

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2017

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HOUSE BILL 230

Short Title: Revised Uniform Athlete Agents Act. (Public)

Sponsors: Representative Davis.

For a complete list of sponsors, refer to the North Carolina General Assembly web site.

Referred to: Judiciary I, if favorable, Finance

March 2, 2017

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE REVISED UNIFORM ATHLETE AGENTS ACT, AS
3 RECOMMENDED BY THE GENERAL STATUTES COMMISSION.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** Article 9 of Chapter 78C of the General Statutes is repealed.

6 **SECTION 2.** Chapter 78C of the General Statutes is amended by adding a new
7 Article to read:

8 "Article 10.

9 "Revised Uniform Athlete Agents Act.

10 "**§ 78C-111. Short title.**

11 This Article may be cited as the Revised Uniform Athlete Agents Act.

12 "**§ 78C-112. Definitions.**

13 The following definitions apply in this Article:

14 (1) Agency contract. – An agreement that authorizes a person to negotiate or solicit
15 on behalf of an individual a professional-sports-services contract or
16 endorsement contract.

17 (2) Athlete agent. –

18 a. An individual, whether or not registered under this Article, who does
19 any of the following:

20 1. Directly or indirectly recruits or solicits a covered athlete to
21 enter into an agency contract or, for compensation, procures
22 employment or offers, promises, attempts, or negotiates to obtain
23 employment for a covered athlete as a professional athlete or
24 member of a professional sports team or organization.

25 2. For compensation or in anticipation of compensation related to a
26 covered athlete's participation in athletics, does any of the
27 following:

28 I. Serves the covered athlete in an advisory capacity on a
29 matter related to finances, business pursuits, or career
30 management decisions, unless the individual is an
31 employee of an educational institution acting exclusively
32 as an employee of the educational institution for the
33 benefit of the educational institution.



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- 1 II. Manages the business affairs of the covered athlete by
- 2 providing assistance with bills, payments, contracts, or
- 3 taxes.
- 4 3. In anticipation of representing a covered athlete for a purpose
- 5 related to the covered athlete's participation in athletics, does any
- 6 of the following:
- 7 I. Gives consideration to the covered athlete or another
- 8 person.
- 9 II. Serves the covered athlete in an advisory capacity on a
- 10 matter related to finances, business pursuits, or career
- 11 management decisions.
- 12 III. Manages the business affairs of the covered athlete by
- 13 providing assistance with bills, payments, contracts, or
- 14 taxes.
- 15 4. Represents to the public that the individual is an athlete agent.
- 16 b. The term "athlete agent" does not include an individual who does any of
- 17 the following:
- 18 1. Acts solely on behalf of a professional sports team or
- 19 organization.
- 20 2. Is a licensed, registered, or certified professional and offers or
- 21 provides services to a covered athlete customarily provided by
- 22 members of the profession, unless the individual does any of the
- 23 following:
- 24 I. Also recruits or solicits the covered athlete to enter into
- 25 an agency contract.
- 26 II. Also, for compensation, procures employment or offers,
- 27 promises, attempts, or negotiates to obtain employment
- 28 for the covered athlete as a professional athlete or
- 29 member of a professional sports team or organization.
- 30 III. Receives consideration for providing the services
- 31 calculated using a different method than for an individual
- 32 who is not a covered athlete.
- 33 (3) Athletic director. – The individual responsible for administering the overall
- 34 athletic program of an educational institution or, if an educational institution
- 35 has separately administered athletic programs for male students and female
- 36 students, the athletic program for males or the athletic program for females, as
- 37 appropriate.
- 38 (4) Reserved.
- 39 (5) Reserved.
- 40 (5a) Covered athlete. – A student athlete or a former student athlete.
- 41 (6) Educational institution. – Includes a public or private elementary school,
- 42 secondary school, technical or vocational school, community college, college,
- 43 and university.
- 44 (7) Endorsement contract. – An agreement under which an individual is employed
- 45 or receives consideration to use on behalf of the other party any value that the
- 46 individual may have because of publicity, reputation, following, or fame
- 47 obtained because of athletic ability or performance.
- 48 (8) Enrolled. – Registered for courses and attending athletic practice or class.
- 49 "Enrolls" has a corresponding meaning.
- 50 (8a) Former student athlete. – Any of the following:

1 a. An individual who is ineligible to engage in an interscholastic or
2 intercollegiate sport only because the individual executed an agency
3 contract, a professional-sports-services contract, or an endorsement
4 contract or received anything of value from an athlete agent and who
5 would otherwise qualify as a student athlete.

6 b. An individual who exhausted the individual's eligibility to engage in an
7 interscholastic or intercollegiate sport within the preceding six months,
8 whether or not the individual is still enrolled in an educational
9 institution.

10 (9) Intercollegiate sport. – A sport played at the collegiate level for which
11 eligibility requirements for participation by a student athlete are established by
12 a national association that promotes or regulates collegiate athletics.

13 (10) Interscholastic sport. – A sport played between educational institutions that are
14 not community colleges, colleges, or universities.

15 (11) Licensed, registered, or certified professional. – An individual licensed,
16 registered, or certified as an attorney, dealer in securities, financial planner,
17 insurance agent, real estate broker or sales agent, tax consultant, accountant, or
18 member of a profession, other than that of athlete agent, who is licensed,
19 registered, or certified by the State or a nationally recognized organization that
20 licenses, registers, or certifies members of the profession on the basis of
21 experience, education, or testing.

22 (12) Person. – An individual, estate, business or nonprofit entity, public corporation,
23 government or governmental subdivision, agency, instrumentality, business
24 trust, partnership, limited liability company, association, joint venture, or any
25 other legal or commercial entity.

26 (13) Professional-sports-services contract. – An agreement under which an
27 individual is employed as a professional athlete or agrees to render services as a
28 player on a professional sports team or with a professional sports organization.

29 (14) Record. – Information that is inscribed on a tangible medium or that is stored in
30 an electronic or other medium and is retrievable in perceivable form.

31 (15) Recruit or solicit. – Attempt to influence the choice of an athlete agent by a
32 covered athlete or, if the covered athlete is a minor, a parent or guardian of the
33 covered athlete. The term does not include giving advice on the selection of a
34 particular athlete agent in a family or coaching situation unless the individual
35 giving the advice does so because of the receipt or anticipated receipt of an
36 economic benefit, directly or indirectly, from the athlete agent.

37 (16) Registration. – Registration as an athlete agent under this Article.

38 (17) Sign. – With present intent to authenticate or adopt a record, to do any of the
39 following:

40 a. Execute or adopt a tangible symbol.

41 b. Attach to or logically associate with the record an electronic symbol,
42 sound, or process.

43 (18) State. – A state of the United States, the District of Columbia, Puerto Rico, the
44 United States Virgin Islands, or any territory or insular possession subject to the
45 jurisdiction of the United States.

46 (19) Student athlete. – An individual who is eligible to attend an educational
47 institution and engages in, is eligible to engage in, or may be eligible in the
48 future to engage in, any interscholastic or intercollegiate sport. The term does
49 not include an individual permanently ineligible to participate in a particular
50 interscholastic or intercollegiate sport for that sport.

51 **"§ 78C-113. Secretary of State; authority; procedure.**

1 (a) Chapter 150B of the General Statutes applies to this Article. The Secretary of State
2 may adopt rules under Chapter 150B of the General Statutes to implement this Article.

3 (b) By acting as an athlete agent in this State, a nonresident individual appoints the
4 Secretary of State as the individual's agent for service of process in any civil action in this State
5 related to the individual acting as an athlete agent in this State.

6 (c) The Secretary of State may issue a subpoena for material that is relevant to the
7 administration of this Article.

8 **"§ 78C-114. Athlete agent; registration required; void contract.**

9 (a) Except as otherwise provided in subsection (b) of this section, an individual shall not
10 act as an athlete agent in this State without holding a certificate of registration under this Article.

11 (b) Before being issued a certificate of registration under this Article, an individual may
12 act as an athlete agent in this State for all purposes except signing an agency contract, if all of the
13 following occur:

14 (1) A covered athlete or another person acting on behalf of the covered athlete
15 initiates communication with the individual.

16 (2) Not later than seven days after an initial act that requires the individual to
17 register as an athlete agent, the individual submits an application for
18 registration as an athlete agent in this State.

19 (c) An agency contract resulting from conduct in violation of this section is void, and the
20 athlete agent shall return any consideration received under the agency contract. The covered
21 athlete and the covered athlete's parent or guardian are not required to return any consideration
22 received by any of them from the athlete agent to influence the covered athlete to enter into the
23 agency contract.

24 **"§ 78C-115. Registration as athlete agent; application; requirements.**

25 (a) An applicant for registration as an athlete agent must submit an application for
26 registration to the Secretary of State in a form prescribed by the Secretary of State. The applicant
27 must be an individual, and the application must be signed by the applicant under penalty of
28 perjury. The application must contain at least the following:

29 (1) The name, Social Security number, and date and place of birth of the applicant
30 and the following contact information for the applicant:

31 a. The address of the applicant's principal place of business.

32 a1. Home address.

33 b. Work and mobile telephone numbers.

34 c. Any means of communicating electronically, including a facsimile
35 number, electronic mail address, and personal and business or employer
36 Web sites.

37 (2) The name of the applicant's business or employer, if applicable, including, for
38 each business or employer, its mailing address, telephone number, organization
39 form, and the nature of the business.

40 (3) Each social-media account with which the applicant or the applicant's business
41 or employer is affiliated.

42 (4) Each business or occupation in which the applicant engaged within five years
43 before the date of the application, including self-employment and employment
44 by others, and any professional or occupational license, registration, or
45 certification held by the applicant during that time.

46 (5) A description of the applicant's:

47 a. Formal training as an athlete agent.

48 b. Practical experience as an athlete agent, in detail.

49 c. Educational background relating to the applicant's activities as an athlete
50 agent.

- 1 (6) The name of each athlete for whom the applicant acted as an athlete agent
2 within five years before the date of the application or, if the individual is a
3 minor, the name of the parent or guardian of the minor, together with the
4 athlete's sport and last-known team.
- 5 (6a) The name of each athlete who terminated an agency contract or other
6 professional agreement with the applicant or the applicant's then-employing
7 organization within five years before the date of the application.
- 8 (6b) The name of each athlete whose agency contract or professional agreement with
9 the applicant or the applicant's then-employing organization was terminated by
10 the applicant or the applicant's then-employing organization within five years
11 before the date of the application.
- 12 (7) The name and address of each person to which any of the following apply:
- 13 a. Is a partner, member, officer, manager, associate, or profit sharer or
14 directly or indirectly holds an equity interest of five percent (5%) or
15 greater of the athlete agent's business if it is not a corporation.
- 16 b. Is an officer or director of a corporation employing the athlete agent or a
17 shareholder having an interest of five percent (5%) or greater in the
18 corporation.
- 19 (8) A description of the status of any application by the applicant, or any person
20 named under subdivision (7) of this subsection, for a state or federal business,
21 professional, or occupational license, other than as an athlete agent, from a state
22 or federal agency, including any denial, refusal to renew, suspension,
23 withdrawal, or termination of the license and any reprimand or censure related
24 to the license.
- 25 (9) Whether the applicant, or any person named under subdivision (7) of this
26 subsection, has pleaded guilty or no contest to, has been convicted of, or has
27 charges pending for, a crime that would involve moral turpitude or be a felony
28 if committed in this State and, if so, identification of all the following:
- 29 a. The crime.
- 30 b. The law enforcement agency involved.
- 31 c. If applicable, the date of the conviction and the fine or penalty imposed.
- 32 (10) Whether, within 15 years before the date of application, the applicant, or any
33 person named under subdivision (7) of this subsection, has been a defendant or
34 respondent in a civil proceeding, including a proceeding seeking an
35 adjudication of incompetence and, if so, the date and a full explanation of each
36 proceeding.
- 37 (11) Whether the applicant, or any person named under subdivision (7) of this
38 subsection, has an unsatisfied judgment or a judgment of continuing effect,
39 including alimony or a domestic order in the nature of child support, which is
40 not current at the date of the application.
- 41 (12) Whether, within 10 years before the date of application, the applicant, or any
42 person named under subdivision (7) of this subsection, has filed a petition in
43 bankruptcy or was an owner of a business that has filed a petition in
44 bankruptcy.
- 45 (13) Whether there has been any administrative or judicial determination that the
46 applicant, or any person named under subdivision (7) of this subsection, made a
47 false, misleading, deceptive, or fraudulent representation.
- 48 (14) Each instance in which conduct of the applicant, or any person named under
49 subdivision (7) of this subsection, resulted in the imposition of a sanction,
50 suspension, or declaration of ineligibility to participate in an interscholastic,

1 intercollegiate, or professional athletic event on a covered athlete or a sanction
2 on an educational institution.

3 (15) Each sanction, suspension, or disciplinary action taken against the applicant, or
4 any person named under subdivision (7) of this subsection, arising out of
5 occupational or professional conduct.

6 (16) Whether there has been a denial of an application for, suspension or revocation
7 of, refusal to renew, or abandonment of, the registration or licensure of the
8 applicant, or any person named under subdivision (7) of this subsection, as an
9 athlete agent in any state.

10 (17) Each state in which the applicant currently is registered or licensed as an athlete
11 agent or has applied to be registered or licensed as an athlete agent.

12 (18) If the applicant is certified or registered by a professional league or players
13 association, all of the following:

14 a. The name of the league or association.

15 b. The date of certification or registration, and the date of expiration of the
16 certification or registration, if any.

17 c. If applicable, the date of any denial of an application for, suspension or
18 revocation of, refusal to renew, withdrawal of, or termination of, the
19 certification or registration or any reprimand or censure related to the
20 certification or registration.

21 (19) Any additional information required by the Secretary of State.

22 (b) through (d) Reserved.

23 **"§ 78C-116. Certificate of registration; issuance or denial; renewal.**

24 (a) Except as otherwise provided in subsection (b) of this section, the Secretary of State
25 shall issue a certificate of registration to an applicant for registration who complies with
26 G.S. 78C-115(a).

27 (b) The Secretary of State may refuse to issue a certificate of registration to an applicant
28 for registration under G.S. 78C-115(a) if the Secretary of State determines that the applicant has
29 engaged in conduct that significantly adversely reflects on the applicant's fitness to act as an
30 athlete agent. In making the determination, the Secretary of State may consider whether the
31 applicant has done any of the following:

32 (1) Pleaded guilty or no contest to, has been convicted of, or has charges pending
33 for, a crime that would involve moral turpitude or be a felony if committed in
34 this State.

35 (2) Made a materially false, misleading, deceptive, or fraudulent representation in
36 the application or as an athlete agent.

37 (3) Engaged in conduct that would disqualify the applicant from serving in a
38 fiduciary capacity.

39 (4) Engaged in conduct prohibited by G.S. 78C-124.

40 (5) Had a registration or licensure as an athlete agent suspended, revoked, or denied
41 in any state.

42 (6) Been refused renewal of registration or licensure as an athlete agent in any
43 state.

44 (7) Engaged in conduct resulting in imposition of a sanction, suspension, or
45 declaration of ineligibility to participate in an interscholastic, intercollegiate, or
46 professional athletic event on a covered athlete or a sanction on an educational
47 institution.

48 (8) Engaged in conduct that adversely reflects on the applicant's credibility,
49 honesty, or integrity.

50 (c) In making a determination under subsection (b) of this section, the Secretary of State
51 shall consider all of the following:

- 1 (1) How recently the conduct occurred.
2 (2) The nature of the conduct and the context in which it occurred.
3 (3) Other relevant conduct of the applicant.
4 (d) An athlete agent registered under subsection (a) of this section may apply to renew the
5 registration by submitting an application for renewal in a form prescribed by the Secretary of
6 State. The applicant shall sign the application for renewal under penalty of perjury and include
7 current information on all matters required in an original application for registration.

- 8 (e) Reserved.
9 (f) A certificate of registration or renewal of registration under this Article is valid for one
10 year.

11 **"§ 78C-117. Suspension, revocation, or refusal to renew registration.**

- 12 (a) The Secretary of State may limit, suspend, revoke, or refuse to renew a registration of
13 an individual registered under G.S. 78C-116(a) for conduct that would have justified refusal to
14 issue a certificate of registration under G.S. 78C-116(b) or for any other violation of this Article or
15 the rules adopted under it. In making a determination under this section, the Secretary of State
16 shall consider the factors in G.S. 78C-116(c).

- 17 (b) Reserved.

18 **"§ 78C-118. Temporary registration.**

- 19 The Secretary of State may issue a temporary certificate of registration as an athlete agent
20 while an application for registration or renewal of registration is pending.

21 **"§ 78C-119. Registration and renewal fees.**

- 22 An application for registration or renewal of registration as an athlete agent must be
23 accompanied by a fee in the following amount:

- | | |
|---|------------------|
| 24 (1) <u>Initial application for registration</u> | <u>\$200.00</u> |
| 25 (2) <u>Application for renewal of registration</u> | <u>\$200.00.</u> |

26 **"§ 78C-120. Required form of agency contract.**

- 27 (a) An agency contract must be in a record signed by the parties.
28 (b) An agency contract must contain all of the following:
29 (1) A statement that the athlete agent is registered as an athlete agent in this State
30 and a list of any other states in which the athlete agent is registered or licensed
31 as an athlete agent.
32 (2) The amount and method of calculating the consideration to be paid by the
33 covered athlete for services to be provided by the athlete agent under the
34 agency contract and any other consideration the athlete agent has received or
35 will receive from any other source for entering into the agency contract or
36 providing the services.
37 (3) The name of any person not listed in the athlete agent's application for
38 registration or renewal of registration that will be compensated because the
39 covered athlete signed the agency contract.
40 (4) A description of any expenses the covered athlete agrees to reimburse.
41 (5) A description of the services to be provided to the covered athlete.
42 (6) The duration of the agency contract.
43 (7) The date of execution.

- 44 (c) Subject to subsection (g) of this section, an agency contract must contain a conspicuous
45 notice in boldface type and in substantially the following form:

46 **"Warning**

47 **If you sign this contract:**

- 48 (1) **You may lose your eligibility to compete as a student athlete in your sport;**
49 (2) **If you have an athletic director or had an athletic director within the**
50 **preceding six months, within 72 hours after signing this contract or before the**
51 **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 into this contract and provide the name and contact information of the athlete agent;

(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."

(d) An agency contract must be accompanied by a separate record signed by the covered athlete or, if the covered athlete is a minor, the parent or guardian of the covered athlete acknowledging that signing the agency contract may result in the loss of the covered athlete's eligibility to participate in the covered athlete's sport as a student athlete.

(e) A covered athlete or, if the covered athlete is a minor, the parent or guardian of the covered athlete may void an agency contract that does not conform to this section. If the agency contract is voided, any consideration received from the athlete agent to induce entering into the agency contract is not required to be returned.

(f) At the time an agency contract is executed, the athlete agent must give the covered athlete or, if the covered athlete is a minor, the parent or guardian of the covered athlete a copy in a record of the agency contract and the separate acknowledgement required by subsection (d) of this section.

(g) If a covered athlete is a minor, an agency contract must be signed by the parent or guardian of the minor and the notice required by subsection (c) of this section must be revised accordingly.

"§ 78C-121. Notice to educational institution.

(a) 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.

(b) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the covered athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the agency contract to the athletic director of the educational institution at which the covered athlete is enrolled, was most recently enrolled, or at which the athlete agent has reasonable grounds to believe the covered athlete intends to enroll.

(c) Not later than 72 hours after entering into an agency contract or before the next scheduled athletic event in which the covered athlete may participate, whichever occurs first, the covered athlete shall inform the athletic director of the educational institution at which the covered athlete is enrolled or was most recently enrolled that the covered athlete has entered into an agency contract and shall provide the name and contact information of the athlete agent.

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

(e) If an athlete agent has a relationship with a covered athlete before the covered athlete enrolls in an educational institution and receives an athletic scholarship from the educational institution, the athlete agent shall notify the educational institution of the relationship not later than 10 days after the enrollment if the athlete agent knows or should have known of the enrollment and any of the following has occurred:

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

(2) The athlete agent directly or indirectly recruited or solicited the covered athlete to enter an agency contract before the enrollment.

1 (f) An athlete agent shall give notice in a record to the athletic director of any educational
2 institution at which a covered athlete is enrolled or was most recently enrolled before the athlete
3 agent communicates or attempts to communicate with any of the following:

4 (1) The covered athlete or, if the covered athlete is a minor, a parent or guardian of
5 the covered athlete to influence the covered athlete or parent or guardian to
6 enter into an agency contract.

7 (2) Another individual to have that individual influence the covered athlete or, if
8 the covered athlete is a minor, the parent or guardian of the covered athlete to
9 enter into an agency contract.

10 (g) If a communication or attempt to communicate with an athlete agent is initiated by a
11 covered athlete or another individual on behalf of the covered athlete, the athlete agent shall notify
12 in a record the athletic director of any educational institution at which the covered athlete is
13 enrolled or was most recently enrolled. The notification shall be made not later than 10 days after
14 the communication or attempt.

15 (g1) An athlete agent who knows or should have known of a violation of this Article that
16 could render a covered athlete ineligible to engage in an interscholastic or intercollegiate sport
17 shall, not later than 72 hours after becoming aware of the violation or before the next scheduled
18 athletic event in which the covered athlete may participate, whichever occurs first, give notice in a
19 record of the existence of the violation to the athletic director of the educational institution at
20 which the covered athlete is enrolled, was most recently enrolled, or at which the athlete agent has
21 reasonable grounds to believe the covered athlete intends to enroll.

22 (h) An educational institution that becomes aware of a violation of this Article by an
23 athlete agent shall give notice of the violation to the Secretary of State and any professional league
24 or players association with which the educational institution is aware the athlete agent is licensed
25 or registered.

26 **"§ 78C-122. Covered athlete's right to cancel.**

27 (a) A covered athlete or, if the covered athlete is a minor, the parent or guardian of the
28 covered athlete may cancel an agency contract by giving notice in a record of cancellation to the
29 athlete agent not later than 14 days after the agency contract is signed.

30 (b) A covered athlete or, if the covered athlete is a minor, the parent or guardian of the
31 covered athlete may not waive the right to cancel an agency contract.

32 (c) If a covered athlete, parent, or guardian cancels an agency contract, the covered athlete,
33 parent, or guardian is not required to pay any consideration under the agency contract or return
34 any consideration received from the athlete agent to influence the covered athlete to enter into the
35 agency contract.

36 **"§ 78C-123. Required records.**

37 (a) An athlete agent shall create and retain for five years records of all the following:

38 (1) The name and address of each individual represented by the athlete agent.

39 (2) Each agency contract entered into by the athlete agent.

40 (3) The direct costs incurred by the athlete agent in the recruitment or solicitation
41 of each covered athlete to enter into an agency contract.

42 (b) Records described in subsection (a) of this section are open to inspection by the
43 Secretary of State during normal business hours.

44 **"§ 78C-124. Prohibited conduct.**

45 (a) An athlete agent, with the intent to influence a covered athlete or, if the covered athlete
46 is a minor, a parent or guardian of the covered athlete to enter into an agency contract, shall not
47 take any of the following actions or encourage any other individual to take or assist any other
48 individual in taking any of the following actions on behalf of the athlete agent:

49 (1) Give materially false or misleading information or make a materially false
50 promise or representation.

51 (2) Furnish anything of value to the covered athlete.

1 (3) Furnish anything of value to an individual other than the covered athlete or
2 another registered athlete agent.

3 (b) Unless registered under this Article, an athlete agent shall not intentionally (i) initiate
4 contact, directly or indirectly, with a covered athlete or, if the covered athlete is a minor, a parent
5 or guardian of the covered athlete to recruit or solicit the covered athlete, parent, or guardian to
6 enter an agency contract or (ii) encourage any other individual to do so on behalf of the athlete
7 agent.

8 (c) An athlete agent shall not intentionally do any of the following or encourage any other
9 individual to do any of the following on behalf of the athlete agent:

10 (1) Reserved.

11 (2) Fail to create or retain or to permit inspection of the records required by
12 G.S. 78C-123.

13 (3) Fail to register when required by G.S. 78C-114.

14 (4) Provide materially false or misleading information in an application for
15 registration or renewal of registration.

16 (5) Predate or postdate an agency contract.

17 (6) Fail to notify a covered athlete or, if the covered athlete is a minor, a parent or
18 guardian of the covered athlete, before the covered athlete, parent, or guardian
19 signs an agency contract for a particular sport that the signing may make the
20 covered athlete ineligible to participate as a student athlete in that sport.

21 **"§ 78C-125. Criminal penalty.**

22 An athlete agent who violates any provision under G.S. 78C-124(a) or (b) is guilty of a Class
23 H felony. An athlete agent who violates any provision under G.S. 78C-124(c) is guilty of a Class 1
24 misdemeanor.

25 **"§ 78C-126. Civil remedy.**

26 (a) An educational institution or covered athlete may bring an action for damages against
27 an athlete agent if the educational institution or covered athlete is adversely affected by an act or
28 omission of the athlete agent in violation of this Article. An educational institution or covered
29 athlete is adversely affected by an act or omission of the athlete agent only if, because of the act or
30 omission, the educational institution or an individual who was a covered athlete at the time of the
31 act or omission:

32 (1) Is suspended or disqualified from participation in an interscholastic or
33 intercollegiate sports event by or under the rules of a state or national federation
34 or association that promotes or regulates interscholastic or intercollegiate
35 sports; or

36 (2) Suffers financial damage.

37 (b) A violation of this Article is an unfair trade or deceptive practice for purposes of
38 Chapter 75 of the General Statutes.

39 (c) A plaintiff that prevails in an action under this section may recover actual damages and
40 costs and any other remedies, including attorneys' fees, provided under Chapter 75 of the General
41 Statutes. An athlete agent found liable under this section forfeits any right of payment for anything
42 of benefit or value provided to the covered athlete and shall refund any consideration paid to the
43 athlete agent by or on behalf of the covered athlete.

44 **"§ 78C-127. Civil penalty; consideration factors.**

45 (a) The Secretary of State may assess a civil penalty against an athlete agent not to exceed
46 two hundred fifty thousand dollars (\$250,000) or the amount of consideration the athlete agent
47 received, whichever is greater, for a violation of this Article. The Secretary of State shall consider
48 all the following factors:

49 (1) The degree and extent of harm to the covered athlete and the covered athlete's
50 educational institution, including reputational harm.

51 (2) The nature, gravity, and duration of the violation.

- 1 (3) Whether the violation was committed willfully.
2 (4) Whether the violation reflects a continuing pattern of conduct.
3 (5) Whether the violation involved elements of fraud or deception of the covered
4 athlete, the covered athlete's educational institution, or the Secretary of State.
5 (6) Whether the athlete agent breached any fiduciary duty.
6 (7) Whether and the extent to which the athlete agent profited by the violation.
7 (8) Any failure of the athlete agent to provide timely or complete responses to any
8 of the following:
9 a. The Secretary of State's inquiries about the athlete agent's activities.
10 b. Any request for records by the Secretary of State.
11 (9) Whether the athlete agent obstructed the inspection of records or any other
12 aspect of an investigation by the Secretary of State.
13 (10) Whether the athlete agent exercised reasonable diligence to comply with this
14 Article and any rules adopted under this Article.
15 (11) Whether the athlete agent reported the violation to the Secretary of State and, if
16 so, after what period of time following the violation.
17 (12) Efforts by the athlete agent to correct the violation.
18 (13) Any prior violation by the athlete agent of this Article, former Articles 7, 8, or 9
19 of this Chapter, any rules adopted under this Article, or a similar law of any
20 other state.
21 (14) Whether the athlete agent has pleaded guilty or no contest to or has been
22 convicted of any other crime that bears on the athlete agent's fitness to be an
23 athlete agent but has not caused the Secretary of State to limit, suspend, revoke,
24 or refuse to renew the athlete agent's registration under this Article.
25 (15) Whether payment of the civil penalty will prevent payment of damages under
26 G.S. 78C-126 or payment of any other relief in the nature of restitution.
27 (16) Any other factors that would tend to mitigate or aggravate the violation.
28 (b) The Secretary of State is not required to adopt rules to implement subsection (a) of this
29 section.
30 (c) The clear proceeds of civil penalties imposed pursuant to this section shall be remitted
31 to the Civil Penalty and Forfeiture Fund in accordance with G.S. 115C-457.2.

32 "**§ 78C-128.** Reserved.

33 "**§ 78C-129. Uniformity of application and construction.**

34 In applying and construing this Uniform Act, consideration must be given to the need to
35 promote uniformity of the law with respect to its subject matter among states that enact it.

36 "**§ 78C-130. Relation to Electronic Signatures in Global and National Commerce Act.**

37 This Article modifies, limits, or supersedes the Electronic Signatures in Global and National
38 Commerce Act, 15 U.S.C. § 7001, et seq., but does not modify, limit, or supersede Section 101(c)
39 of that Act, 15 U.S.C. § 7001(c), or authorize electronic delivery of any of the notices described in
40 Section 103(b) of that Act, 15 U.S.C. § 7003(b)."

41 **SECTION 3.** If any provision of this act or its application to any person or
42 circumstance is held invalid, the invalidity does not affect other provisions or applications of this
43 act which can be given effect without the invalid provision or application, and to this end the
44 provisions of this act are severable.

45 **SECTION 4.** The Revisor of Statutes shall cause to be printed, as annotations to the
46 published General Statutes, all relevant portions of the Official Comments to the Revised Uniform
47 Athlete Agents Act (2015) and all explanatory comments of the drafters of this act as the Revisor
48 may deem appropriate.

49 **SECTION 5.** This act becomes effective December 1, 2017, and applies to acts and
50 omissions occurring on or after that date. Prosecutions for offenses committed before the effective

1 date of this act are not abated or affected by this act, and the statutes that would be applicable but
2 for this act remain applicable to those prosecutions.