



**Legislative
Council Staff**

Nonpartisan Services for Colorado's Legislature

**REVISED
FISCAL NOTE**

(replaces fiscal note dated February 1, 2019)

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

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Bill Status: Senate Finance
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Bill Topic: REVISED UNIFORM ATHLETE AGENTS ACT 2015

- Summary of Fiscal Impact:**
- State Revenue
 - State Expenditure
 - State Transfer
 - TABOR Refund
 - Local Government
 - 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 \$42,056 to the Department of Regulatory Agencies.

Fiscal Note Status: This fiscal note reflects the introduced bill as amended by the Senate Business, Labor & Technology Committee.

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

		FY 2019-20	FY 2020-21
Revenue	Cash Funds	\$94,500	\$10,500
	Total	\$94,500	\$10,500
Expenditures	Cash Funds	\$42,056	\$44,113
	Centrally Appropriated	\$8,828	\$10,348
	Total	\$50,883	\$54,461
	Total FTE	0.6 FTE	0.6 FTE
Transfers		-	-
TABOR Refund	General Fund	\$94,500	-

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 Division of Professions and Occupations in the Department of Regulatory Agencies (DORA), effective January 1, 2020. Athlete agents must register with DORA every two years and pay a registration fee established by DORA, to be deposited in the Division of Professions and Occupations Cash 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 continues 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 DORA 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 DORA to regulate athlete agents. DORA registered 6 athlete agents during the registration program's existence. HB 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.

Assumptions

The fiscal note assumes that:

- 50 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; 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 DORA; 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 for more information about criminal justice costs in fiscal notes.

State Revenue

The bill increases revenue to the Division of Professions and Occupations Cash Fund in DORA by an estimated \$94,500 in FY 2019-20 and \$10,500 in FY 2020-21 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 DORA 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

Fiscal Year	Type of Fee	Proposed Fee	Number Affected	Total Fee Impact
FY 2019-20	Initial 2-year registration	\$2,100	45	\$94,500
			FY 2019-20 Total	\$94,500
FY 2020-21	Initial 2-year registration	\$2,100	5	\$10,500
			FY 2020-21 Total	\$10,500

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 DORA by \$50,883 in FY 2019-20 and \$54,461 in FY 2020-21 from the Division of Professions and Occupations Cash Fund to establish and administer a registration program for athlete agents. It is also expected to minimally impact workloads in Judicial Department, higher 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
Department of Regulatory Agencies		
Personal Services	\$36,783	\$43,448
Operating Expenses and Capital Outlay Costs	\$5,273	\$665
Centrally Appropriated Costs*	\$8,828	\$10,348
FTE – Personal Services	0.6 FTE	0.6 FTE
Total Cost	\$50,883	\$54,461
Total FTE	0.6 FTE	0.6 FTE

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

Department of Regulatory Agencies. Beginning in FY 2019-20, DORA will require 0.6 FTE to implement this program, including updating database tables, conducting rulemaking and outreach, and updating the department's website and forms. On an ongoing basis, DORA requires 0.6 FTE to respond to inquiries, process applications, and investigate complaints.

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 DORA 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. Under the bill, the Department of Regulatory Agencies will require 100 hours of legal services, provided by the Department of Law. This minimal increase in legal services costs will be accounted for through the annual budget process, with the Department of Law billing client agencies based on their historical utilization of legal services. Therefore, no change in appropriations is required in this bill.

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 \$94,500 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 \$8,828 in FY 2019-20 and \$10,348 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.

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 \$42,056 from Division of Professions and Occupations Cash Fund to DORA, and an allocation of 0.6 FTE.

State and Local Government Contacts

District Attorneys
Law

Higher Education
Secretary of State

Judicial - Criminal