

## CHAPTER 205

( SB 228 )

AN ACT relating to athlete agents.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

➔Section 1. KRS 164.6901 is amended to read as follows:

KRS 164.6901 to 164.6935 may be cited as the **Revised** Uniform Athlete Agents Act.

➔Section 2. KRS 164.6903 is amended to read as follows:

As used in KRS 164.6901 to 164.6935, unless the context requires otherwise:

- (1) "Agency contract" means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract;
- (2) "Athlete agent":
  - (a) Means an individual, **whether registered under KRS 164.6901 to 164.6935 or not**, who:
    1. ~~[enters into an agency contract with a student athlete or, ]~~Directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract~~[.]~~ **or, for compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for a student-athlete as a professional athlete or member of a professional sports team or organization;**
    2. **For compensation or in anticipation of compensation related to a student-athlete's participation in athletics:**
      - a. **Serves the student-athlete in an advisor capacity on a matter related to finances, business pursuits, or career management decisions, unless the individual is an employee of an educational institution acting exclusively as an employee of the institution for the benefit of the institution; or**
      - b. **Manages the business affairs of the student-athlete by providing assistance with bills, payments, contracts or taxes; or**
    3. **In anticipation of representing a student-athlete for a purpose related to the student-athlete's participation in athletics:**
      - a. **Gives consideration to the student-athlete or another person;**
      - b. **Serves the student-athlete in an advisory capacity on a matter related to finances, business pursuits, or career management decisions; or**
      - c. **Manages the business affairs of the student-athlete by providing assistance with bills, payments, contracts, or taxes; and**
  - (b) **Does not include an individual who:**
    1. **Acts solely on behalf of a professional sports team or organization; or**
    2. **Is a licensed, registered, or certified professional and offers or provides services to a student-athlete customarily provided by members of the profession, unless the individual:**
      - a. **Also recruits or solicits the student-athlete to enter into an agency contract;**
      - b. **For compensation, procures employment or offers, promises, attempts, or negotiates to obtain employment for the student-athlete as a professional athlete or member of a professional sports team or organization; or**
      - c. **Receives consideration for providing the services calculated using a different method than for an individual who is not a student-athlete; or**
    3. **Is a parent or guardian of a student-athlete, unless the parent or guardian for compensation, or any form of valuable consideration or reasonable expectation thereof, influences or**

*attempts to influence the student-athlete to enter into an agency contract, or procures employment or offers, promises, attempts, or negotiates to obtain employment for the student-athlete as a professional athlete or member of a professional sports team or organization*~~[The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization];~~

- (3) "Athletic director" means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male and female students, the athletic program for males or the athletic program for females, as appropriate;
- (4) "Contact" means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract;
- (5) "Department" means the Department of Professional Licensing in the Public Protection Cabinet;
- (6) ***"Educational institution" includes a public or private elementary school, secondary school, technical or vocational school, community college, college, and university;***
- (7) "Endorsement contract" means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance;
- (8) ***"Enrolled" means registered for courses and attending athletic practice or class;***
- ~~(9)(7)~~ "Intercollegiate sport" means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association *that promotes*~~[for the promotion]~~ or *regulates*~~[regulation of]~~ collegiate athletics;
- (10) ***"Interscholastic sport" means a sport played between educational institutions that are not community colleges, colleges, or universities;***
- (11) ***"Licensed, registered, or certified professional" means an individual licensed, registered, or certified as an attorney, dealer in securities, financial planner, insurance agent, real estate broker or sales agent, tax consultant, accountant, or member of a profession other than that of an athlete agent who is licensed, registered, or certified by the state or a nationally recognized organization that licenses, registers, or certifies members of the profession on the basis of experience, education, or testing;***
- ~~(12)(8)~~ "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, or government; governmental subdivision, agency, or instrumentality; public corporation, or any other legal or commercial entity;
- ~~(13)(9)~~ "Professional-sports-services contract" means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete;
- ~~(14)(10)~~ "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;
- (15) ***"Recruit or solicit" means to attempt to influence the choice of an athlete agent by a student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete. The term does not include giving advice on the selection of a particular agent in a family, coaching, or social situation unless the individual giving the advice does so because of the receipt or anticipated receipt of an economic benefit, directly or indirectly, from the agent.***
- ~~(16)(11)~~ "Registration" means registration as an athlete agent pursuant to KRS 164.6901 to 164.6935;
- (17) ***"Sign" means with present intent to authenticate or adopt a record:***
  - (a) ***To execute or adopt a tangible symbol; or***
  - (b) ***To attach to or logically associate with the record an electronic symbol, sound, or process;***
- ~~(18)(12)~~ "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; and

(19)~~(13)~~ "Student-athlete" means an individual who ~~engages in,~~ is eligible to *attend an educational institution and engages~~engage~~ in, *is eligible to engage in,* or may be eligible in the future to engage in, any *interscholastic or* intercollegiate sport. *"Student-athlete" does not include*~~if~~ an individual~~is~~ permanently ineligible to participate in a particular *interscholastic or* intercollegiate sport *for*~~, the individual is not a student-athlete for purposes of~~ that sport.*

➔Section 3. KRS 164.6907 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, an individual may not act as an athlete agent in this state without holding a certificate of registration under KRS *164.6901 to 164.6935*~~[164.6911 to 164.6913(3)]~~.
- (2) Before being issued a certificate of registration, an individual may act as an athlete agent in this state for all purposes except signing an agency contract, if:
  - (a) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and
  - (b) Within seven (7) days after an initial act *that requires the individual to register* as an athlete agent, the individual submits an application for registration as an athlete agent in this state.
- (3) An agency contract resulting from conduct in violation of this section is void, and the athlete agent shall return any consideration received under contract.

➔Section 4. KRS 164.6909 is amended to read as follows:

- (1) An applicant for registration *as an athlete agent* shall submit an application for registration to the department in a form prescribed by the department. An application filed under this section is a public record. The *applicant*~~application~~ shall be ~~in the name of~~ an individual, and *the application shall be*~~except as otherwise provided in subsection (2) of this section,~~ signed ~~or otherwise authenticated~~ by the applicant under penalty of perjury. *The application shall*~~and state or~~ contain *at least the following*:
  - (a) The name *and date and place of birth* of the applicant and the *following contact information for the applicant*:
    1. *The* address of the applicant's principal place of business;
    2. *Work and mobile telephone numbers; and*
    3. *Any means of communicating electronically, including a facsimile number, electronic mail address, and personal and business or employer Web sites;*
  - (b) The name of the applicant's business or employer, if applicable, *including for each business or employer, the mailing address, telephone number, organization form, and the nature of the business;*
  - (c) *Each social media account with which the applicant or the applicant's business or employer is affiliated;*
  - (d) *Each*~~Any~~ business or occupation engaged in by the applicant for the five (5) years *before*~~next preceding~~ the date~~of submission~~ of *the*~~this~~ application, *including self-employment and employment by others, and any professional or occupational license, registration, or certification held by the applicant during that time;*
  - (e)~~(d)~~ A description of the applicant's:
    1. Formal training as an athlete;
    2. Practical experience as an athlete agent; and
    3. Educational background relating to the applicant's activities as an athlete agent;
  - (f)~~(e)~~ ~~[The names and addresses of three (3) individuals not related to the applicant who are willing to serve as references;~~
  - (f) ~~]~~*of each student-athlete*~~, sport, and last known team for each individual~~ for whom the applicant acted as an athlete agent *within*~~during the~~ five (5) years *before*~~next preceding~~ the date~~of submission~~ of the application *or, if the student-athlete is a minor, the name of the parent or guardian of the minor, together with the student-athlete's sport and last known team;*

- (g) The *name*~~{names}~~ and *address*~~{addresses}~~ of *each person that*~~{all persons who are}~~:
1. *Is a partner, member, officer, manager, associate, or profit sharer or directly or indirectly holds an equity interest of five percent (5%) or more of the athlete agent's business if it is not a corporation*~~{With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit sharers of the business}~~; and
  2. *Is an officer or director of a corporation employing the athlete agent or a shareholder having an interest of five percent (5%) or more in the corporation*~~{With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent (5%) or greater}~~;
- (h) *A description of the status of any application by the applicant or any person named pursuant to paragraph (g) of this subsection for a state or federal agency, including any denial, refusal to renew, suspension, withdrawal, or termination of the license and any reprimand or censure related to the license;*
- (i) Whether the applicant or any person named pursuant to paragraph (g) of this subsection has been convicted of, *or has charges pending for*, a crime that~~{, if committed in this state,}~~ would *involve sexual misconduct, has dishonesty as a necessary element,*~~{be a crime involving moral turpitude}~~ or *would be a felony if committed in this state*, and, *if so, identification of:*~~{identify the crime}~~
1. *The crime;*
  2. *The law enforcement agency involved; and*
  3. *If applicable, the date of the conviction and the fine or penalty imposed;*
- (j)~~{(i)}~~ Whether, *within fifteen (15) years before the date of the application, the applicant or any person named pursuant to paragraph (g) of this subsection has been a defendant or respondent in a civil proceeding, including a proceeding seeking an adjudication of legal incompetence, and if so, the date and a full explanation of each proceeding;*
- (k) *Whether the applicant or any person named pursuant to paragraph (g) of this subsection has an unsatisfied judgment of continuing effect, including alimony or a domestic order in the nature of child support, which is not current at the date of the application;*
- (l) *Whether, within ten (10) years before the date of the application, the applicant or any person named pursuant to paragraph (g) of this subsection was adjudicated bankrupt or was an owner of a business that was adjudicated bankrupt;*
- (m) *Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (g) of this subsection has made a false, misleading, deceptive, or fraudulent representation;*
- (n)~~{(j)}~~ *Each*~~{Any}~~ instance in which the conduct of the applicant or any person named pursuant to paragraph (g) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate, *or professional* athletic event on a student-athlete or *a sanction on an* educational institution;
- (o)~~{(k)}~~ *Each*~~{Any}~~ sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (g) of this subsection arising out of occupational or professional conduct;~~{and}~~
- (p)~~{(l)}~~ Whether there has been any denial of an application for, suspension or revocation of,~~{or}~~ refusal to renew, *or abandonment of* the registration~~{or licensure}~~ of the applicant or any person named pursuant to paragraph (g) of this subsection as an athlete agent in any state;
- (q) *Each state in which the applicant currently is registered as an athlete agent or has applied to be registered as an athlete agent; and*
- (r) *If the applicant is certified or registered by a professional league or players association:*
1. *The name of the league or association;*
  2. *The date of certification or registration, and the date of expiration of the certification or registration, if any; and*

3. *If applicable, the date of any denial of an application for, suspension or revocation of, refusal to renew, withdrawal of, or termination of registration; and*
- (s) *Any additional information required by the department.*
- (2) *Instead of proceeding under subsection (1) of this section, an individual ~~registered~~ ~~[who has submitted an application for, and holds a certificate of, registration or licensure]~~ as an athlete agent in another state, may **apply for registration as an athlete agent in this state by submitting to** ~~[submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (1) of this section. ]~~the department:*
- (a) *A copy of the application for registration in the other state;*
- (b) *A statement that identifies any material change in the information on the application or verifies that there is no material change in the information, signed under penalty of perjury; and*
- (c) *A copy of the certificate of registration from the other state.*
- (3) *The department shall issue a certificate of registration to an individual who applies for registration under subsection (2) of this section if the department determines:*
- (a) ~~[accept ]~~*The application and **registration requirements of** ~~the certificate from~~ the other state **are substantially similar to or more restrictive than the Commonwealth's; and** ~~as an application for registration in this state if the application to the other state:~~*
- (a) ~~Was submitted in the other state within six (6) months next preceding the submission of the application in this state and the applicant certifies that the information contained in the application is current;]~~
- (b) *The registration has not been revoked or suspended and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state* ~~[Contains information substantially similar to or more comprehensive than that required in an application submitted in this state; and~~
- (c) ~~Was signed by the applicant under penalty of perjury].~~
- (4) *For purposes of implementing subsection (3) of this section, the department shall:*
- (a) *Cooperate with national organizations concerned with athlete agent issues and agencies in other states which register athlete agents to develop a common registration form and determine which states have laws that are substantially similar to or more restrictive than the Commonwealth's; and*
- (b) *Exchange information, including information related to actions taken against registered agents or their registrations, with those organizations and agencies.*

➔Section 5. KRS 164.6911 is amended to read as follows:

- (1) Except as otherwise provided in subsection (2) of this section, the department shall issue a certificate of registration to an individual who complies with KRS 164.6909(1) ~~[or whose application has been accepted under KRS 164.6909(2)].~~
- (2) The department may refuse to issue a certificate of registration if the department determines that the applicant has engaged in conduct that **significantly adversely reflects** ~~[has a significant adverse effect]~~ on the applicant's fitness to act as an athlete agent. In making the determination, the department may consider whether the applicant has:
- (a) ***Pleaded guilty or no contest to**, been convicted of, **or has charges pending for** a crime **that involves sexual misconduct, has dishonesty as a necessary element, or is a felony if committed in this state** ~~[as defined in KRS 335B.010 that directly relates to being an athlete agent];~~*
- (b) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;
- (c) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;
- (d) Engaged in conduct prohibited by KRS 164.6925;
- (e) Had a registration ~~[or licensure]~~ as an athlete agent suspended, revoked, or denied **in any state;** ~~[or]~~
- (f) Been refused renewal of registration or licensure as an athlete agent in any state;

(g)~~(f)~~ Engaged in conduct *resulting in the imposition* ~~the consequence~~ of ~~which was that~~ a sanction, suspension, or declaration of ineligibility to participate in an interscholastic, ~~or~~ intercollegiate, *or professional* athletic event ~~was imposed~~ on a student-athlete or *a sanction on an* educational institution; or

(h)~~(g)~~ Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(3) In making a determination under subsection (2) of this section, the department shall consider:

- (a) How recently the conduct occurred;
- (b) The nature of the conduct and the context in which it occurred; *and*
- (c) ~~The provisions of KRS Chapter 335B, if applicable; and~~
- ~~(d) Any other relevant conduct of the applicant.~~

(4) An athlete agent *registered under subsection (1) of this section* may apply to renew a registration by submitting an application for renewal in a form prescribed by the department. An application filed under this section is a public record. The *applicant shall sign the application for renewal* ~~application for renewal shall be signed by the applicant~~ under penalty of perjury and *include* ~~shall contain~~ current information on all matters required in an original registration.

(5) *An athlete agent registered under subsection (3) of Section 4 of this Act may renew the registration by proceeding under subsection (4) of this section or, if the registration in the other state has been renewed, by submitting to the department copies of the application for renewal in the other state and the renewed registration from the other state. The department shall renew the registration if the department determines*~~An individual who has submitted an application for renewal of registration or licensure in another state, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (4) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other state. The department shall accept the application for renewal from the other state as an application for renewal in this state if the application to the other state:~~

- (a) *The registration requirements of the other state are substantially similar to or more restrictive than the Commonwealth's*~~Was submitted in the other state within six (6) months next preceding the filing in this state and the applicant certifies the information contained in the application for renewal is current~~; *and*
- (b) *The renewed registration has not been suspended or revoked and no action involving the individual's conduct as an athlete agent is pending against the individual or the individual's registration in any state*~~Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in this state; and~~
- ~~(c) Was signed by the applicant under penalty of perjury.~~

(6) A certificate of registration or a renewal of registration is valid for *two (2) years*~~one (1) year~~.

➔Section 6. KRS 164.6913 is amended to read as follows:

(1) The department may *limit*, suspend, revoke, or refuse to renew a registration for conduct that would have justified *refusal to issue a certificate* ~~denial~~ of registration under KRS 164.6911(2).

(2) The department may ~~deny,~~ suspend~~,~~ *or* revoke *the*~~,~~ *or refuse to renew a certificate of* registration *of an individual registered under subsection (3) of Section 4 of this Act or renewed under subsection (5) of Section 5 of this Act for any reason for which the department could have refused to grant or renew registration or for conduct that would justify refusal to issue a certificate of registration under subsection (2) of Section 5 of this Act* ~~or licensure only after proper notice and an opportunity for a hearing in accordance with KRS Chapter 13B.~~

~~(3) The department may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.~~

➔SECTION 7. A NEW SECTION OF KRS 164.6901 TO 164.6935 IS CREATED TO READ AS FOLLOWS:

*The department may issue a temporary certificate of registration as an athlete agent while an application for registration or renewal of registration is pending.*

➔Section 8. KRS 164.6915 is amended to read as follows:

An application for registration or renewal of registration shall be accompanied by a fee in the following amount:

- (1) An initial application for registration fee determined by the department, not to exceed three hundred dollars (\$300);
- (2) ~~A~~~~[An annual]~~ renewal fee determined by the department, not to exceed three hundred dollars (\$300); ~~or~~
- (3) An application for registration fee based upon certification of registration or licensure issued by another state determined by the department, not to exceed two hundred fifty dollars (\$250); *or*
- (4) ***An application for renewal of registration based on a renewal of registration in another state, not to exceed two hundred fifty dollars (\$250).***

➔Section 9. KRS 164.6917 is amended to read as follows:

- (1) An agency contract must be in a record, signed or otherwise authenticated by the parties.
- (2) An agency contract ~~shall~~~~[must state or]~~ contain:
  - (a) ***A statement that the athlete agent is registered as an athlete agent in this state and a list of other states in which the agent is registered as an athlete agent;***
  - (b) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or may receive from any other source for entering into the contract or for providing the services;
  - (c)~~(b)~~ The name of any person not listed in the ***athlete agent's*** application for registration or renewal of registration who will be compensated because the student-athlete signed the~~[agency]~~ contract;
  - (d)~~(c)~~ A description of any expenses that the student-athlete agrees to reimburse;
  - (e)~~(d)~~ A description of the services to be provided to the student-athlete;
  - (f)~~(e)~~ The duration of the contract; and
  - (g)~~(f)~~ The date of execution.
- (3) ***Subject to subsection (7) of this section, an agency contract shall***~~[must]~~ contain~~[, in close proximity to the signature of the student-athlete,]~~ a conspicuous notice in boldface type ***and*** in ***substantially the following form***~~[capital letters stating]:~~

#### WARNING TO STUDENT-ATHLETE

IF YOU SIGN THIS CONTRACT:

- (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;
- (2) IF YOU HAVE AN ATHLETIC DIRECTOR, ***WITHIN 72 HOURS AFTER SIGNING THE CONTRACT OR BEFORE THE NEXT SCHEDULED ATHLETIC EVENT IN WHICH YOU PARTICIPATE, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR THAT YOU HAVE ENTERED***~~[ WITHIN 72 HOURS AFTER ENTERING]~~ INTO THIS CONTRACT ***AND PROVIDE THE NAME AND CONTACT INFORMATION OF THE ATHLETE AGENT;*** AND
- (3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY AS A ***STUDENT-ATHLETE IN YOUR SPORT.***
- (4) ***An agency contract shall be accompanied by a separate record signed by the student-athlete or, if the athlete is a minor, the parent or guardian of the student-athlete acknowledging that signing the contract may result in the loss of the student-athlete's eligibility to participate in the student-athlete's sport.***
- (5) ***A student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete may void an agency contract that does not conform to this section***~~[ is voidable by the student athlete].~~ If ~~the~~~~[ a student-athlete voids an agency]~~ contract ***is voided,***~~[ the student-athlete is not required to pay]~~ any consideration

*received from the athlete agent under the contract to induce entering into* ~~[or to return any consideration received from the athlete agent to induce the student-athlete to enter into]~~ the contract *is not required to be returned.*

~~(6)(5)~~ *At the time an agency contract is executed, the athlete agent shall give* ~~[a record of the signed or otherwise authenticated agency contract to]~~ the student-athlete *or, if the student-athlete is a minor, the parent or guardian of the student-athlete a copy in a record of the contract and the separate acknowledgement required by subsection (4) of this section* ~~[at the time of execution].~~

(7) *If a student is a minor, an agency contract shall be signed by the parent or guardian of the minor and the notice required by subsection (3) of this section shall be revised accordingly.*

➔Section 10. KRS 164.6919 is amended to read as follows:

(1) *In this section, "communicating or attempting to communicate" means contacting or attempting to contact by an in-person meeting, a record, or any other method that conveys or attempts to convey a message.*

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

~~(3)(2)~~ *Within seventy-two (72) hours after entering into an agency contract or before the next **scheduled** athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract **and the name and contact information of the athlete agent.***

(4) *If an athlete agent enters into an agency contract with a student-athlete and the student-athlete subsequently enrolls at an educational institution, the agent shall notify the athletic director of the institution of the existence of the contract not later than seventy-two (72) hours after the agent knew or should have known the student-athlete enrolled.*

(5) *If an athlete agent has a relationship with a student-athlete before the student-athlete enrolls in an educational institution and receives an athletic scholarship from the institution, the athlete agent shall notify the institution of the relationship not later than ten (10) days after the enrollment if the agent knows or should have known of the enrollment and:*

(a) *The relationship was motivated in whole or in part by the intention of the athlete agent to recruit or solicit the athlete to enter an agency contract in the future; or*

(b) *The athlete agent directly or indirectly recruited or solicited the student-athlete to enter an agency contract before the enrollment.*

(6) *An athlete agent shall give notice in a record to the athletic director of any educational institution at which a student-athlete is enrolled before the agent communicates or attempts to communicate with:*

(a) *The student-athlete or, if the student-athlete is a minor, a parent or guardian of the student-athlete, to influence the student-athlete or parent or guardian to enter into an agency contract; or*

(b) *Another individual to have that individual influence the student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete to enter into an agency contract.*

(7) *If a communication or attempt to communicate with an athlete agent is initiated by a student-athlete or another individual on behalf of the student-athlete, the athlete agent shall notify in a record the athletic director of any educational institution at which the student-athlete is enrolled. The notification shall be made not later than ten (10) days after the communication or attempt.*

(8) *An educational institution that becomes aware of a violation of KRS 164.6901 to 164.6935 by an athlete agent shall notify the department and any professional league or players association with which the institution is aware the athlete agent is licensed or registered of the violation.*

➔Section 11. KRS 164.6921 is amended to read as follows:

(1) *A student-athlete or, if the student-athlete is a minor, the parent or guardian of the student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within fourteen (14) days after the contract is signed.*



- (2) A student-athlete *or, if the student-athlete is a minor, the parent or guardian of the student-athlete* may not waive the right to cancel an agency contract.
- (3) If a student-athlete, *parent, or guardian* cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

➔Section 12. KRS 164.6923 is amended to read as follows:

- (1) An athlete agent shall ***create and*** retain the following records for a period of five (5) years:
  - (a) The name and address of each individual represented by the athlete agent;
  - (b) Any agency contract entered into by the athlete agent; and
  - (c) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.
- (2) Records required to be retained in subsection (1) of this section are open to inspection by the department during normal business hours.

➔Section 13. KRS 164.6925 is amended to read as follows:

- (1) An athlete agent, with the intent to ***influence*** ~~[induce]~~ a student-athlete *or, if the student-athlete is a minor, a parent or guardian of the student-athlete* to enter into an agency contract, may not ***take any of the following actions or encourage any other individual to take or assist any other individual in taking any of the following actions on behalf of the athlete agent:***
  - (a) Give any materially false or misleading information or make a materially false promise or representation;
  - (b) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or
  - (c) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.
- (2) An athlete agent shall not intentionally ***do any of the following or encourage any other individual to do any of the following on behalf of the agent:***
  - (a) Initiate contact, *directly or indirectly*, with a student-athlete *or, if the student-athlete is a minor, a parent or guardian of the student-athlete, to recruit or solicit the student-athlete, parent, or guardian to enter an agency contract* unless registered under KRS 164.6901 to 164.6935;
  - (b) ~~[Refuse or]~~ Fail to ***create or*** retain or permit inspection of the records required to be retained by KRS 164.6923;
  - (c) Fail to register when required by KRS 164.6907;
  - (d) Provide materially false or misleading information in an application for registration or renewal of registration;
  - (e) Predate or postdate an agency contract; or
  - (f) Fail to notify a student-athlete *or, if the student-athlete is a minor, a parent or guardian of the student-athlete*, before the student-athlete, *parent, or guardian* signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

➔Section 14. KRS 164.6929 is amended to read as follows:

- (1) An educational institution *or student-athlete may bring an* ~~[has a right of]~~ action ***for damages*** against an athlete agent ***if the institution or student-athlete is adversely affected by an act or omission of the athlete agent in*** ~~[or a former student-athlete for damages caused by a]~~ violation of KRS 164.6901 to 164.6935. ***An education institution or student-athlete is adversely affected by an act or omission of the athlete agent only if, because of the act or omission, the institution or an individual who was a student-athlete at the time of the act or omission and enrolled in the institution:***

- (a) *Is suspended or disqualified from participation in an interscholastic or intercollegiate sports event by or under the rules of a state or national federation or association that promotes or regulates interscholastic or intercollegiate sports; or*
- (b) *Suffers financial damage*~~[In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees].~~
- (2) Damages~~[of an educational institution]~~ under subsection (1) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of KRS 164.6901 to 164.6935 or was 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 reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.
- (3) *A plaintiff that prevails in an action under this section may recover actual damages, costs, and reasonable attorney's fees. An athlete agent found liable under this section forfeits any right of payment for anything of benefit or value provided to the student-athlete and shall refund any consideration paid to the agent by or on behalf of the student-athlete.*
- (4) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.
- (5)~~[(4)]~~ Any liability of the athlete agent or the former student-athlete under this section is several and not joint.
- (6)~~[(5)]~~ The department may assess a civil penalty against an athlete agent not to exceed **fifty thousand dollars (\$50,000)**~~[twenty five thousand dollars (\$25,000)]~~ for a violation of KRS 164.6901 to 164.6935.
- (7)~~[(6)]~~ KRS 164.6901 to 164.6935 does not restrict rights, remedies, or defenses of any person under law or equity.

➔Section 15. KRS 164.6933 is amended to read as follows:

~~[The provisions of ]KRS 164.6901 to 164.6935~~ **modifies, limits, or supersedes the**~~[ governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures, conform to the requirements of Section 102 of the] Electronic Signatures in Global and National Commerce Act, Pub. L. No. 106-229, 15 U.S.C. sec. 7001 et seq.,~~ **but does not modify, limit, or supersede Section 101(c) of that act, 15 U.S.C. sec. 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that act, 15 U.S.C. sec. 7003(b)**~~[and supersede, modify, and limit the Electronic Signatures in Global and National Commerce Act].~~

**Became law without Governor's signature April 27, 2018.**