10  
AM 3 (55)*

*(a)*

*subsection*

1 ~~440.995~~ **Notice to educational institution.** (1) In this ~~section~~, "educational  
2 institution" means an educational institution at which a student athlete is enrolled  
3 or an educational institution that an athletic agent has reasonable grounds to believe  
4 that a student athlete intends to enroll in the future.

5 ~~(2)~~ <sup>(b)</sup> Within 72 hours after entering into an agent contract or before the student  
6 athlete's participation in the next athletic event, whichever occurs first, the athletic  
7 agent shall notify the student athlete's head coach or athletic director of the student  
8 athlete's educational institution.

9 ~~(3)~~ <sup>(c)</sup> Within 72 hours after entering into an agent contract or before the student  
10 athlete's participation in the next athletic event, whichever occurs first, the student  
11 athlete shall provide written notice to the student athlete's head coach or athletic  
12 director of the student athlete's educational institution that the student athlete has  
13 entered into an agent contract.

14 ~~(4)~~ <sup>(d)</sup> The department may promulgate rules establishing requirements and  
15 procedures for the notice required under this ~~section~~. *subsection 1*

*No. 10  
AM 3 (55)*

16 ~~440.996~~ **Prohibitions.** (1) An athletic agent may not do any of the following  
17 in order to induce a student athlete to enter into an agent contract:

18 ~~(a)~~ <sup>(1.)</sup> Intentionally provide any false or misleading information or intentionally  
19 make any false promise or representation.

20 ~~(b)~~ <sup>(2.)</sup> Offer or provide anything of value or benefit to a student athlete, other than  
21 services under the agent contract.

22 ~~(c)~~ <sup>(3.)</sup> Provide anything of value or benefit to any individual other than the student  
23 athlete.

24 ~~(2)~~ <sup>(b)</sup> An athletic agent may not do any of the following:

INSERT 9-10 ↓

- 1 (a) Postdate an agent contract, professional sports services contract or endorsement contract.
- 2 (b) Make or cause to be made any false, fraudulent or misleading statement, representation, notice or advertisement relating to the business of the athletic agent.
- 3 (c) Do business as an athletic agent without complying with the requirements of this subchapter.
- 4 (d) Contact a student athlete before being registered under this section.
- 5 (e) Contact a student athlete before notifying the student athlete's head coach or the athletic director of the student athlete's educational institution, as defined in

10 ~~440.096 (1)~~ sub. (b) (a) ↓  
 11 ~~440.097~~ Recordkeeping requirements (1) (a) ↓

12 maintain each of the following records for a period of 5 years:

- 13 (a) The name and address of each student athlete represented by the athletic agent.
- 14 (b) The amount of any compensation received from each student athlete represented by the athletic agent.
- 15 (c) Any agent contract entered into between the athletic agent and a student athlete.
- 16 (d) A record of any expenses paid or ~~given~~ <sup>anything of value</sup> provided by the athletic agent in the recruitment or attempted recruitment of a student athlete.
- 17 (e) An athletic agent shall permit the department to inspect the records specified in ~~sub. (d)~~ <sup>par. (a) ↓</sup> during normal business hours.

18 ~~440.098~~ Disciplinary proceedings and actions. (1) (a) ↓

19 ~~promulgated under s. 440.08 (1),~~ the department may conduct investigations and

SECTION 2

1 hearings to determine whether a violation of this ~~subchapter~~<sup>section</sup> or any rule  
2 promulgated under this ~~subchapter~~<sup>section</sup> has occurred.

3 ~~(a)~~<sup>(b)</sup> Subject to the rules promulgated under s. 440.03 (1) the department may  
4 reprimand a registrant, or may deny, limit, suspend or revoke a registration, if an  
5 applicant or registrant has done any of the following:

6 ~~(a)~~<sup>(1.)</sup> Made a material misstatement in an application for a registration or for  
7 renewal of a registration.

8 ~~(b)~~<sup>(2.)</sup> Knowingly made a false, misleading, deceptive, untrue or fraudulent  
9 representation as an athletic agent.

10 ~~(c)~~<sup>(3.)</sup> Engaged in acts that would render the applicant or registrant unfit to serve  
11 in a fiduciary capacity.

12 ~~(d)~~<sup>(4.)</sup> Been the subject of disciplinary action by a player's association.

13 ~~(e)~~<sup>(5.)</sup> Had a registration suspended, revoked or denied in another jurisdiction.

14 ~~(f)~~<sup>(6.)</sup> Subject to ss. 111.321, 111.322 and 111.335, been convicted of an offense the  
15 circumstances of which substantially relate to the business of an athletic agent.

16 ~~(g)~~<sup>(7.)</sup> Violated this ~~subchapter~~<sup>section</sup> or any rule promulgated under this ~~subchapter~~<sup>section</sup>.

17 ~~(h)~~<sup>(c)</sup> In determining whether to reprimand a registrant or deny, limit, suspend  
18 or revoke a registration under ~~subchapter~~<sup>par. (b)</sup>, the department shall consider whether the  
19 registrant or applicant has provided clear and convincing evidence that the  
20 registrant or applicant is fit to serve as an athletic agent notwithstanding the action  
21 specified in ~~subchapter~~<sup>par. (b)</sup> that the registrant or applicant has committed. The department  
22 shall also consider each of the following:

25 ~~(a)~~<sup>(1.)</sup> The timing and nature of the action that the registrant or applicant  
24 committed and the context in which it occurred.

INSERT 10-15 ↓

2

1 Any activities of the registrant or applicant subsequent to the action that  
2 the registrant or applicant committed that demonstrate that the registrant or  
3 applicant is not likely to commit the action again. (a)

~~140.030~~ **Penalty; civil remedy.**

4 (1) A person who violates this ~~subchapter~~ <sup>section</sup>  
5 or any rule promulgated under this ~~subchapter~~ <sup>section</sup> may be fined not more than \$25,000  
6 or imprisoned for not more than one year or both.

(b) student athlete

7 (2) A person injured by a violation of this ~~subchapter~~ <sup>section</sup> or any rule promulgated  
8 under this ~~subchapter~~ <sup>section</sup> may bring a civil action to recover damages together with  
9 costs, disbursements and, notwithstanding s. 814.04 (1), reasonable attorney fees.

(c)

10 (3) An educational institution may recover damages together with costs,  
11 disbursements and, notwithstanding s. 814.04 (1), reasonable attorney fees from an  
12 athletic agent if, because of the activities of the athletic agent, the educational  
13 institution is penalized, disqualified or suspended from participation in athletics by  
14 a national association for the promotion and regulation of athletics, by an athletic  
15 conference or by self-imposed disciplinary action to mitigate sanctions.

**SECTION 3. Effective date.**

17 (1) This act takes effect on the first day of the 3rd month beginning after  
18 publication.

(END)

INSERT 11-15

1 **INSERT 23:**

2 SECTION 1. 100.179 <sup>✓</sup> of the statutes is created to read:

3 **100.179 Athletic agents. (1) DEFINITIONS.**

4 **INSERT 2-9:**

5 <sup>do ff</sup> , or who acts on behalf of such an individual for the purpose of contacting, recruiting  
6 or soliciting a student athlete to enter into such a contract

7 **INSERT 2-12:**

8 <sup>No ff</sup> of anything of value

9 **INSERT 3-24:**

10 <sup>ff</sup> 2. Pays the initial registration fee established in rules promulgated under par.  
11 (e).<sup>✓</sup>

12 **INSERT 5-8:**

13 <sup>ff</sup> 12. Evidence satisfactory to the department that the individual is registered  
14 as an athletic agent with a professional players association.

15 **INSERT 5-10:**

16 <sup>No ff</sup> initial registration fee established in rules promulgated under par. (e) <sup>✓</sup>

17 **INSERT 5-14:**

18 <sup>ff</sup> (d) A registration granted under par. (a)<sup>✓</sup> or (c)<sup>✓</sup> expires on January 1 of each  
19 odd-numbered year, unless the registration is renewed under this paragraph. The  
20 department may not renew a registration unless the applicant for renewal submits  
21 an application to the department on a form provided by the department and includes  
22 with the application each of the following:

23 <sup>ff</sup> 1. The registration renewal fee established in rules promulgated under par. (e).<sup>✓</sup>



1 ~~4~~ 2. Evidence satisfactory to the department that the applicant has in effect the  
 2 malpractice liability insurance coverage specified in sub. (4) (a),  
 3 ~~4~~ (e) The department shall promulgate rules establishing the amount of an  
 4 initial registration fee required to be paid under par. (a) 2. and the amount of a  
 5 registration renewal fee required to be paid under par. (d). The amount of the fees  
 6 shall reflect the approximate administrative and enforcement costs of the  
 7 department that are attributable to the regulation athletic agents under this section.

No 11 /

**INSERT 7-8:**

9 SUCH A NOTIFICATION MUST BE MADE EITHER WITHIN 72 HOURS AFTER  
 10 YOU BOTH SIGN THIS CONTRACT OR BEFORE YOUR PARTICIPATION IN  
 11 YOUR NEXT ATHLETIC EVENT, WHICHEVER OCCURS FIRST.

**INSERT 9-10:**

13 ~~4~~ 6. Contact a student athlete unless the athletic agent is registered as an  
 14 athletic agent by a professional players association for the sport for which the  
 15 athletic agent intends to negotiate a professional sport services contract for the  
 16 student athlete.

17 ~~4~~ 7. Enter into an agent contract, professional sports services contract or  
 18 endorsement contract with a student athlete unless the athletic agent has provided  
 19 the student athlete with a copy of the application submitted to the department under  
 20 sub. (3) (a) 1.

21 ~~4~~ **(8) PLAYERS ASSOCIATION REGISTRATION.** An athletic agent shall notify the  
 22 department if he or she is registered as an athletic agent by a professional players  
 23 association in addition to the professional players association that is identified under  
 24 sub. (3) (b) 12. in the application for registration under this section.

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**INSERT 10-15:**

*ff* 7. Engaged in any conduct that renders a student athlete ineligible to participate in a sport under the rules of a national association or amateur organization that governs the sport.

**INSERT 11-15:**

**(12) INVESTIGATIONS AND ENFORCEMENT.** (a) Whenever the department has reason to believe that a person is in possession, custody or control of any information or documentary material relevant to the enforcement of this section it may require that person to submit a statement or report, under oath or otherwise, as to the facts and circumstances concerning any activity that may be relevant to the enforcement of this section; examine under oath that person with respect to the activity; and execute in writing and cause to be served upon such person a civil investigative demand requiring the person to produce any relevant documentary material for inspection and copying.

(b) The department, in exercising powers under this subsection, may issue subpoenas, administer oaths and conduct hearings to aid in any investigation,

(c) Service of any notice by the department requiring a person to file a statement or report, or service of a subpoena upon a person, or service of a civil investigative demand shall be made in compliance with the rules of civil procedure of this state.

(d) If a person fails to file any statement or report, or fails to comply with any civil investigative demand, or fails to obey any subpoena issued by the department, such person may be coerced as provided in s. 885.12, <sup>✓</sup> except that no person shall be required to furnish any testimony or evidence under this subsection ~~which~~ <sup>that</sup> might tend to incriminate the person.

1           **(13) REGISTRY OF ATHLETIC AGENTS.** The department shall establish and update  
 2 on at least a bimonthly basis a registry of persons who are registered as athletic  
 3 agents under this section. The department shall make the registry available for  
 4 public inspection and copying and in any other manner that, as determined by the  
 5 department, facilitates public access to the registry.

6           Auto Ref (B)   **SECTION ~~A~~ Nonstatutory provisions.**

7           (1) In this section, "department" means the department of agriculture, trade  
 8 and consumer protection.

9           Auto Ref (A)   (2) The department shall submit in proposed form the rules required under  
 10 section 100.179 (3) (e) of the statutes, as created by this act, to the legislative council  
 11 staff under section 227.15 (1) of the statutes no later than the first day of the 6th  
 12 month beginning after the effective date of this ~~paragraph~~ <sup>subsection</sup>.

13           (3) Using the procedure under section 227.24 of the statutes, the department  
 14 may promulgate rules required under section 100.179 (3) (e) of the statutes, as  
 15 created by this act, for the period before the effective date of the rules submitted  
 16 under subsection (2), but not to exceed the period authorized under section 227.24  
 17 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b) and (3)  
 18 of the statutes, the department is not required to provide evidence that promulgating  
 19 a rule under this subsection as an emergency rule is necessary for the preservation  
 20 of the public peace, health, safety or welfare and is not required to provide a finding  
 21 of emergency for a rule promulgated under this subsection.

22           **SECTION 3. Effective dates.** This act takes effect on the first day of the 3rd  
 23 month beginning after publication, except as follows:

24           Auto Ref (B)   (1) SECTION 2 of this act takes effect on the day after publication.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRB-3119/P2dn

MDK: /:....

Wlj

Representative Wieckert:

This version makes the changes that I discussed with James Bonneville. I will prepare an analysis and a draft that may be introduced after you review this draft. Please note the following in particular as you review the draft:

1. The amount of the initial and renewal registration fees must be determined by DATCP by rule. Because DATCP has different overhead expenses, I could not use the initial fee that is established by DORL in the prior version of this draft.

2. The draft has a <sup>three</sup> ~~six~~-month delayed effective date, and allows DATCP to promulgate emergency rules to establish the amount of the initial and renewal fees.

3. Under s. 100.263, stats., DATCP may recover its investigative costs and DOJ may recover attorneys' fees for any enforcement action associated with the draft's requirements.

4. This version requires DATCP to maintain a registry of athletic agents and make the registry available to the public.

If you have any questions, please contact me.

Mark D. Kunkel  
Legislative Attorney  
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**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRB-3 119/P2dn  
MDK:wlj:hmh

September 1, 1999

Representative Wieckert:

This version makes the changes that I discussed with James Bonneville. I will prepare an analysis and a draft that may be introduced after you review this draft. Please note the following in particular as you review the draft:

1. The amount of the initial and renewal registration fees must be determined by DATCP by rule. Because DATCP has different overhead expenses, I could not use the initial fee that is established by DORL in the prior version of this draft.

2. The draft has a three-month delayed effective date, and allows DATCP to promulgate emergency rules to establish the amount of the initial and renewal fees.

3. Under s. 100.263, stats., DATCP may recover its investigative costs and DOJ may recover attorney fees for any enforcement action associated with the draft's requirements.

4. This version requires DATCP to maintain a registry of athletic agents and make the registry available to the public.

If you have any questions, please contact me.

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