

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
(317) 232-9855

FISCAL IMPACT STATEMENT

LS 6417

BILL NUMBER: HB 1388

DATE PREPARED: Nov 18, 1999

BILL AMENDED:

SUBJECT: Regulation of sports agents.

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FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill requires a person who acts as a sports agent within Indiana to hold a sports agent permit issued by the Secretary of State. It allows the Secretary of State to issue a sports agent permit to a person who meets specified requirements, including the posting of a bond. It provides that acting as a sports agent without a sports agent permit is a Class A misdemeanor.

It requires that an agent contract between a sports agent and a student athlete must be in writing, be notarized, and state the applicable fee. It requires a sports agent who enters into an agent contract with a student athlete to notify the student athlete's institution within the time required by the statute criminalizing the failure to disclose recruitment. It requires a student athlete who enters into an agent contract to notify the student athlete's institution within 72 hours after executing the contract and before the student athlete participates in or practices for any intercollegiate athletic competition. It provides that failure of the student athlete to notify the educational institution subjects the student athlete to disciplinary action and civil liability for any harm resulting to the educational institution.

It requires a sports agent to establish and maintain business records and requires the sports agent to allow the Secretary of State to inspect the sports agent's business records. It allows a student athlete to rescind an agent contract under certain circumstances. It specifies conditions under which a sports agent permit may be revoked or suspended. It also provides causes of action under which an institution of higher learning may recover damages caused by a sports agent or a student athlete, or both.

Effective Date: January 1, 2001.

Explanation of State Expenditures: The Secretary of State will incur additional expenses associated with issuing permits to sports agents. The extent of the additional expenses will depend on the number of individuals who will be interested in obtaining a sports agent permit. Depending on the number of individuals interested in obtaining a permit, the Secretary of State may need to hire additional staff to process the

applications. The funds and resources that may be required could be supplied through a variety of sources, including the following: (1) Existing staff and resources not currently being used to capacity; (2) Existing staff and resources currently being used in another program; (3) Authorized, but vacant, staff positions, including those positions that would need to be reclassified; (4) Funds that, otherwise, would be reverted; or (5) New appropriations.

A total of 87 positions (82 full-time and 5 part-time) are currently authorized for the Secretary of State's Office. Of the 87, 21 positions were vacant as of November 4, 1999. The vacancies are categorized as follows: 13 clerical assistants, 1 clerical supervisor, 1 information specialist, 2 attorneys, 1 administrative assistant, 1 computer operator, 1 systems analyst, and 1 field auditor. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend upon legislative and administrative actions.

The Secretary of State would also experience an increase in costs associated with the printing of forms pertaining to sports agents. The specific impact of the paper costs would again depend on the number of individuals interested in obtaining a sports agent permit.

The specific impact of this proposal is indeterminable and dependent on the number of individuals who will be interested in obtaining a sports agent permit.

A person who knowingly or intentionally violates the bill's provisions concerning agent contracts commits a Class D felony. A Class D felony is punishable by a prison term ranging from six months to three years or reduction to Class A misdemeanor depending upon mitigating and aggravating circumstances. The average expenditure to house an adult offender was \$17,500 in FY 1998. Individual facility expenditures range from \$11,900 to \$29,400. (This does not include the cost of new construction.) If offenders can be housed in existing facilities with no additional staff, the average cost for medical care, food, and clothing is approximately \$1,825 annually or \$5 daily per prisoner. The average length of stay in DOC facilities for all Class D felony offenders is approximately ten and a half months.

Explanation of State Revenues: Each applicant for a sports agent permit is required to submit a \$250 fee to the Secretary of State. Revenues collected from the fee would be deposited in the State General Fund. The increase in revenue generated by the sports agent fee will depend on the number of individuals who seek to obtain a sports agent permit.

A person who acts as a sports agent without a sports agent permit commits a Class A misdemeanor. If violations occur and fines are collected, revenue to both the Common School Fund and the State General Fund could increase. The maximum fine for a Class A misdemeanor is \$5,000. The maximum fine for a Class D felony is \$10,000. Criminal fines are deposited in the Common School Fund. If the case is filed in a circuit, superior, county or municipal court (courts of record), 70% of the \$120 court fee would be deposited in the State General Fund. If the case is filed in a city or town court, 55% of the fee would be deposited in the State General Fund.

Explanation of Local Expenditures: If more defendants are detained in county jails prior to their court hearings and if those convicted spend time in county jails after their court hearings, local expenditures for jail operations may increase. A Class A Misdemeanor is punishable by up to one year in jail; a Class D felony is punishable by up to three years. The average daily cost to incarcerate a prisoner in a county jail is approximately \$44.

Explanation of Local Revenues: If additional court actions occur and a guilty verdict is entered, local governments would receive revenue from the following sources: (1) The county general fund would receive 27% of the \$120 court fee that is assessed in a court of record. Cities and towns maintaining a law enforcement agency that prosecutes at least 50% of its ordinance violations in a court of record may receive 3% of court fees. If the case is filed in a city or town court, 20% of the court fee would be deposited in the county general fund and 25% would be deposited in the city or town general fund. (2) A \$3 fee would be assessed, and if collected, would be deposited into the county law enforcement continuing education fund. (3) A \$2 jury fee is assessed, and if collected, would be deposited into the county user fee fund to supplement the compensation of jury members.

State Agencies Affected: Secretary of State; Department of Correction.

Local Agencies Affected: Trial courts; local law enforcement agencies.

Information Sources: Office of the Secretary of State (317) 232-6587; Indiana Code; Indiana Sheriffs Association, and the Department of Correction; *State of Indiana HRM Staffing Report* (run date of 11/4/99).