



**House
Legislative
Analysis
Section**

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AGENTS, BOOSTERS, AND STUDENT ATHLETES

House Bill 4571 as enrolled
House Bill 4634 as enrolled
Sponsor: Rep. Joseph Palamara

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Third Analysis (1-10-89)
House Committee: Judiciary
Senate Committee: Regulatory Affairs

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THE APPARENT PROBLEM:

The behavior of unscrupulous agents who prey upon talented but naive student athletes, as well as the actions of unethical sports boosters, have given rise to calls for legislative action. While there exist private rules and administrative sanctions (for example, those of the National Collegiate Athletic Association or NCAA), they are inadequate, in large part because they govern the conduct of students and schools but not of agents and boosters. When it is revealed that a student has signed a contract with an agent while still engaging in college athletics, the student suffers by forfeiting further eligibility but the agent goes unpunished. When over-involved alumni give money, cars, or other special favors to athletes in violation of NCAA standards, the athletes and their schools are penalized directly but not the alumni. Critics cite a recent well-publicized case of an agent signing numerous athletes before their eligibility expired by offering large advance payments. Also cited are cases of agents taking a "shotgun approach" by signing up large numbers of student-athletes, sometimes enticing them with loans, hoping that a few will gain lucrative contracts from professional sports teams. There are several dangers in these practices. Obviously, students can be hurt. They can lose their eligibility to play college sports, they can lose the scholarship support needed to complete their educational programs, they can injure their reputations, and they can find themselves in debt to agents without any hope of making it in professional sports (very few college athletes ever play professionally). Schools, too, can suffer from these activities, by losing valuable players and gaining unsavory reputations that will adversely affect public support. College athletic programs and coaches in particular face the prospect of losing their influence over student-athletes when athletes are indebted to or otherwise in the control of unethical agents. Among other things, this could lead to problems with gambling and point-shaving. Of course, there are principled agents and morally correct alumni recruiters and boosters. What is needed is legislation to regulate unethical practices.

THE CONTENT OF THE BILLS:

The bills would, in general, prohibit agents from entering into certain arrangements with student athletes before the expiration of college eligibility and from paying college employees for referrals of clients; and prohibit people, with a few exceptions, from engaging in certain activities aimed at recruiting athletes to attend a particular school or rewarding them for doing so.

House Bill 4634 would amend the Penal Code to make it a misdemeanor for an athlete agent to:

- induce a student athlete to enter into an agent contract or professional sports services contract before the student athlete's eligibility for collegiate athletics expires.

(Generally, the contracts in question would be those that anticipate the student becoming a professional athlete.)

- enter into an agreement whereby the athlete agent gives, offers, or promises anything of value to an employee of an institution of higher education in return for the referral of a student athlete by that employee.

The bill would not apply to a member of a student athlete's immediate family (i.e., spouse, child, parent, stepparent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, first cousin, or the spouse or guardian of the aforementioned).

The bill defines a student athlete as "an individual who engages in, is eligible to engage in, or may be eligible to engage in any intercollegiate sporting event, contest, exhibition, or program."

A violation would be a misdemeanor punishable by a fine of not more than \$50,000 or an amount equal to three times the inducement involved, whichever was greater, or imprisonment for not more than one year, or both.

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House Bill 4571 would create a new act to prohibit people from giving, offering, promising, or attempting to give any money or thing of value to a student athlete or an immediate family member of a student athlete in order:

- to induce, encourage, or reward the student athlete's application, enrollment, or attendance at an institution of higher education in order to have the student athlete participate in intercollegiate sporting events, contests, exhibitions, or programs at that institution; or
- to induce, encourage, or reward the student athlete's participation in an intercollegiate sporting event, contest, exhibition, or program.

The bill would also prohibit people from aiding or abetting the abovementioned acts.

The prohibitions would not apply to an immediate family member of a student athlete; to an institution of higher education or its representatives when acting in accordance with an official written policy of the institution that complied with rules promulgated by the Department of Education; or to an intercollegiate athletic award approved or administered by the school the athlete attended.

A person who engaged in the prohibited conduct knowing or having reason to know it was a violation of the law would be guilty of a misdemeanor, punishable by a fine of not more than \$50,000 or three times the amounts involved, whichever was greater, or not more than one year imprisonment, or both.

The bill would also prohibit a student athlete or immediate family member from soliciting the prohibited payments. To

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do so would be a misdemeanor punishable by a fine of not more than \$1,000 or an amount equal to the amount accepted, whichever was greater.

The Department of Education would have to promulgate rules establishing standards for the giving and receiving of money and things of value.

FISCAL IMPLICATIONS:

The Department of Education estimates that the promulgation of rules will cost about \$15,000 per year (for one or two years) and that subsequent administrative costs will cost at least \$18,000 annually. (6-2-87)

ARGUMENTS:

For:

The bills would work toward reducing abuses by sports agents and booster groups that are damaging college athletics. The current sanctions available, through athletic conferences and interscholastic sports organizations (such as the NCAA), penalize student-athletes and their institutions but do not effectively reach the unscrupulous agents and unethical boosters. The bills would deter agents from dealing with college athletes while they had eligibility remaining (which is against NCAA rules) by making such activities illegal and providing penalties. Since they face no such sanctions now, agents can tempt naive student athletes with impunity. The students if caught lose their right to play college sports, lose their scholarships, lose respect, and will likely find themselves unable to play professional sports as well (since so few college athletes do succeed at making a professional team). In some cases, students suffer all of these consequences and face the additional hardship of owing money to the agents who brought on their suffering. Boosters, too, can injure student-athletes by inducing them to attend a particular school or by rewarding them for playing sports with gifts that violate the rules of college sports. The bills would make these activities illegal as well and serve to deter overeager alumni.

Against:

It is not clear that the legislature should involve itself in this issue. The private rules and remedies that exist may not be perfect or always effective but is that reason for the state to regulate the economic behavior of adults in this way? It is one thing to say that people who enter certain kinds of contracts have broken the rules of athletic conferences and interscholastic sports organizations, but yet another to make such behavior a crime. Is it wise for the legislature to give NCAA rules the force of law? Does the state want to grant implicit approval to the existing aims and incentives of college athletics? Besides, there have been few of the scandals in Michigan that have rocked college sports elsewhere, and perhaps more effective educational programs for student-athletes, alumni, and agents, coupled with better enforcement of the existing private rules, would be enough. Furthermore, each of the major college sports has a different kind of relationship with the professional leagues, and it may not be appropriate to act as if the problems are the same from sport to sport. For example, eligibility might be a more important concept in college football than in basketball and hockey, whose professional leagues allow players to leave college early to play those sports. And individual sports, such as tennis and golf, are different from teamwork sports.