

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: January 7, 1998 Revised: _____

Subject: Athlete Agents

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Masterton</u>	<u>Guthrie</u>	<u>RI</u>	<u>Favorable</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

The bill amends part IX of chapter 468, Florida Statutes, relating to the regulation of athlete agents, to exempt members of The Florida Bar from the regulation and to codify the requirement that applicants for licensure submit fingerprints for a criminal records check.

This bill substantially amends the following sections of the Florida Statutes: 468.453.

II. Present Situation:

Part IX of ch. 468, F.S., provides for the regulation of athlete agents by the Department of Business and Professional Regulation (DBPR). An athlete agent is defined as a individual who recruits or solicits a student athlete to enter into an agent contract or who attempts to obtain employment or monetary compensation for the student athlete. A student athlete includes any student who participates (or has informed a Florida school of the intent to participate) in intercollegiate sports in Florida.

The part was originally enacted in 1988 to require athlete agents to register with the DBPR, to impose certain requirements for contracts entered into between student athletes and athlete agents, and to require notice of representation to a student athlete’s school within certain time frames. Failure to provide the required notice was a third degree felony for the athlete agent. In addition, violations of the part could result in the revocation of an agent’s registration, so that the agent could no longer operate in the state. The primary purpose of the 1988 law was to protect student athletes and universities from the consequences (primarily monetary) of violating National Collegiate Athletic Association (NCAA) regulations prohibiting student athletes from being represented by agents to procure employment or other financial gain. In 1994 (ch. 94-119, L.O.F.) members of The Florida Bar were exempted from the definition of athlete agent.

The part was substantially rewritten in 1995, in response to agent solicitation violations involving athletes at Florida State University, to increase requirements for licensure as an athlete agent. The new requirements include: an examination (demonstrating knowledge of NCAA and state regulations); a \$15,000 bond to be used to compensate student athletes or academic institutions injured by an agent; standards for record keeping; and continuing education. Requirements relating to contracts and notification to academic institutions are retained and strengthened. A college may pursue a civil action against a person violating the part to recover damages caused by the violation. Practicing as an athlete agent without a license is a third degree felony.

Attorneys are specifically included in the new regulation, except that they are exempt from taking the Florida law and rules portion of the examination. Although the 1995 law grandfathered in existing licensees, attorneys who were practicing as athlete agents, but were not registered because of the 1994 exemption, were not included in the grandfather provisions and are required to meet the requirements of the new law.

Attorneys are extensively regulated by The Florida Bar (operating as an arm of the Florida Supreme Court). Licensure requirements include three years of graduate education at an accredited law school, an examination including questions on multistate and Florida law, and adherence to a comprehensive Code of Professional Ethics, violation of which may result in disciplinary action by The Bar, up to and including revocation of a license.

Currently, section 468.453, F.S., requires a criminal background check of applicants for licensure, but does not specifically require applicants to submit fingerprints as a basis for the background check. The Federal Bureau of Investigation (FBI) will not process fingerprint cards unless there is a specific statutory requirement for their submission.

III. Effect of Proposed Changes:

The bill amends part s. 468.453, F.S., to exempt members of The Florida Bar from the requirements of the part and to require applicants to submit fingerprint cards. The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

Attorneys whose scope of practice includes activities that would otherwise require licensure as an athlete agent will save the expense of complying with the licensure requirements.

Applicants will incur additional costs associated with processing the fingerprint cards. Currently, the Florida Department of Law Enforcement charges \$39 per applicant to process the fingerprint cards. Section 215.405., F.S., allows agencies to collect that cost directly from applicants.

C. Government Sector Impact:

The DBPR will lose revenue from a reduction in the number of applicants and licensees, since attorneys will no longer be required to be licensed. However, the costs of regulation should also decrease commensurately. According to the DBPR, there are currently 77 active licensees, but the number who are Florida Bar members cannot be determined. In FY 95-96 the DBPR licensed a total of 23 applicants, of which 5 were members of The Florida Bar.

The DBPR will need to revise the BEST system to record receipt of fingerprint cards. The workload of approximately 22 man-weeks at \$85.00 will engender an estimated \$6,800 in additional costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
