



Legislative  
Council Staff

*Nonpartisan Services for Colorado's Legislature*

**FISCAL NOTE**

**Drafting Number:** LLS 19-0159  
**Prime Sponsors:** Sen. Todd  
 Rep. Tipper

**Date:** February 1, 2019  
**Bill Status:** Senate Business  
**Fiscal Analyst:** Katie Ruedebusch | 303-866-3001  
 Katie.Ruedebusch@state.co.us

**Bill Topic:** REVISED UNIFORM ATHLETE AGENTS ACT 2015

**Summary of Fiscal Impact:**

<input checked="" type="checkbox"/> State Revenue	<input checked="" type="checkbox"/> TABOR Refund
<input checked="" type="checkbox"/> State Expenditure	<input type="checkbox"/> Local Government
<input type="checkbox"/> State Transfer	<input type="checkbox"/> Statutory Public Entity

The bill establishes a registration program for athlete agents. It increases state cash fund revenue and expenditures on an ongoing basis beginning in FY 2019-20.

**Appropriation Summary:** In FY 2019-20, the bill requires a cash fund appropriation of \$107,697 to the Department of State.

**Fiscal Note Status:** This fiscal note reflects the introduced bill as recommended by the Colorado Commission on Uniform State Laws.

**Table 1  
State Fiscal Impacts Under SB 19-099**

		FY 2019-20	FY 2020-21
<b>Revenue</b>	Cash Funds	\$37,000	\$38,000
	<b>Total</b>	<b>\$37,000</b>	<b>\$38,000</b>
<b>Expenditures</b>	Cash Funds	\$107,697	\$11,274
	Centrally Appropriated	\$5,435	\$2,894
	<b>Total</b>	<b>\$113,132</b>	<b>\$14,168</b>
	<b>Total FTE</b>	0.4 FTE	0.2 FTE
<b>Transfers</b>		-	-
<b>TABOR Refund</b>	General Fund	\$37,000	-

## **Summary of Legislation**

This bill repeals and reenacts the "Revised Uniform Athlete Agents Act (2015)" (RUAAA). An athlete agent is a professional who contracts with student athletes to represent them for purposes of securing a professional sports services or endorsement contract, or who advises the athlete in financial, business, or career management issues or manages those issues on the athlete's behalf.

The bill creates a registration program for athlete agents in the office of the Secretary of State (SOS), effective January 1, 2020. Athlete agents must register with the SOS every two years and pay a registration fee established by the SOS, to be deposited in the newly created Athlete Agents Registration Fund.

The bill establishes requirements for registration and renewal, specifies circumstances in which an application may be declined, and identifies cases in which a registration may be suspended or revoked. The bill also lists requirements for contracts between athletes and agents, and specifies prohibited conduct by an agent, and continuing current criminal penalties and civil remedies for a violation.

Certain notices are required to be given to educational institutions where student athletes enter into a contract with an athlete agent. Educational institutions are required to notify the SOS and the professional league or players association with which an athlete agent is associated if a violation of the RUAAA occurs.

The act repeals on September 1, 2027.

## **Background**

House Bill 08-1058 established the original Uniform Athlete Agents Act (UAAA), which required the Division of Professions and Occupations within the Department of Regulatory Agencies (DORA) to regulate athlete agents. DORA registered six athlete agents during the registration program's existence. House Bill 10-1128 repealed much of the act and terminated the requirement that DORA regulate athlete agents; however, the criminal and civil penalties were not repealed and remain in current law.

**Colorado Commission on Uniform State Laws.** The Colorado Commission on Uniform State Laws is charged with working with the national Law Commission (ULC) to promote uniformity in state laws where uniformity may be deemed desirable and practicable. This is achieved by developing proposed uniform legislation through the ULC that can be adopted by the various state legislatures. Colorado's commissioners are required to be attorneys admitted to practice law in Colorado. Members include six attorneys appointed or reappointed by joint resolution of the General Assembly; Colorado citizens who are elected as a life member of the ULC (after twenty years of membership); and the Director of the Office of Legislative legal Services, or the Director's designee. The Office of Legislative Legal Services provides assistance to the legislative members of the Colorado Commission in their efforts to enact legislation regarding uniform acts.

## **Assumptions**

The fiscal note assumes that:

- 75 athlete agents will register in FY 2019-20 and FY 2020-21 based on the number of registered agents in surrounding states (ranging from 26 to 153), and accounting for population increases and industry growth;
- the costs of the program will be covered by four years of athlete agent fees; and
- athlete agents will comply with the law.

## **Comparable Crime Analysis**

Legislative Council Staff is required to include certain information in the fiscal note for any bill that creates a new crime, changes the classification of an existing crime, or changes an element of an existing crime. The following sections outline data on crimes that are comparable to the offense in this bill and discuss assumptions on future rates of criminal convictions under the bill.

**Prior conviction data.** The criminal and civil penalties for violating provisions of the Uniform Athlete Agents Act were left in the statute after the act was substantially repealed. The bill reenacts the penalties as they are under current statute — a class 2 misdemeanor for first offense, and a class 6 felony for a second and subsequent offense — and expands the list of prohibited conduct to include failing to register with the SOS; initiating contact with a student athlete if unregistered; and encouraging an individual to act on behalf of the athlete agent. Since 2008, there have been no criminal charges filed against athlete agents.

Visit [leg.colorado.gov/fiscalnotes](http://leg.colorado.gov/fiscalnotes) for more information about criminal justice costs in fiscal notes.

## **State Revenue**

The bill increases revenue to the Athlete Agents Registration Fund in SOS by an estimated \$37,000 in FY 2019-20 from registration fees. While the bill could increase fine revenue from criminal penalties, civil penalties, and court fees, the fiscal note assumes a negligible increase in fine revenue, which is discussed further below.

**Fee impact on athlete agents.** Colorado law requires legislative service agency review of measures which create or increase any fee collected by a state agency. These fee amounts are estimates only, actual fees will be set administratively by SOS based on cash fund balance, estimated program costs, and the estimated number of athlete agents subject to the fee. Fee revenue is subject to TABOR. Table 2 below identifies the fee impact of this bill.

**Table 2  
Fee Impact on Athlete Agents**

<b>Fiscal Year</b>	<b>Type of Fee</b>	<b>Proposed Fee</b>	<b>Number Affected</b>	<b>Total Fee Impact</b>
FY 2019-20	Initial 2-year registration	\$1,000	37	\$37,000
<b>FY 2019-20 Total</b>				<b>\$37,000</b>
FY 2020-21	Initial 2-year registration	\$1,000	38	\$38,000
<b>FY 2020-21 Total</b>				<b>\$38,000</b>

**Criminal and civil penalties.** The criminal penalties for prohibited conduct under the bill include a class 2 misdemeanor for a first offense, and a class 6 felony for a second and subsequent offense. While these penalties exist in current law, the list of prohibited conduct is expanded slightly under the bill (see Comparable Crime section). Because there have been no criminal violations filed against athlete agents, the fiscal note assumes a negligible increase in state revenue to the Fines Collection Cash Fund in the Judicial Department. As a point of reference, the fine penalty for a class 2 misdemeanor ranges from \$250 to \$1,000 and the fine penalty for a class 6 felony ranges from \$1,000 to \$100,000

The bill also increases the civil penalty from a maximum of \$25,000 to a range from \$25,000 to \$50,000, and classifies these penalties as deceptive trade practices, with the fine revenue going to the General Fund. Because there have been no criminal filings under the original UAAA, the fiscal note assumes a negligible increase to General Fund revenue from civil penalties.

**Court and administrative fees.** The fiscal note assumes a negligible increase in criminal and civil case filings, and thus a negligible increase to state fee revenue. Fees are imposed for a variety of court-related costs, which vary based on the offense and the type of court. Typical fees may include such items as probation supervision, drug or sex offender surcharges, genetic testing, victim compensation, late fees, and other administrative fees. Some fee revenue is shared with local governments; please refer to the Local Government Impact section for additional information

**State Expenditures**

The bill increases state cash fund expenditures for the SOS by \$113,132 in FY 2019-20 and \$14,198 in FY 2020-21 from the Athlete Agents Registration Fund to establish and administer a registration program for athlete agents. It is also expected to minimally impact workloads in Judicial Department, educational institutions, the Department of Law, and the Department of Corrections on an ongoing basis.

**Table 3  
Expenditures Under SB 19-099**

	FY 2019-20	FY 2020-21
<b>Department of State</b>		
Personal Services	\$18,657	\$11,274
Operating Expenses and Capital Outlay Costs	\$0	\$0
Computer Programming	\$89,040	\$0
Centrally Appropriated Costs*	\$5,435	\$2,894
FTE – Personal Services	0.4 FTE	0.2 FTE
<b>Total Cost</b>	<b>\$113,132</b>	<b>\$14,168</b>
<b>Total FTE</b>	<b>0.4 FTE</b>	<b>0.2 FTE</b>

\* Centrally appropriated costs are not included in the bill's appropriation.

**Secretary of State.** The Department of State will require 0.4 FTE to implement this program in FY 2019-20 and 0.2 FTE in FY 2020-21. To implement the program the SOS will create forms, design a filing system, and conduct rulemaking. On an ongoing basis, the SOS requires 0.2 FTE to respond to inquiries, process applications and investigate complaints.

The SOS will create an online registration system that will allow applicants to create an account, submit registration information, and pay registration and renewal fees. The SOS will also display limited information about registered athlete agents on their website. The development cost is estimated at \$89,040 in FY 2019-20, using the \$106 per hour programming rate at 840 hours.

**Judicial Department.** The bill includes a class 2 misdemeanor for a first offense and a class 6 felony for a second or subsequent offense; however, those are existing penalties that were established by the original UAAA. There have been no criminal filings under the original UAAA. As a result, the fiscal note assumes that athlete agents will comply with the law and create no increase for the Judicial Department's criminal filings and workload.

**Educational institutions.** The bill slightly increases workload for institutions of K-12 and higher education by requiring these institutions to notify the SOS and other organizations if an athlete agent commits a violation. This minimal workload increase can be accomplished within the existing appropriations of these institutions.

**Department of Law.** The department will perform rulemaking and counsel for the SOS within current appropriations.

**Department of Corrections.** To the extent that this bill increases the number of persons sentenced to the DOC, costs will increase. However, at this time it is assumed that the likelihood of persons being sentenced to the custody of the DOC is minimal and that any increase in costs will be addressed through the annual budget process, if necessary.

**TABOR refund.** The bill is expected to increase state General Fund obligations for TABOR refunds by \$37,000 in FY 2019-20. Under current law and the December 2018 forecast, the bill will correspondingly increase the amount refunded to taxpayers via sales tax refunds on income tax returns for tax year 2020. The state is not expected to collect a TABOR surplus in FY 2020-21.

**Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are estimated to be \$5,435 in FY 2019-20 and \$2,894 in FY 2020-21.

### **Local Government**

**County court expenditures.** The bill may increase workload for district attorneys to prosecute any new misdemeanor offenses under the bill. To the extent that this bill increases misdemeanor convictions and offenders are sentenced to jail, costs will increase. Under current law, a court may sentence an offender to jail for a class 2 misdemeanor for a period of between 3 and 12 months. Because the courts have the discretion of incarceration or imposing a fine from \$250 to \$1,000, the precise impact at the local level cannot be determined. The cost to house an offender in county jails varies from about \$53 to \$114 per day. The fiscal note assumes that the impact of this bill on county courts will be negligible.

**Denver County Court expenditures.** The bill may result in a negligible increase in workload for the Denver County Court, managed and funded by Denver City and County. The court will try class 2 misdemeanor offenses under the bill. Because the courts have the discretion of incarceration or imposing a fine, the precise impact cannot be determined but is expected to be negligible. For a class 2 misdemeanor, the fine range is from \$250 to \$1,000, and the jail sentence range is from 3 to 12 months. The cost to house an offender in county jails varies from \$53 to \$114 per day. Probation services in the Denver County Courts may also experience a negligible increase in workload to supervise persons convicted under the bill.

### **Technical Note**

The bill creates the Athlete Agents Registration Fund in the SOS because implementation costs will be expended prior to registration fee collection, the SOS may need to loan money to the new fund from the Department of State Cash Fund.

### **Effective Date**

The bill takes effect August 2, 2019, if the General Assembly adjourns on May 3, 2019, as scheduled, and no referendum petition is filed.

### **State Appropriations**

For FY 2019-20, the bill requires an appropriation of \$107,697 from the Athlete Agents Registration Fund to the Secretary of State's Office.

### **State and Local Government Contacts**

District Attorneys Law	Higher Education Secretary of State	Judicial - Criminal
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