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HOUSE BILL 575

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Willie D. Madrid and Raymundo Lara

AN ACT

RELATING TO ATHLETE AGENTS; AMENDING THE UNIFORM ATHLETE AGENTS ACT; PROHIBITING CERTAIN ACTS WITH RESPECT TO PARENTS OF STUDENT ATHLETES WHO ARE MINORS; PROHIBITING ATHLETE AGENTS FROM ENCOURAGING OR ASSISTING WITH CERTAIN ACTIONS PROHIBITED PURSUANT TO THE UNIFORM ATHLETE AGENTS ACT; PERMITTING CERTAIN ATHLETE AGENTS TO PAY CERTAIN EXPENSES BEFORE AN AGENCY CONTRACT IS SIGNED.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 61-14F-1 NMSA 1978 (being Laws 2009, Chapter 169, Section 1) is amended to read:

"61-14F-1. SHORT TITLE.--~~[This act]~~ Chapter 61, Article 14F NMSA 1978 may be cited as the "Uniform Athlete Agents Act"."

SECTION 2. Section 61-14F-2 NMSA 1978 (being Laws 2009,

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1 Chapter 169, Section 2) is amended to read:

2 "61-14F-2. DEFINITIONS.--As used in the Uniform Athlete
3 Agents Act:

4 A. "agency contract" means an agreement in which a
5 student athlete who is not a minor or a parent or guardian of a
6 student athlete who is a minor authorizes a person to negotiate
7 or solicit on behalf of the student athlete a professional-
8 sports-services contract or an endorsement contract;

9 B. "athlete agent" means an individual who enters
10 into an agency contract with a student athlete who is not a
11 minor or a parent or guardian of a student athlete who is a
12 minor or, directly or indirectly, recruits or solicits a
13 student athlete to enter into an agency contract. "Athlete
14 agent" includes an individual who represents to the public that
15 the individual is an athlete agent. "Athlete agent" does not
16 include the spouse, parent, sibling, grandparent or guardian of
17 a student athlete or an individual acting solely on behalf of a
18 professional sports team or professional sports organization;

19 C. "athletic director" means an individual
20 responsible for administering the overall athletic program of
21 an educational institution or, if an educational institution
22 has separately administered athletic programs for male students
23 and female students, the athletic program for males or the
24 athletic program for females, as appropriate;

25 D. "contact" means a communication, direct or

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1 indirect, between an athlete agent and a student athlete who is
2 not a minor or a parent or guardian of a student athlete who is
3 a minor, to recruit or solicit the student athlete, parent or
4 guardian to enter into an agency contract;

5 E. "endorsement contract" means an agreement under
6 which a student athlete is employed or receives consideration
7 to use on behalf of the other party any value that the student
8 athlete may have because of publicity, reputation, following or
9 fame obtained because of athletic ability or performance;

10 F. "intercollegiate sport" means a sport played at
11 the collegiate level for which eligibility requirements for
12 participation by a student athlete are established by a
13 national association for the promotion or regulation of
14 collegiate athletics;

15 G. "person" means an individual, corporation,
16 business trust, estate, trust, partnership, limited liability
17 company, association, joint venture, government, governmental
18 subdivision, governmental agency, governmental instrumentality,
19 public corporation or any other legal or commercial entity;

20 H. "professional-sports-services contract" means an
21 agreement under which an individual is employed, or agrees to
22 render services, as a player on a professional sports team,
23 with a professional sports organization or as a professional
24 athlete;

25 I. "record" means information that is inscribed on

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1 a tangible medium or that is stored in an electronic or other
2 medium and is retrievable in perceivable form;

3 J. "registration" means registration as an athlete
4 agent pursuant to the Uniform Athlete Agents Act;

5 K. "secretary" means the secretary of state;

6 L. "state" means a state of the United States, the
7 District of Columbia, Puerto Rico, the United States Virgin
8 Islands or any territory or insular possession subject to the
9 jurisdiction of the United States; and

10 M. "student athlete" means an individual who
11 engages in, is eligible to engage in, or may be eligible in the
12 future to engage in, any intercollegiate sport. If an
13 individual is permanently ineligible to participate in a
14 particular intercollegiate sport, the individual is not a
15 student athlete for purposes of that sport."

16 SECTION 3. Section 61-14F-4 NMSA 1978 (being Laws 2009,
17 Chapter 169, Section 4) is amended to read:

18 "61-14F-4. ATHLETE AGENTS--REGISTRATION REQUIRED--VOID
19 CONTRACTS.--

20 A. Except as otherwise provided in Subsection B of
21 this section, an individual shall not act as an athlete agent
22 in this state without holding a certificate of registration
23 pursuant to Section [~~6 or 8 of the Uniform Athlete Agents Act~~]
24 61-14F-6 or 61-14F-8 NMSA 1978.

25 B. Before being issued a certificate of

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1 registration, an individual may act as an athlete agent in this
2 state for all purposes except signing an agency contract, if:

3 (1) a student athlete who is not a minor, a
4 parent or guardian of a student athlete who is a minor or
5 another person acting on behalf of the student athlete
6 initiates communication with the individual; and

7 (2) within seven days after an initial act as
8 an athlete agent, the individual submits an application for
9 registration as an athlete agent in this state.

10 C. An agency contract resulting from conduct in
11 violation of this section is void and the athlete agent shall
12 return any consideration received under the contract."

13 SECTION 4. Section 61-14F-10 NMSA 1978 (being Laws 2009,
14 Chapter 169, Section 10) is amended to read:

15 "61-14F-10. REQUIRED FORM OF CONTRACT.--

16 A. An agency contract shall be in a record, signed
17 or otherwise authenticated by the parties.

18 B. An agency contract shall state or contain:

19 (1) the amount and method of calculating the
20 consideration to be paid by the student athlete who is not a
21 minor or a parent or guardian of a student athlete who is a
22 minor for services to be provided by the athlete agent under
23 the contract and any other consideration the athlete agent has
24 received or will receive from any other source for entering
25 into the contract or for providing the services;

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1 (2) the name of any person not listed in the
2 application for registration or renewal of registration who
3 will be compensated because the student athlete who is not a
4 minor or a parent or guardian of a student athlete who is a
5 minor signed the agency contract;

6 (3) a description of any expenses that the
7 student athlete who is not a minor or a parent or guardian of a
8 student athlete who is a minor agrees to reimburse;

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

11 (5) the duration of the contract; and

12 (6) the date of execution.

13 C. An agency contract shall contain, in close
14 proximity to the signature of the student athlete who is not a
15 minor or a parent or guardian of a student athlete who is a
16 minor, a conspicuous notice in boldface type in capital letters
17 stating:

18 "WARNING TO STUDENT ATHLETE

19 IF YOU SIGN THIS CONTRACT:

20 (1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE
21 AS A STUDENT ATHLETE IN YOUR SPORT;

22 (2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN
23 SEVENTY-TWO HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU
24 AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

25 (3) YOU MAY CANCEL THIS CONTRACT WITHIN

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1 FOURTEEN DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT
2 MAY NOT REINSTATE YOUR ELIGIBILITY.".

3 D. An agency contract that does not conform to this
4 section is voidable by the student athlete who is not a minor
5 or a parent or guardian of a student athlete who is a minor.

6 If a student athlete, parent or guardian voids an agency
7 contract, the student athlete, parent or guardian is not
8 required to pay any consideration under the contract or to
9 return any consideration received from the athlete agent to
10 induce the student athlete, parent or guardian to enter into
11 the contract.

12 E. The athlete agent shall give a record of the
13 signed or otherwise authenticated agency contract to the
14 student athlete who is not a minor or a parent or guardian of a
15 student athlete who is a minor at the time of execution."

16 SECTION 5. Section 61-14F-12 NMSA 1978 (being Laws 2009,
17 Chapter 169, Section 12) is amended to read:

18 "61-14F-12. STUDENT ATHLETE'S RIGHT TO CANCEL.--

19 A. A student athlete who is not a minor or a parent
20 or guardian of a student athlete who is a minor may cancel an
21 agency contract by giving notice of the cancellation to the
22 athlete agent in a record within fourteen days after the
23 contract is signed.

24 B. A student athlete who is not a minor or a parent
25 or guardian of a student athlete who is a minor shall not waive

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1 the right to cancel an agency contract.

2 C. If a student athlete who is not a minor or a
3 parent or guardian of a student athlete who is a minor cancels
4 an agency contract, the student athlete, parent or guardian is
5 not required to pay any consideration under the contract or to
6 return any consideration received from the athlete agent to
7 induce the student athlete, parent or guardian to enter into
8 the contract."

9 SECTION 6. Section 61-14F-14 NMSA 1978 (being Laws 2009,
10 Chapter 169, Section 14) is amended to read:

11 "61-14F-14. PROHIBITED CONDUCT.--

12 A. Except as otherwise provided in Subsection D of
13 this section, an athlete agent, with the intent to induce a
14 student athlete who is not a minor or a parent or guardian of a
15 student athlete who is a minor to enter into an agency
16 contract, shall not:

17 (1) give any materially false or misleading
18 information or make a materially false promise or
19 representation;

20 (2) furnish anything of value to a student
21 athlete before the student athlete enters into the agency
22 contract; or

23 (3) furnish anything of value to any
24 individual other than the student athlete or another registered
25 athlete agent.

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- 1 B. An athlete agent shall not intentionally:
- 2 (1) initiate any direct or indirect contact
- 3 with a student athlete who is not a minor or a parent or
- 4 guardian of a student athlete who is a minor unless registered
- 5 pursuant to the Uniform Athlete Agents Act;
- 6 (2) refuse or fail to retain or permit
- 7 inspection of the records required to be retained pursuant to
- 8 Section [~~13 of the Uniform Athlete Agents Act~~] 61-14F-13 NMSA
- 9 1978;
- 10 (3) fail to register when required pursuant to
- 11 Section [~~4 of the Uniform Athlete Agents Act~~] 61-14F-4 NMSA
- 12 1978;
- 13 (4) provide materially false or misleading
- 14 information in an application for registration or renewal of
- 15 registration;
- 16 (5) predate or postdate an agency contract; or
- 17 (6) fail to notify a student athlete who is
- 18 not a minor or a parent or guardian of a student athlete who is
- 19 a minor before the student athlete, parent or guardian signs or
- 20 otherwise authenticates an agency contract for a particular
- 21 sport that the signing or authentication may make the student
- 22 athlete ineligible to participate as a student athlete in that
- 23 sport.
- 24 C. An athlete agent shall not encourage another
- 25 person acting on the athlete agent's behalf to take any action

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1 described in Subsection A or B of this section or assist
2 another person in taking that action.

3 D. A certified athlete agent may pay an expense
4 incurred before the signing of an agency contract by a student
5 athlete, a family member of the student athlete and by a class
6 of individuals authorized to receive the expense if the expense
7 is:

8 (1) for the benefit of an athlete who is a
9 member of a class of athletes authorized to receive the benefit
10 by the national association that certified the agent;

11 (2) of a type authorized to be paid by a
12 certified agent by the national association that certified the
13 agent; and

14 (3) for a purpose authorized by the national
15 association that certified the agent.

16 E. Prior to paying any expense pursuant to
17 Subsection D of this section, a certified athlete agent shall
18 notify the secretary of the agent's certification by the
19 national association that certified the agent and other
20 information prescribed by the secretary.

21 F. For the purposes of this section, "certified
22 athlete agent" means an athlete agent who:

23 (1) is registered pursuant to the Uniform
24 Athlete Agents Act; and

25 (2) is certified to be an athlete agent in a

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1 particular sport by a national association that promotes or
2 regulates intercollegiate athletics and establishes eligibility
3 standards for participation by a student athlete in that
4 sport."

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