

AN ACT concerning athlete agents.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 1. Short title. This Act may be cited as the Illinois Athlete Agents Act.

Section 10. Declaration of public policy. Practice as an athlete agent in the State of Illinois is hereby declared to affect the public health, safety, and well-being of its citizens and to be subject to regulation and control in the public interest. It is further declared that the practice as an athlete agent, as defined in this Act, merits the confidence of the public, and that only qualified persons shall be authorized to engage in such practice in the State of Illinois. This Act shall be liberally construed to best carry out this purpose.

Section 15. Definitions. In this Act:

"Address of record" means the designated address recorded by the Department in the applicant's or licensee's application file or license file maintained by the Department's licensure maintenance unit. It is the duty of the applicant or licensee to inform the Department of any change of address, and such changes must be made either through the Department's website or by contacting the Department's licensure maintenance unit.

"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.

"Athlete agent" means an individual who 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. 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.

"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 students and female students, the athletic program for males or the athletic program for females, as appropriate.

"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.

"Department" means the Department of Financial and Professional Regulation.

"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.

"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 for the promotion or regulation of collegiate athletics.

"License" means a person holding licensure as an athlete agent pursuant to this Act.

"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.

"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.

"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.

"Secretary" means the Secretary of Financial and Professional Regulation.

"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.

"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 sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

"Licensed athlete agent" means an individual who is licensed under this Act to engage as an athlete agent in Illinois.

Section 20. Exemptions. Nothing in this Act shall be construed to prohibit practice as an athlete agent for the following:

(a) practice as an athlete agent by officers and employees of the United States government within the scope of their employment.

(b) practice as an athlete agent by any person licensed in this State under any other Act from engaging in the practice for which he is licensed.

Section 25. Restrictions and limitations.

(a) No person without a license under this Act or who is otherwise exempt from this Act shall: (i) in any manner hold

himself or herself out to the public as a licensed athlete agent; (ii) attach the title "licensed athlete agent" to his or her name; or (iii) render or offer to render to any individual, athlete or other person or entity any services or activities constituting the practice of an athlete agent as defined in this Act.

(b) A person shall be construed to practice, render or offer to practice as an athlete agent, within the meaning and intent of this Act, if that person: (i) by verbal claim, sign, advertisement, letterhead, card, or any other means, represents himself or herself to be an athlete agent or through the use of some title implies that he or she is an athlete agent or is licensed under this Act; (ii) holds himself or herself out as able to perform or does perform services or work defined in this Act as the practice of an athlete agent; or (iii) provides services as an athlete agent as set forth in this Act.

Individuals practicing as an athlete agent in Illinois as of the effective date of this Act may continue to practice as provided in this Act until the Department has adopted rules implementing this Act. To continue practicing as an athlete agent after the adoption of rules, individuals shall apply for licensure within 90 days after the effective date of the rules. If an application is received during the 90-day period, then the individual may continue to practice until the Department acts to grant or deny licensure. If an application is not filed

within the 90-day period, then the individual must cease practice as an athlete agent at the conclusion of the 90-day period and until the Department acts to grant a license to the individual.

Section 30. Practice pending licensure; void contracts.

(a) Except as otherwise provided in Section 20 or in subsection (b) of this Section, an individual may not act as an athlete agent in this State without holding a license issued under this Act.

(b) Before being issued a license, an individual may act as an athlete agent in this State for all purposes except signing an agency contract if:

(1) a student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

(2) within 7 days after an initial act as an athlete agent, the individual submits an application and the application and fee have been received by the Department for licensure as an athlete agent in this State.

(c) An agency contract resulting from conduct in violation of this Section is void and the athlete agent shall return any consideration received under the contract.

Section 35. Powers and duties of the Department. Subject to the provisions of this Act, the Department may:

(1) Conduct or authorize examinations, at the discretion of the Department, to ascertain the fitness and qualifications of applicants for licensure and issue licenses to those who are found to be fit and qualified.

(2) Prescribe rules for a method of examination of candidates if required.

(3) Conduct hearings on proceedings to revoke, suspend, or otherwise discipline or take non-disciplinary action.

(4) Promulgate rules required for the administration of this Act.

Section 40. Application for original license. Applications for original licenses shall be made to the Department on forms prescribed by the Department and accompanied by the required fee. All applications shall contain the information that, in the judgment of the Department, will enable the Department to pass on the qualifications of the applicant for a license to practice as an athlete agent.

Section 45. Qualifications for licensure.

(a) A person is qualified for licensure as an athlete agent if that person:

(1) is at least 21 years of age;

(2) has applied in writing on forms prepared and furnished by the Department;

(3) has not engaged or is not engaged in any practice or conduct that would be grounds for disciplining a licensee under this Act;

(4) pays the required non-refundable fee as set forth in rule;

(5) submits an application which is signed or otherwise authenticated by the applicant under penalty of perjury which contains the following information:

(A) the name and social security number of the applicant, and the address of the applicant's principal place of business;

(B) the name of the applicant's business or employer, if applicable;

(C) any business or occupation engaged in by the applicant for the five years next preceding the date of submission of the application;

(D) a description of the applicant's:

(i) education or formal training as an athlete agent;

(ii) work history, including but not limited to any practical experience as an athlete agent; and

(iii) educational background;

(E) the names and addresses of all persons who are:

(i) 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

(ii) with respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of five percent or greater;

(F) the names and addresses of 3 individuals not related to the applicant who are willing to serve as references; and

(G) the name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the 5 years next preceding the date of submission of the application; and

(7) has complied with all other requirements of this Act and rules established for the implementation of this Act.

(b) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, then the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section 50. Licensure by endorsement.

(a) The Department may, in its discretion, grant a license on submission of the required application and payment of the required non-refundable fee to any person who, at the time of

application, is licensed by another state or the United States or of a foreign country or province whose standards, in the opinion of the Department, were substantially equivalent at the date of his or her licensure in the other jurisdiction to the requirements then in force in this State or to any person who at the time of his or her licensure possessed individual qualifications that were substantially equivalent to the requirements of this Act.

(b) The Department may adopt rules to further define the licensing criteria under this Section.

(c) Applicants have 3 years from the date of application to complete the application process. If the process has not been completed in 3 years, then the application shall be denied, the fee shall be forfeited, and the applicant must reapply and meet the requirements in effect at the time of reapplication.

Section 55. Licenses; renewals; restoration; person in military service.

(a) The expiration date and renewal period for each license issued under this Act shall be set by rule. As a condition for renewal of a license, the licensee may be required to complete continuing education under requirements set forth in rules of the Department.

(b) Any person who has permitted his or her license to expire may have his or her license restored by making application to the Department and filing proof acceptable to

the Department of fitness to have his or her license restored, which may include sworn evidence certifying to active practice in another jurisdiction satisfactory to the Department, complying with any continuing education requirements, and paying the required restoration fee.

(c) If the person has not maintained an active practice in another jurisdiction satisfactory to the Department, then the Department shall determine, by an evaluation program established by rule, the person's fitness to resume active status and may require the person to complete a period of evaluated experience. However, any person whose license expired while (i) in federal service on active duty with the Armed Forces of the United States or called into service or training with the State Militia, or (ii) in training or education under the supervision of the United States preliminary to induction into the military service may have his or her license renewed or restored without paying any lapsed renewal fees if, within 2 years after honorable termination of the service, training or education, except under condition other than honorable, he or she furnishes the Department with satisfactory evidence to the effect that he or she has been so engaged and that the service, training, or education has been so terminated.

(d) Any person who notifies the Department, in writing on forms prescribed by the Department, may place his or her license on inactive status and shall be excused from the

payment of renewal fees until the person notifies the Department in writing of the intention to resume active practice.

(e) Any person requesting his or her license be changed from inactive to active status shall be required to pay the current renewal fee and shall also demonstrate compliance with any applicable continuing education requirements.

(f) Any licensee whose license is nonrenewed or on inactive status shall not engage in the practice as an athlete agent as set forth in this Act in the State of Illinois and use the title or advertise that he or she performs the services of an athlete agent.

(g) Any person violating subsection (f) of this Section shall be considered to be practicing without a license and will be subject to the disciplinary provisions of this Act.

(h) The Department may adopt additional rules in order to effectively administer the provisions in this Section.

Section 60. Fees.

(a) The fees for the administration and enforcement of this Act, including but not limited to original licensure, renewal, and restoration fees, shall be set by the Department by rule. The fees shall not be refundable.

(b) All fees and other monies collected under this Act shall be deposited in the General Professions Dedicated Fund.

Section 65. Roster. The Department shall maintain a roster of names and addresses of all persons who hold valid licenses and all persons whose licenses have been suspended, revoked or otherwise disciplined within the previous year. This roster shall be available upon request and payment of the required fee as set forth by rule.

Section 70. Returned checks; fines. Any person who delivers a check or other payment to the Department that is returned to the Department unpaid by the financial institution upon which it is drawn shall pay to the Department, in addition to the amount already owed to the Department, a fine of \$50. The fines imposed by this Section are in addition to any other discipline provided under this Act for unlicensed practice or practice on a nonrenewed license. The Department shall notify the person that payment of fees and fines shall be paid to the Department by certified check or money order within 30 calendar days of the notification. If, after the expiration of 30 days from the date of the notification, the person has failed to submit the necessary remittance, then the Department shall automatically terminate the license or deny the application, without hearing. If, after termination or denial, the person seeks a license, then he or she shall apply to the Department for restoration or issuance of the license and pay all fees and fines due to the Department. The Department may establish a fee for the processing of an application for restoration of a license to

pay all expenses of processing this application. The Secretary may waive the fines due under this Section in individual cases where the Secretary finds that the fines would be unreasonable or unnecessarily burdensome.

Section 75. Grounds for disciplinary action.

(a) The Department may refuse to issue or renew, or may revoke, suspend, place on probation, reprimand, or take other disciplinary or non-disciplinary action as the Department may deem appropriate, including imposing fines not to exceed \$10,000 for each violation, with regard to any license for any one or combination of the following:

(1) Making a material misstatement in furnishing information to the Department.

(2) Violating this Act, or the rules adopted pursuant to this Act.

(3) Conviction of or entry of a plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including but not limited to convictions, preceding sentences of supervision, conditional discharge or first offender probation, to any crime that is a felony under the laws of the United States or any state or territory thereof or that is a misdemeanor of which an essential element is dishonesty, or any crime that is directly related to the practice of the profession.

(4) Making any misrepresentation for the purpose of obtaining licensure or violating any provision of this Act or the rules adopted under this Act pertaining to advertising.

(5) Professional incompetence.

(6) Gross malpractice.

(7) Aiding or assisting another person in violating any provision of this Act or rules adopted under this Act.

(8) Failing, within 60 days, to provide information in response to a written request made by the Department.

(9) Engaging in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud, or harm the public.

(10) Inability to practice with reasonable judgment, skill or safety as a result of habitual or excessive use or addiction to alcohol, narcotics, stimulants or any other chemical agent or drug.

(11) Denial of any application as an athlete agent or discipline by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(12) A finding by the Department that the licensee, after having his or her license placed on probationary status, has violated the terms of probation.

(13) Willfully making or filing false records or

reports in his or her practice, including but not limited to, false records filed with State agencies or departments.

(14) Inability to practice the profession with reasonable judgment, skill, or safety as a result of a physical illness, including but not limited to deterioration through the aging process or loss of motor skill, or a mental illness or disability.

(15) Solicitation of professional services other than permitted advertising.

(16) Conviction of or cash compromise of a charge or violation of the Illinois Controlled Substances Act regulating narcotics.

(17) Gross, willful, or continued overcharging for professional services, including filing false statements for collection of fees for which services are not rendered.

(18) Practicing under a false or, except as provided by law, an assumed name.

(19) Fraud or misrepresentation in applying for, or procuring, a license under this Act or in connection with applying for renewal of a license under this Act.

(20) Any instance in which the conduct of the applicant or any person named pursuant to item (5) of subsection (a) of Section 45 resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution.

(21) Any instance in which the conduct of any person named pursuant to item (5) of subsection (a) of Section 45 resulted in the denial of an application as an athlete agent or discipline of a license as an athlete agent by another state, District of Columbia, territory, or foreign nation, if at least one of the grounds for the discipline is the same or substantially equivalent to those set forth in this Section.

(22) Committing any of the activities set forth in subsection (b) of Section 175 of this Act.

(b) A person holding a license under this Act or has applied for licensure under this Act who, because of a physical or mental illness or disability, including but not limited to deterioration through the aging process or loss of motor skill, is unable to practice the profession with reasonable judgment, skill, or safety may be required by the Department to submit to care, counseling or treatment by physicians approved or designated by the Department as a condition, term or restriction for continued, reinstated or renewed licensure to practice. Submission to care, counseling or treatment as required by the Department shall not be considered discipline of the license. If the licensee refuses to enter into a care, counseling, or treatment agreement or fails to abide by the terms of the agreement, then the Department may file a complaint to suspend, revoke, or otherwise discipline the license of the individual. The Secretary may order the license

suspended immediately, pending a hearing by the Department. Fines shall not be assessed in disciplinary actions involving physical or mental illness or impairment.

(c) The determination by a circuit court that a licensee is subject to involuntary admission or judicial admission as provided in the Mental Health and Developmental Disabilities Code, as amended, operates as an automatic suspension. The suspension will end only upon a finding by a court that the licensee is no longer subject to the involuntary admission or judicial admission and issues an order so finding and discharging the licensee; and upon review of the order by the Secretary or his or her designee, the licensee may be allowed to resume his or her practice.

(d) The Department may refuse to issue or may suspend without hearing as provided for in the Code of Civil Procedure the license of any person who fails to file a return, or to pay the tax, penalty or interest shown in a filed return, or to pay any final assessment of the tax, penalty, or interest as required by any tax Act administered by the Illinois Department of Revenue, until such time as the requirements of any such tax Act are satisfied.

(e) In enforcing this Section, the Department upon a showing of a possible violation may compel an individual licensed to practice under this Act, or who has applied for licensure under this Act, to submit to a mental or physical examination, or both, as required by and at the expense of the

Department. The Department may order the examining physician to present testimony concerning the mental or physical examination of the licensee or applicant. No information shall be excluded by reason of any common law or statutory privilege relating to communications between the licensee or applicant and the examining physician. The examining physicians shall be specifically designated by the Department. The individual to be examined may have, at his or her own expense, another physician of his or her choice present during all aspects of this examination. Failure of an individual to submit to a mental or physical examination, when directed, shall be grounds for the immediate suspension of his or her license until the individual submits to the examination if the Department finds that the refusal to submit to the examination was without reasonable cause as defined by rule.

In instances in which the Secretary immediately suspends a person's license for his or her failure to submit to a mental or physical examination, when directed, a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay.

In instances in which the Secretary otherwise suspends a person's license pursuant to the results of a compelled mental or physical examination a hearing on that person's license must be convened by the Department within 15 days after the suspension and completed without appreciable delay. The

Department shall have the authority to review the subject individual's record of treatment and counseling regarding the impairment to the extent permitted by applicable federal statutes and regulations safeguarding the confidentiality of medical records.

An individual licensed under this Act and affected under this Section shall be afforded an opportunity to demonstrate to the Department that he or she can resume practice in compliance with acceptable and prevailing standards under the provisions of his or her license.

Section 80. Required form of contract.

(a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain the following:

(1) 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 will receive from any other source for entering into the contract or for providing the services;

(2) the name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;

(3) a description of any expenses that the

student-athlete agrees to reimburse;

(4) a description of the services to be provided to the student-athlete;

(5) the duration of the contract; and

(6) the date of execution.

(c) An agency contract must 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:

(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 ENTERING INTO THIS CONTRACT OR BEFORE YOUR NEXT SCHEDULED ATHLETIC EVENT, WHICHEVER OCCURS FIRST, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) An agency contract that does not conform to this Section is voidable by the student-athlete. If a student-athlete voids an agency contract, then 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.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

Section 85. Student-athlete's right to cancel.

(a) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

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

(c) If a student-athlete cancels an agency contract, then 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 90. Notice to educational institution.

(a) Within 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.

(b) Within 72 hours after entering into an agency contract or before the next 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.

Section 95. Required records.

(a) An athlete agent shall retain the following records for a period of 5 years:

(1) the name and address of each individual represented by the athlete agent;

(2) any agency contract entered into by the athlete agent; and

(3) any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(b) Records required by subsection (a) of this Section to be retained shall be open to inspection by the Department during normal business hours.

Section 100. Injunctive action; cease and desist order.

(a) If any person violates the provisions of this Act, then the Secretary, in the name of the People of the State of Illinois, through the Attorney General or the State's Attorney

of the county in which the violation is alleged to have occurred, may petition for an order enjoining the violation or for an order enforcing compliance with this Act. Upon the filing of a verified petition, the court with appropriate jurisdiction may issue a temporary restraining order, without notice or bond, and may preliminarily and permanently enjoin the violation. If it is established that the person has violated or is violating the injunction, then the court may punish the offender for contempt of court. Proceedings under this Section are in addition to, and not in lieu of, all other remedies and penalties provided by this Act.

(b) Whenever, in the opinion of the Department, a person violates any provision of this Act, the Department may issue a rule to show cause why an order to cease and desist should not be entered against that person. The rule shall clearly set forth the grounds relied upon by the Department and shall allow at least 7 days from the date of the rule to file an answer satisfactory to the Department. Failure to answer to the satisfaction of the Department shall cause an order to cease and desist to be issued.

Section 105. Investigations; notice and hearing. The Department may investigate the actions of any applicant or of any person or persons rendering or offering to render services as an athlete agent or any person holding or claiming to hold a license as an athlete agent. The Department shall, before

revoking, suspending, placing on probation, reprimanding, or taking any other disciplinary or non-disciplinary action under Section 75 of this Act, at least 30 days before the date set for the hearing, (i) notify the accused in writing of the charges made and the time and place for the hearing on the charges, (ii) direct him or her to file a written answer to the charges with the Department under oath within 20 days after the service on him or her of the notice, and (iii) inform the accused that, if he or she fails to answer, default will be taken against him or her or that his or her license may be suspended, revoked, placed on probationary status, or other disciplinary action taken with regard to the license, including limiting the scope, nature, or extent of his or her practice, as the Department may consider proper. At the time and place fixed in the notice, the Department shall proceed to hear the charges and the parties or their counsel shall be accorded ample opportunity to present any pertinent statements, testimony, evidence, and arguments. The Department may continue the hearing from time to time. In case the person, after receiving the notice, fails to file an answer, his or her license may, in the discretion of the Department, be suspended, revoked, placed on probationary status, or the Department may take whatever disciplinary action considered proper, including limiting the scope, nature, or extent of the person's practice or the imposition of a fine, without a hearing, if the act or acts charged constitute sufficient grounds for that action

under this Act. The written notice may be served by personal delivery or by certified mail to the address specified by the accused in his or her last notification with the Department.

Section 110. Record of proceedings; transcript. The Department, at its expense, shall preserve a record of all proceedings at the formal hearing of any case. The notice of hearing, complaint, all other documents in the nature of pleadings, written motions filed in the proceedings, the transcripts of testimony, the report of the Hearing Officer, and orders of the Department shall be in the record of the proceeding. The Department shall furnish a transcript of such record to any person interested in such hearing upon payment of the fee required under Section 2105-115 of the Department of Professional Regulation Law (20 ILCS 2105/2105-115).

Section 115. Subpoenas; depositions; oaths. The Department has the power to subpoena documents, books, records or other materials and to bring before it any person and to take testimony either orally or by deposition, or both, with the same fees and mileage and in the same manner as prescribed in civil cases in the courts of this State.

The Secretary, the designated hearing officer, and other parties designated by the Department have the power to administer oaths to witnesses at any hearing that the Department is authorized to conduct, and any other oaths

authorized in any Act administered by the Department.

Section 120. Compelling testimony. Any circuit court, upon application of the Department or designated hearing officer may enter an order requiring the attendance of witnesses and their testimony, and the production of documents, papers, files, books, and records in connection with any hearing or investigation. The court may compel obedience to its order by proceedings for contempt.

Section 125. Findings and recommendations. At the conclusion of the hearing, the Hearing Officer shall present to the Secretary a written report of its findings of fact, conclusions of law, and recommendations. The report shall contain a finding whether or not the accused person violated this Act or its rules or failed to comply with the conditions required in this Act or its rules. The Hearing Officer shall specify the nature of any violations or failure to comply and shall make its recommendations to the Secretary. In making recommendations for any disciplinary actions, the Hearing Officer may take into consideration all facts and circumstances bearing upon the reasonableness of the conduct of the accused and the potential for future harm to the public, including but not limited to previous discipline of the accused by the Department, intent, degree of harm to the public and likelihood of harm in the future, any restitution made by the accused, and

whether the incident or incidents contained in the complaint appear to be isolated or represent a continuing pattern of conduct. In making its recommendations for discipline, the Hearing Officer shall endeavor to ensure that the severity of the discipline recommended is reasonably related to the severity of the violation.

The report of findings of fact, conclusions of law, and recommendation of the Hearing Officer may, but shall not be required to be, the basis for the Department's order refusing to issue, restore, or renew a license, or otherwise disciplining a licensee. If the Secretary disagrees with the recommendations of the Hearing Officer, then the Secretary may issue an order in contravention. The finding is not admissible in evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding are not a bar to a criminal prosecution brought for a violation of this Act.

Section 130. Rehearing. At the conclusion of the hearing, a copy of the Hearing Officer's report shall be served upon the applicant or licensee by the Department, either personally or as provided in this Act for the service of a notice of hearing. Within 20 days after service, the applicant or licensee may present to the Department a motion in writing for a rehearing, which shall specify the particular grounds for rehearing. The Department may respond to the motion for rehearing within 20

days after its service on the Department. If no motion for rehearing is filed, then upon the expiration of the time specified for filing such a motion, or if a motion for rehearing is denied, then upon denial, the Secretary may enter an order in accordance with recommendations of the Hearing Officer except as provided in Section 135 of this Act. If the applicant or licensee orders from the reporting service and pays for a transcript of the record within the time for filing a motion for rehearing, then the 20-day period within which a motion may be filed shall commence upon the delivery of the transcript to the applicant or licensee.

Section 135. Secretary; rehearing. Whenever the Secretary believes that substantial justice has not been done in the revocation, suspension, or refusal to issue, restore, or renew a license, or other discipline of an applicant or licensee, he or she may order a rehearing the same or a different Hearing Officer.

Section 140. Appointment of a hearing officer. The Secretary has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore, or renew a license or to discipline a licensee. The hearing officer has full authority to conduct the hearing. The hearing officer shall report his or her findings of fact, conclusions of law,

and recommendations to the Secretary. If the Secretary disagrees with the recommendation of the hearing officer, then the Secretary may issue an order in contravention of the recommendation.

Section 145. Order or certified copy; prima facie proof. An order or certified copy thereof, over the seal of the Department and purporting to be signed by the Secretary, is prima facie proof that:

(1) the signature is the genuine signature of the Secretary; and

(2) the Secretary is duly appointed and qualified.

Section 150. Restoration of suspended or revoked license. At any time after the successful completion of a term of suspension or revocation of a license, the Department may restore it to the licensee, unless after an investigation and a hearing the Department determines that restoration is not in the public interest.

Section 155. Surrender of license. Upon the revocation or suspension of a license, the licensee shall immediately surrender his or her license to the Department. If the licensee fails to do so, then the Department has the right to seize the license.

Section 160. Summary suspension of a license. The Secretary may summarily suspend a license, without a hearing, simultaneously with the institution of proceedings for a hearing provided for in Section 105 of this Act, if the Secretary finds that evidence in the Secretary's possession indicates that the continuation of practice as an athlete agent would constitute an imminent danger to the public. In the event that the Secretary summarily suspends a license, without a hearing, a hearing must be commenced within 30 days after the suspension has occurred and concluded as expeditiously as practical.

Section 165. Administrative review; venue.

(a) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

(b) Proceedings for judicial review shall be commenced in the circuit court of the county in which the party applying for review resides, but if the party is not a resident of Illinois, the venue shall be in Sangamon County.

Section 170. Certifications of record; costs. The Department shall not be required to certify any record to the court, to file an answer in court, or to otherwise appear in any court in a judicial review proceeding unless and until the

Department has received from the plaintiff payment of the costs of furnishing and certifying the record, which costs shall be determined by the Department. Failure on the part of the plaintiff to file the receipt in court is grounds for dismissal of the action.

Section 175. Criminal penalties.

(a) Any person who is found to have violated any provision of this Act is guilty of a Class A misdemeanor. On conviction of a second or subsequent offense, the violator shall be guilty of a Class 4 felony.

(b) In addition, an athlete agent or an individual holding oneself out as an athlete agent shall be guilty of a Class A misdemeanor if he or she, with the intent to induce a student-athlete to enter into an agency contract, does any of the following:

(1) gives any materially false or misleading information or makes a materially false promise or representation;

(2) furnishes anything of value to a student-athlete before the student-athlete enters into the agency contract;

(3) furnishes anything of value to any individual other than the student-athlete or another athlete agent;

(4) initiates contact with a student-athlete unless registered under this Act;

(5) refuses or fails to retain or permit inspection of the records as required under this Act;

(6) provides materially false or misleading information in an application for licensure;

(7) predates or postdates an agency contract; or

(8) fails to notify a student-athlete before the student-athlete 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 180. Civil penalties.

(a) In addition to any other penalty provided by law, any person who violates this Act shall forfeit and pay a civil penalty to the Department in an amount not to exceed \$10,000 for each violation as determined by the Department. The civil penalty shall be assessed by the Department in accordance with the provisions of this Act.

(b) The Department has the authority and power to investigate any and all unlicensed activity.

(c) The civil penalty shall be paid within 60 days after the effective date of the order imposing the civil penalty. The order shall constitute a judgment and may be filed and execution had thereon in the same manner as any judgment from any court of record.

(d) All moneys collected under this Section shall be

deposited into the General Fund.

Section 185. Civil remedies; educational institutions.

(a) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this Act. In an action under this Section, the court may award to the prevailing party costs and reasonable attorney's fees.

(b) Damages of an educational institution under subsection (a) 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 this Act 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.

(c) 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.

(d) Any liability of the athlete agent or the former student-athlete under this Section is several and not joint.

(e) This Act does not restrict rights, remedies, or defenses of any person under law or equity.

Section 190. Consent order. At any point in the proceedings as provided in Sections 100 through 145 and Section 165, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of the Secretary.

Section 195. Illinois Administrative Procedure Act; application. The Illinois Administrative Procedure Act is expressly adopted and incorporated in this Act as if all of the provisions of that Act were included in this Act, except that the provision of paragraph (d) of Section 10-65 of the Illinois Administrative Procedure Act, which provides that at hearings the registrant or licensee has the right to show compliance with all lawful requirements for retention or continuation or renewal of the license, is specifically excluded. For the purpose of this Act, the notice required under Section 10-25 of the Illinois Administrative Procedure Act is considered sufficient when mailed to the last known address of a party.

Section 200. Home rule. The regulation and licensing as an athlete agent are exclusive powers and functions of the State. A home rule unit may not regulate or license an athlete agent or the practice as an athlete agent, except as provided under Section 20 of this Act. This Section is a denial and limitation of home rule powers and functions under subsection (h) of Section 6 of Article VII of the Illinois Constitution.

Section 205. Relation to electronic signatures in Global and National Commerce Act. This Act modifies, limits, and supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. Section 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that Act, 15 U.S.C. Section 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that Act, 15 U.S.C. Section 7003(b).

Section 210. Severability. The provisions of this Act are severable under Section 1.31 of the Statute on Statutes.

Section 215. Agent for service of process. By acting as an athlete agent in this State, a nonresident individual appoints the Department as the individual's agent for service of process in any civil action in this State related to the individual's acting as an athlete agent in this State.