

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0811S.02C
Bill No.: SCS for SB 263
Subject: Athletics; Contracts and Contractors; Education, Higher; Entertainment, Sports and Amusements; Licenses, Miscellaneous Professional Registration and Licensing
Type: Original
Date: April 21, 2021

Bill Summary: This proposal modifies provisions of the Uniform Athlete Agents' Act.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
General Revenue	(\$6,463)	(\$15,822)	(\$16,139)
Total Estimated Net Effect on General Revenue	(\$6,463)	(\$15,822)	(\$16,139)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on Other State Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Total Estimated Net Effect on FTE	0	0	0

- Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.
- Estimated Net Effect (savings or increased revenues) expected to exceed \$250,000 in any of the three fiscal years after implementation of the act or at full implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2022	FY 2023	FY 2024
Local Government	\$0	\$0	\$0

FISCAL ANALYSIS

ASSUMPTION

Officials from **Department of Commerce and Insurance**, **Department of Higher Education and Workforce Development**, **Department of Public Safety - Missouri Highway Patrol**, **Office of the State Courts Administrator**, **Missouri Office of Prosecution Services** and the **Office of the State Public Defender** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

Officials from **Department of Corrections (DOC)** state this proposal introduces several definitions of terms related to student athletics and outlines terms under which a person can register to be licensed “Athlete agent.” The additional language introduced by this proposal presents the opportunity for a violation of such provisions. Section 436.263 states that violation of these offenses is a class A misdemeanor. Knowingly violating these terms is a class E felony.

Since this is a new offense, the department will use a standard class E felony response. For each new nonviolent class E felony, the department estimates one person will be sentenced to prison and two to probation. The average sentence for a nonviolent class E felony offense is 3.4 years, of which 2.1 years will be served in prison with 1.4 years to first release. The remaining 1.3 years will be on parole. Probation sentences will be 3 years.

The cumulative impact on the department is estimated to be 2 additional offenders in prison and 7 additional offenders on field supervision by FY 2024.

Change in prison admissions and probation openings with legislation-Class E Felony (nonviolent)

	FY2022	FY2023	FY2024	FY2025	FY2026	FY2027	FY2028	FY2029	FY2030	FY2031
New Admissions										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	1	1	1	1	1	1	1	1	1	1
Probation										
Current Law	0	0	0	0	0	0	0	0	0	0
After Legislation	2	2	2	2	2	2	2	2	2	2
Change (After Legislation - Current Law)										
Admissions	1	1	1	1	1	1	1	1	1	1
Probations	2	2	2	2	2	2	2	2	2	2
Cumulative Populations										
Prison	1	2	2	2	2	2	2	2	2	2
Parole			1	1	1	1	1	1	1	1
Probation	2	4	6	6	6	6	6	6	6	6
Impact										
Prison Population	1	2	2	2	2	2	2	2	2	2
Field Population	2	4	7	7	7	7	7	7	7	7
Population Change	3	6	9							

* If this impact statement has changed from statements submitted in previous years, it is because the Department of Corrections (DOC) has changed the way probation and parole daily costs are calculated to more accurately reflect the way the Division of Probation and Parole is staffed across the entire state

In December 2019, the DOC reevaluated the calculation used for computing the Probation and Parole average daily cost of supervision and revised the cost calculation to be the DOC average district caseload across the state which is 51 offender cases per officer. The new calculation assumes that an increase/decrease of 51 cases would result in a change in costs/cost avoidance equal to the cost of one FTE staff person. Increases/decreases smaller than 51 offenders are assumed to be absorbable.

In instances where the proposed legislation would only affect a specific caseload, such as sex offenders, the DOC will use the average caseload figure for that specific type of offender to calculate cost increases/decreases. For instances where the proposed legislation affects a less specific caseload, DOC projects the impact based on prior year(s) actual data for DOC's 48 probation and parole districts.

The DOC cost of incarceration is \$21.251 per day or an annual cost of \$7,756 per offender. The DOC cost of probation or parole is determined by the number of P&P Officer II positions that would be needed to cover the new caseload.

Oversight will show the costs as estimated by DOC.

Officials from the **Missouri State University, State Technical College of Missouri** and the **University of Central Missouri** each assume the proposal will have no fiscal impact on their respective organizations. **Oversight** does not have any information to the contrary. Therefore, Oversight will reflect a zero impact in the fiscal note for these agencies.

<u>FISCAL IMPACT – State Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
GENERAL REVENUE			
<u>Costs</u> - new nonviolent class E felony - \$436.263	(\$6,463)	(\$15,822)	(\$16,139)
ESTIMATED NET EFFECT ON GENERAL REVENUE	<u>(\$6,463)</u>	<u>(\$15,822)</u>	<u>(\$16,139)</u>

<u>FISCAL IMPACT – Local Government</u>	FY 2022 (10 Mo.)	FY 2023	FY 2024
	<u>\$0</u>	<u>\$0</u>	<u>\$0</u>

FISCAL IMPACT – Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Current law defines an athlete agent as an individual who enters into an agency contract with a student athlete or recruits or solicits a student athlete to enter into an agency contract.

Under this act, an athlete agent is defined as an individual who 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. An athlete agent shall also mean a person providing certain services to a student athlete, as set forth in the act, including serving the student in an advisory capacity on a matter related to finance, business pursuits, or career management decisions, unless such person is an employee of an educational institution acting exclusively as an employee of the institution.

An athlete agent shall not include an individual who acts solely on behalf of a professional sports team or organization, or is a licensed, registered, or certified professional and offers or provides services to a student athlete customarily provided by members of the profession, unless such person meets certain requirements set forth in the act. (Section 436.218)

Under this act, an applicant for registration as an athlete agent shall submit an application to the Director of the Division of Professional Registration that shall be in the name of an individual and shall include certain information set forth in the act, including each social media account with which the applicant or the applicant's business or employer is affiliated.

An applicant who is registered as an athlete agent in another state may apply for registration as an athlete agent, by submitting certain information to the Director.

The Director shall issue a certificate of registration to an applicant registered in another state who applies for registration under the act, if the Director determines that the application and registration requirements of the other state are substantially similar to or more restrictive than the requirements of this act, and if the registration has not been revoked or suspended and no action is pending against the applicant or the applicant's registration in any state.

The Director shall cooperate with any national organizations concerned with athlete agent issues and agencies in other states that register athlete agents to develop a common registration form,

and to determine which states have laws substantially similar to or more restrictive than this act. The Director shall also exchange any information related to actions taken against registered athlete agents or their registrations with such organizations. (Section 436.227)

An athlete agent registered under the provisions of this act may renew his or her registration as set forth in the act or, if the registration in the other state has been renewed, by submitting to the Director copies of the application for renewal in the other state and the renewed registration from the other state. The Director shall renew the registration if he or she determines that the application and registration requirements of the other state are substantially similar to or more restrictive than the requirements of this act, and if the registration has not been revoked or suspended and no action is pending against the applicant or the applicant's registration in any state. (Section 436.230)

An agency contract shall contain a statement that the athlete agent is registered as an athlete agent in this state and shall include a list of any other states in which the athlete is registered as an athlete agent.

This act modifies the text required in an agency contract, and requires such contract to be accompanied by a separate record signed by the student athlete or, if the student athlete is a minor, by the parent or guardian of a 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.

If an agency contract is voided, by a student athlete, or by the parent or guardian of a minor student athlete, any consideration received by the student athlete from the athlete agent under the contract shall not be required to be returned.

If a student athlete is a minor, an agency contract shall be signed by the parent or guardian of the minor. (Section 436.242)

If an athlete agent enters into an agency contract with a student athlete, and the student athlete then enrolls in an educational institution, such athlete agent shall notify the athletic director of the institution of the existence of a contract within 72 hours of learning the student has enrolled.

If an athlete agent has a relationship with a student athlete before such student enrolls in an educational institution and receives a scholarship, the athlete agent shall notify the athletic director of the institution of such relationship within 10 days of enrollment.

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 the student athlete in an attempt to influence such student to enter into an agency contract, or another individual to have such person influence the student to enter into an agency contract.

If a communication or attempted communication is initiated by a student athlete or another individual on behalf of the student athlete, the athlete agent shall give notice in a record to the

athletic director at the educational institution at which the student athlete is enrolled within 10 days of the communication.

An educational institution that becomes aware of a violation of the act by an athlete agent shall notify the Director of the violation and any professional league or players' association with which the educational institution is aware the agent is licensed or registered. (Section 326.245)

An athlete agent, under this act, shall not intentionally provide any student athlete with false information with the intent to influence such athlete to enter into an agency contract, nor shall any agent furnish anything of value to an individual if to do so may result in the loss of the student athlete's eligibility to participate in a sport unless certain requirements are met.

An athlete agent also may not intentionally initiate contact, directly or indirectly, with a student athlete to recruit or solicit the student athlete to enter into an agency contract, encourage another individual to perform any of the actions set forth in the act, or encourage another individual to assist any other individual performing the listed acts. (Section 436.254)

An educational institution or a student athlete, under this act, may bring an action for damages against an athlete agent if the institution or athlete is adversely affected, as defined in the act, by an act or omission of the athlete agent. This act repeals the provision allowing a former student athlete to bring an action for damages.

This act repeals provisions of current law setting forth the damages that may be claimed by an educational institution. Under this act, a plaintiff who prevails in an action under this act may recover actual damages, costs, and reasonable attorney's fees. An athlete agent found liable under this act forfeits any right of payment for anything of benefit or value provided to the student athlete and shall refund any consideration paid to the athlete agent by or on behalf of the student athlete.

Any violation of this act shall be considered an unfair trade practice. (Section 436.260)

Any individual who violates the provisions of this act shall be guilty of a Class A misdemeanor. Any individual who commits a knowing violation shall be guilty of a Class E felony. Any such person shall also be liable for a civil penalty up to \$100,000. (Section 436.263)

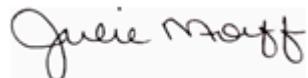
This act repeals the provision providing that the commission of certain acts by an athlete agent shall be a Class B misdemeanor. (Section 436.257)

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

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Department of Commerce and Insurance
Department of Higher Education and Workforce Development
Department of Corrections
Department of Public Safety - Missouri Highway Patrol
Office of the State Public Defender
Missouri Office of Prosecution Services
Office of the State Courts Administrator
Missouri State University
State Technical College of Missouri
University of Central Missouri



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