

ONE HUNDRED FIRST LEGISLATURE - FIRST SESSION - 2009
COMMITTEE STATEMENT
LB292

Hearing Date: Thursday February 26, 2009
Committee On: Judiciary
Introducer: Lathrop
One Liner: Adopt the Nebraska Uniform Athlete Agents Act

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Ashford, Christensen, Coash, Council, Lathrop, Lautenbaugh,
Rogert, McGill

Nay:

Absent:

Present Not Voting:

Proponents:

Sen. Steve Lathrop
Tom Osborne
Steve Willborn

Representing:

Introducer
UNL
Uniform Law Commission

Opponents:

Representing:

Neutral:

Ronald Moravec

Representing:

Secretary of State

Summary of purpose and/or changes:

LB 292 adopts the Uniform Athlete Agents Act (Act). Some of the key sections are summarized:

Section 2. Defines terms.

Section 3. Provides that non-resident agents appoint the Secretary of State in Nebraska as the individual's agent for service of process purposes in civil actions.

Section 4. Prohibits any individual from acting as an athlete agent in this state without holding a certificate of registration issued by the Secretary of State. An exception is provided for an instance in which the student-athlete contacts an individual and such individual submits an application for registration as an athlete agent.

Section 5. Provides for the process in which individuals apply for registration by the Secretary of State. Such application must be completed by the individual, under penalty of perjury and shall state or contain information regarding the applicant, the applicant's qualifications and experience and those who are associated with the applicant.

Section 6. Allows for the Secretary of State to deny a certificate of registration if the Secretary determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. Section 6 provides the Secretary with factors to consider when denying a certificate.

Section 7. Allows for the Secretary of State to suspend, revoke, or refuse renewal for any conduct that would have justified denial of certification. Such suspension, revocation or denial of renewal can occur only after notice and an opportunity for a hearing. The Administrative Procedures Act applies to this Act.

Section 8. Allows the Secretary to issue a temporary certificate while the application for registration or renewal is pending.

Section 9. Allows the Secretary of State to establish the amount of fees for registration and renewal of certification.

Section 10. Requires any agency contract to be in writing, signed by all parties. An agency contract must state or contain the following:

- Amount and method of calculating consideration to be paid to the student-athlete,
- Name of any person not listed in application, which will be compensated because the student-athlete signed the contract,
- Description of any expenses the student-athlete agrees to reimburse,
- Duration of the contract,
- Date of execution and,
- A warning to student athletes (listed on page 12 of the bill),

Section 11. Provides that within 72 hours after entering into an agency contract, or before the next scheduled athletic event occurs, whichever comes first, the athlete agent shall give written notice 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. The student-athlete also has such duty to notify the athletic director.

Section 12. Provides that the student-athlete may cancel the contract within 14 days after the contract is signed. The student-athlete may not waive the cancellation provision. If the student-athlete cancels a contract, he or she shall not be required to pay any consideration or return any consideration received.

Section 13. Requires athlete agents to maintain the following records for five years:

- Name and address of each individual represented by the athlete agent,
- Any agency contract entered into by the athlete agent and,
- Any direct costs incurred by the athlete agent in the recruitment or solicitation of student-athletes

Section 14. Prohibits an athlete-agent from:

- giving any false or misleading information or false promises,
- furnishing anything of value to a student-athlete before the student-athlete enters into the agency contract,
- furnishing anything of value to any individual other than the student-athlete.

Additionally, an athlete-agent may not intentionally

- initiate contact with a student-athlete unless registered pursuant to the act,
- refuses to permit inspection of his or her records,
- fails to register,
- provides materially false or misleading information in an application for registration,
- predate or postdate a contract
- fail to notify the student-athlete that signing a contract may make the student-athlete ineligible to participate in that sport.

Section 15. Provides that a violation of any of the provisions of Section 14 is a Class I misdemeanor.

Section 16. Provides an educational institution with a cause of action against an athlete-agent or a former

student-athlete for violation of the act that results in damages suffered to the institution. Such action does not accrue until the institution discovers or should have discovered the violation. Any liability will be joint and several against the agent and student.

Section 17. Allows the Secretary of State to assess a civil penalty against an athlete-agent of up to \$25,000 for a violation of the act.

Section 18. Provides that consideration be given to promote uniformity of the law with respect to the subject matter of this act among states that enact this type of legislation.

Section 19. Provides that the act should comply with the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act of 2000, as such act existed on January 1, 2009.

Section 20. Provides an operative date of January 1, 2010.

Section 21. Provides for a Severability Clause.

Explanation of amendments:

AM 496 inserts a new section 20, which amends 84-907.03 to provide that the Secretary of State can utilize the funds directed to the Secretary of State Administration Cash Fund can be utilized for the administration of the Nebraska Uniform Athlete Agents act as created under LB 292.

AM 496 also provides that fees collected as stated on page 11, line 7 after the period, that " Such fees shall be collected by the Secretary of State and remitted to the State treasurer for credit to the Secretary of State Administration Cash Fund."

Brad Ashford, Chairperson