

## **BILL ANALYSIS**

S.B. 292  
By: Brimer  
Licensing & Administrative Procedures  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Currently, some athletes are able to receive advice and assistance in negotiating contracts only from an athlete agent. There are circumstances in which a coach's advice could benefit an athlete regarding contract negotiations and related decision; however, coaches are prohibited from acting in such a capacity.

S.B. 292 requires Texas certification before a person can act as an athlete agent and establishes the application certification requirements and process, including the requisite fees.

S.B. 292 also sets forth the grounds for denial of certification as an athlete agent in Texas. This bill also adds wording to the state's agent or financial services contract that prohibits waiving the right to cancel a contract and informs the athlete that signing the contract could result in irrevocable loss of eligibility in the athlete's sport.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

Amends Section 2051.001(2), Occupations Code, to redefine "athlete."

Amends Section 2051.002, Occupations Code, to replace a reference to football or basketball with a reference to intercollegiate sports.

Amends Subchapter A, Chapter 2051, Occupations Code, by adding Section 2051.006, as follows: Sec. 2051.006. UNIFORMITY OF APPLICATION AND CONSTRUCTION. Requires that, in applying this chapter, consideration be paid to the need to promote uniformity of the law among states that have enacted similar laws.

Amends Section 2051.101, Occupations Code, as follows: Sec. 2051.101. REGISTRATION REQUIRED.

(a) Prohibits a person, except as provided by Subsection (b), from acting as an athlete agent or representing that the person is an athlete agent in this state unless the person is registered under this chapter. Deletes prohibition against certain actions by an athlete agent.

(b) Authorizes a person to act as an athlete agent for all purposes, except signing an agent contract, under certain circumstances.

(c) Creates Subsection (c) out of existing text. Makes a conforming change.

Amends Section 2051.102, Occupations Code, as follows: Sec. 2051.102. APPLICATION REQUIREMENTS.

(a) Requires an applicant for registration as an athlete agent to apply on a form prescribed by the

secretary of state and adds an exception as provided by Subsection (e). Makes a nonsubstantive change.

(b) Adds certain requirements to the list of pieces of information to be supplied to the secretary of state. Adds Subsection (5) out of existing text.

(c) Decreases the number of professional references required from five to three. Deletes wording indicating that professional references might not be required.

(d) Makes conforming changes.

(e) Authorizes an athlete agent who is certified or registered in another state, and seeking certification in this state, to submit a copy of the previous application and certificate or license in place of the application required by this section. Requires the secretary of state to accept the application and certificate or license as an application for registration in this state under certain circumstances.

Amends Section 2051.105, Occupations Code, by amending Subsection (b) and adding Subsections (c) and (d), as follows:

(b) Authorizes the secretary of state to deny an application for registration if the secretary determines that the applicant's conduct significantly adversely affects his or her fitness to act as an athlete agent. Establishes the criteria the secretary is authorized to consider in making that determination.

(c) Requires the secretary of state to consider certain qualifying criteria in making a determination under Subsection (b).

(d) Creates Subsection (d) from existing text. Includes Subsection (b) with Subsection (a) in establishing that judicial review of a denial of an application for registration under those two subsections is by trial novo and subject to Section 2001.173, Government Code.

Amends Section 2051.108, Occupations Code, by amending Subsection (a) and adding Subsection (e), as follows:

(a) Makes a conforming change.

(e) Authorizes a person who has submitted an application for renewal or registration or licensure as an athlete agent in another state to submit a copy of the application and certificate of registration or license in place of the application required by this section. Requires the secretary of state to accept the application for renewal as an application for renewal under this section under certain circumstances.

Amends Section 2051.203, Occupations Code, by amending Subsection (a) and adding Subsection (d), as follows:

(a) Includes additional information required to be included in an agent or financial services contract. Makes nonsubstantive changes.

(d) Requires the athlete agent to provide the athlete with a signed copy of the contract at signing.

Amends Section 2051.204(a), Occupations Code, to include in the required notice in an agent or financial services contract, the prohibition against waiving the right to cancel the contract. Establishes that the athlete is not required to pay or return any consideration if the athlete cancels the contract within 16 day. Specifies that cancellation of the contract may not reinstate the athlete's eligibility, should loss of eligibility occur. Requires the athlete and the agent to notify the athlete's athletic director, if there is one, within 72 hours after entering into the contract.

Amends Section 2051.351(a), Occupations Code, to replace a reference to football or basketball with a reference to sports and to include certain prohibitions regarding an athlete agent's professional behavior. Makes nonsubstantive changes.

Amends Section 2051.352(a), Occupations Code, to include certain items of information required to

be included and maintained in an athlete agent's records. Makes nonsubstantive changes.

Amends Section 2051.402, Occupations Code, by adding Subsection (c) to establish the secretary of state as a nonresident athlete agent's agent for service of process in a civil action related to an act of the person in the person's professional capacity.

Amends Section 2051.551, Occupations Code, as follows: Sec. 2051.551. CIVIL SUIT. (a) Creates Subsection (a) from existing text. Authorizes an institution of higher education adversely affected by an athlete agent's or former athlete's violation of this chapter to file suit against the athlete agent or former athlete for damages.

(b) Provides that a cause of action under this section does not accrue until the educational institution discovers, or would have discovered through reasonable diligence, a violation by an athlete agent or former athlete.

(c) Provides that any liability of the athlete agent or former athlete is several, not joint.

(d) Provides that this chapter does not restrict the rights, remedies, or defense of any person under any other law.

Makes application of this Act prospective. Requires a person whose application for registration is pending on this Act's effective date to resubmit the application. Makes application of this Act prospective.

#### **EFFECTIVE DATE**

September 1, 2003