

**CONSENT CALENDAR**

**February 3, 2022**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Judiciary to which was referred HB  
1023,**

**AN ACT relative to regulation of athlete agents. Having  
considered the same, report the same with the following  
resolution: RESOLVED, that it is INEXPEDIENT TO  
LEGISLATE.**

**Rep. Douglas Trottier**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Judiciary</b>
Bill Number:	<b>HB 1023</b>
Title:	<b>relative to regulation of athlete agents.</b>
Date:	<b>February 3, 2022</b>
Consent Calendar:	<b>CONSENT</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

This bill was offered with good intent. However, this bill has serious implications for both athlete agents and the athletes themselves. National standards are now being developed. The committee feels this bill is not ready to move forward.

Vote 21-0.

Rep. Douglas Trottier  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## CONSENT CALENDAR

Judiciary

**HB 1023**, relative to regulation of athlete agents. **INEXPEDIENT TO LEGISLATE.**

Rep. Douglas Trottier for Judiciary. This bill was offered with good intent. However, this bill has serious implications for both athlete agents and the athletes themselves. National standards are now being developed. The committee feels this bill is not ready to move forward. **Vote 21-0.**

Original: House Clerk

Cc: Committee Bill File

**HOUSE COMMITTEE ON JUDICIARY**

**EXECUTIVE SESSION on HB 1023**

**BILL TITLE:** relative to regulation of athlete agents.

**DATE:** February 3, 2022

**LOB ROOM:** 206-208

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Trottier

Seconded by Rep. Sylvia

Vote: 21-0

**CONSENT CALENDAR: YES**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Kurt Wuelper, Clerk



2021 SESSION

Judiciary

Bill #: HB1023 Motion: ITL AM #: \_\_\_\_\_ Exec Session Date: 2-3-22

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Gordon, Edward M. Chairman	✓		
McLean, Mark Vice Chairman	✓		
Sylvia, Michael J.	✓		
Wuelper, Kurt F. Clerk	✓		
Alexander, Joe H.	✓		
<del>Rice, Kimberly A.</del> EDWARDS	✓		
<del>Silber, Norman J.</del> MERNER	✓		
Greene, Bob J.	✓		
Kelley, Diane E.	✓		
Tausch, Lindsay ANDRUS	✓		
Trottier, Douglas R.	✓		
Smith, Marjorie K.	✓		
Berch, Paul S. woods	✓		
Horrigan, Timothy O.	✓		
DiLorenzo, Charlotte I.	✓		
Chase, Wendy	✓		
Kenney, Cam E.	✓		
Langley, Diane M.	✓		
McBeath, Rebecca Susan	✓		
Paige, Mark	✓		
Simpson, Alexis	✓		

*Kurt Wuelper*

21

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## HOUSE COMMITTEE ON JUDICIARY

### PUBLIC HEARING ON HB 1023

**BILL TITLE:** relative to regulation of athlete agents.

**DATE:** 1-19-22

**LOB ROOM:** 206/8

**Time Public Hearing Called to Order:** 9:33 AM

**Time Adjourned:** 10:05

**Committee Members:** ~~Reps. Gordon, McLean, Wuelper, Sylvia, Alexander Jr., Nottor, Merner, Greene, D. Kelley, Andrus, Trottier, M. Smith, Borch,~~ **Horrigan, DiLorenzo, Chase, Kenney, Langley, McBeath, Paige and Simpson**

**Bill Sponsors:**

**Rep. Yokela, Rock. 33; Rep. Baxter, Rock. 20**

### TESTIMONY

\* Use asterisk if written testimony and/or amendments are submitted.

Rep Yokela Sponsor Currently there is no training required for anyone to become an Athlete Agent. Anyone can simply register and be one. NCAA rules can punish schools if the school do things that violate NCAA rules. This bill will remove gthe registration requirement and allow schools to maintain the right to recuperate damages that might ensue from the agents' action. It also gives the student-athlete the opportunity to sue under this bill. But there is no need for prior registration.

Q Wuelper: How can the school be punished for stuff which they had no knowledge and people they don't know or control? Ans: I'll let the people from UNH answer that, but it comes from the NCAA rules.

Q Simpson: Is any education process for athletes or agents? Ans: There is no program required in Nh. There are programs for people who want to be an NFL or NBA agent. Q Gordon: You want to remove the registration but still hold the agents accountable? Ans Yes. Q Who is an athletic agent? Are they not somehow identified? Ans: There is a definition in the bill and it amounts to anyone who signs a contract or get a cut of another's contract. Q It sounds like there is a written contract? If f Joe pizza maker gives a kid money to have his face on a flyer, does that make him an athlete agent? Ans: No. Under the definition the agent must be directly compensated and the pizza maker isn't directly compensated. Q Does the registration cause any harm? Ans: The fee is a barrier to entry and shouldn't be unless necessary. Q DiLorenzo: the agent is the person getting the residual for the athlete? Ans: Yes. Q Can an athlete have more than one agent? Ans: Yes. Athlete might have one for TV and another for radio and others for other purposes.

\*Thomas Cronin & Shawn Green UNH Up until recently RSA 332-J this section of law has been largely dormant. Recent court decisions have opened the door for student athletes to profit from their images. In addition to Name, Image, and Likeness [NIL], we expect NCAA to further expand the opportunity for students to profit from their athletic performance. This bill provides legal remedy for students and schools who may be harmed by their violation of NCAA rules. Requiring written contract between students and agents would be a good addition. Right now, monetary compensation for most agents is quite low, but it is expected to get much larger. Q Sylvia: Current law in place since 2006? Do you know why? Ans: No Q DiLorenzo: Do you suggest caution because of the NCAA? Ans: Yes. If we make laws that come into conflict with new rules that could be problematic. The NCAA convention meets today and once they decide where they are going, we expect a lot of changes in the next few months. Q Horrigan: How many agents are at UNH? Ans: Some. Q Gordon: Do you think the registration process has some value to students? Ans: Yes. To the degree that the NCAA opens these opportunities for athletes we do think the law should provide

some protection for the students. Q Why can't a student file suit today if they are injured by an agent? Ans: Don't know.

A handwritten signature in cursive script, appearing to read "Kurt Wuelper".

Rep Kurt Wuelper





# House Remote Testify

Judiciary Committee Testify List for Bill HB1023 on 2022-01-19

Support: 1 Oppose: 0 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>	<u>Signed Up</u>
Connolly, Ross	Merrimack, NH rconnolly@afphq.org	A Lobbyist	Americans for Prosperity-New Hampshire	Support	No	No	1/18/2022 9:37 AM

HB 1023

Granite State College



University System  
of New Hampshire

## House Judiciary Committee

January 19, 2022

HB 1023, relative to regulation of athlete agents.

Testimony of Tom Cronin, Director of Government Relations, USNH

Shawn Green, Associate Athletic Director for Compliance, UNH

Recent changes to NCAA regulations concerning Name, Image and Likeness (NIL) have created incredible possibilities for the nation's student athletes. USNH is supportive of these opportunities for our student-athletes and has worked to establish policies that permit wide latitude. At the same time, the NCAA's still evolving policy landscape has resulted in new challenges for student-athletes and institutions seeking to ensure both opportunity and compliance in a now purposefully diffuse regulatory environment.

We understand the intent of HB 1023 to reduce barriers to entry for individuals seeking to represent the state's student athletes. We're thankful to the sponsor for his work on this proposal and the opportunities to discuss the bill with him prior to its introduction. We are concerned, however, that the bill may go too far in repealing useful pieces of existing statute that seek to protect student-athletes and institutions of higher education from unscrupulous actors.

The NCAA's new NIL rules rightly allow student-athletes to profit from their identities in the free-market. However, these regulations continue to expressly prohibit student-athletes or their agents from taking any actions towards a professional career in athletics. A concern for our institutions is the possibility of agents seeking to represent our students for purposes of NIL and then, either inadvertently or intentionally, taking actions that could jeopardize the students future NCAA eligibility. Frankly, for agents who may be seeking to work with our students, they are unlikely to realize significant income through generally small dollar NIL arrangements. Instead, the real opportunities lie in the possibility of helping the student enter the professional market after graduation. It is easy to see why an agent could be incentivized to skirt regulation towards an eventual payday, particularly if most of the negative consequences from such activity is likely to impact the student-athlete and not the agent.

The existing RSA 332-J provides a detailed process for registering and regulating the activity of athlete agents. It provides athletes with some assurances on the qualifications of those seeking to represent them, and details significant penalties for violations of the law. HB 1023 would largely repeal the portions of the law related to registration while leaving sections governing the conduct of agents and most of the penalties for violation. In fact, we support the new language on page two of the bill that would create a right of action for students harmed by an agent. Currently this right is only enumerated for educational institutions.

With that said, we would ask the committee to carefully consider two of the repeal sections, specifically 332-J: 12 and 332-J: 15. First, existing J: 12 requires agents to maintain contract records and allow public inspection of those records. Given the proposed repeal of the existing registration procedure (currently J: 4 and 5) an ability to review contract records would be the only real opportunity for an athlete to conduct due diligence on a potential agent. To be clear, this likely would not be an equal substitute for a registration requirement that, according to law, involves, among other requirements, a review of an agent's professional, educational and criminal records. If, however, the committee chooses to move towards removing the registration requirement we would request the retention of this section to allow students an opportunity to evaluate a potential agent's record.

Second, existing J: 15 establishes a significant civil penalty for violations of the law. While the proposed remaining 332-J would provide opportunities to pursue an agent through the court system, we believe the additional threat of a significant civil penalty for violations of the law serves as a valuable deterrent. If the committee decides to retain this section, you may consider whether the Secretary of State would continue to be the best office to provide oversight for this section of statute given the proposed repeal of all other related responsibilities.

The regulation of college athletics continues to undergo significant change. Later this month it is expected the NCAA leadership will adopt a new constitution for the organization. That change will lead to a full review of the rules and regulations that govern nearly every aspect of the various divisions and conferences. Today, no one can tell you exactly how the NIL or any other issue facing the associations will play out over the next couple of years. So, while we understand the sponsor's motivation, we would ask the committee to carefully consider whether now is the right time for a significant change to existing law.

Contact: Tom Cronin, Director of Government Relations  
thomas.cronin@unh.edu | 603-264-5659

Shawn Green, Associate Athletic Director for Compliance  
shawn.green@unh.edu | 603-862-0557

**Archived:** Wednesday, March 16, 2022 10:39:04 AM  
**From:** Ross Connolly  
**Sent:** Tuesday, January 18, 2022 4:38:37 PM  
**To:** ~House Judiciary Committee  
**Subject:** Written testimony for HB 1023  
**Importance:** Normal

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Dear members of the House Judiciary Committee,

I write to you in support of HB 1023, relative to regulation of athlete agents.

This bill will provide relief to individuals seeking to represent athletes in the state of New Hampshire. The process of becoming an athlete agent is an onerous one, even without a license. Nearly every major sports league requires formal certification to represent athletes. For example, at any given time there are around 1,000 agents representing NFL Players Association members. To qualify, you must have a graduate degree and pass a detailed examination. This is an extremely high bar and makes it unnecessary to require the additional step of licensure.

Athletes' agents are an expanding industry with the new ability of college athletes to receive sponsorships and payment for their "name, image, or likeness." This new policy from the NCAA will likely bring more agents into states like New Hampshire to represent college athletes. That is why this bill provides a cause of action for athletes who may have been misrepresented by an agent. This addition makes athlete protections even stronger than the current license requirement but eliminates the additional hoop to jump through for agents.

Reducing the burden on Granite State workers and those looking to move to our state to work should be a priority. 16% of New Hampshire's workforce is licensed, and due to the onerous regulations licensure requires, an estimated 8,032 jobs are lost. <sup>[1]</sup> We should be seeking to reduce burdens on individuals pursuing work by using alternatives to licensure to address consumer and worker safety.

For these reasons we urge the committee to move HB 1023 ought to pass.

Best regards,

Ross Connolly  
Deputy State Director  
Americans for Prosperity-New Hampshire  
603-530-1151

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[1] <https://new.ij.org/report/license-to-work-2/ltw-state-profiles/ltw2-new-hampshire/>

**HB 1023 - AS INTRODUCED**

2022 SESSION

22-2258

11/10

HOUSE BILL            **1023**

AN ACT                relative to regulation of athlete agents.

SPONSORS:            Rep. Yokela, Rock. 33; Rep. Baxter, Rock. 20

COMMITTEE:          Judiciary

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ANALYSIS

This bill removes the requirement that athlete agents register with the state.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT relative to regulation of athlete agents.

*Be it Enacted by the Senate and House of Representatives in General Court convened:*

1 1 Athlete Agents; Required Form of Contract. Amend RSA 332-J:9, II(b) to read as follows:

2 (b) The name of any person ~~[not listed in the application for registration or renewal of~~  
3 ~~registration]~~ who will be compensated because the student-athlete signed the agency contract;

4 2 Athlete Agents; Prohibited Conduct; Penalties. Amend RSA 332-J:13 and 14 to read as  
5 follows:

6 332-J:13 Prohibited Conduct; Penalties.

7 I. An athlete agent, with the intent to induce a student-athlete to enter into an agency  
8 contract, shall not:

9 (a) Give any materially false or misleading information or make a materially false  
10 promise or representation.

11 (b) Furnish anything of value to a student-athlete before the student-athlete enters into  
12 the agency contract.

13 (c) Furnish anything of value to any individual other than the student-athlete or another  
14 ~~[registered]~~ athlete agent.

15 II. An athlete agent shall not:

16 (a) ~~[Initiate contact with a student-athlete unless registered under this chapter]~~  
17 ***Contribute to the loss of eligibility of a student athlete without a signed contract with the***  
18 ***warning required pursuant to RSA 332-J:9.***

19 (b) ~~[Refuse or fail to retain or permit inspection of the records required to be retained by~~  
20 ~~RSA 332-J:12]~~ ***Refuse a student athlete's right to cancel as required pursuant to RSA 332-***  
21 ***J:11.***

22 (c) ~~[Fail to register when required by RSA 332-J:3]~~ ***Fail to give notice to an education***  
23 ***institution as required pursuant to RSA 332-J:10.***

24 ~~[(d) Provide materially false or misleading information in an application for registration~~  
25 ~~or renewal of registration.]~~

26 ~~[(e)]~~ (d) Predate or postdate an agency contract.

27 ~~[(f)]~~ (e) Fail to notify a student-athlete before the student-athlete signs or otherwise  
28 authenticates an agency contract for a particular sport that the signing or authentication may make  
29 the student-athlete ineligible to participate as a student-athlete in that sport.

30 III.(a) An athlete agent who violates any provision of paragraph I is guilty of a class B  
31 felony.

**HB 1023 - AS INTRODUCED**

**- Page 2 -**

1 (b) An athlete agent who violates any provision of paragraph II is guilty of a class A  
2 misdemeanor.

3 332-J:14 Civil Remedies.

4 I. An educational institution has a right of action against an athlete agent or a former  
5 student-athlete for damages caused by a violation of RSA 332-J:13. In an action under this section,  
6 the court may award to the prevailing party costs and reasonable attorney's fees.

7 II. Damages of an educational institution under paragraph I include losses and expenses  
8 incurred because, as a result of the conduct of an athlete agent or former student-athlete, the  
9 educational institution was injured by a violation of RSA 332-J:13 or was penalized, disqualified, or  
10 suspended from participation in athletics by a national association for the promotion and regulation  
11 of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to  
12 mitigate sanctions likely to be imposed by such an organization.

13 III. A right of action under this section does not accrue until the educational institution  
14 discovers or by the exercise of reasonable diligence would have discovered the violation by the  
15 athlete agent or former student-athlete.

16 IV. Any liability of the athlete agent or the former student-athlete under this section is  
17 several and not joint.

18 *IV-a. A former student athlete has a right of action against an athlete agent for*  
19 *damages caused by any violation of RSA 332-J:13, II(a) or (b). In any such action, the court*  
20 *may award to the prevailing party costs and reasonable attorney's fees.*

21 *IV-b. Damages of a student athlete under paragraph IV-a shall include losses and*  
22 *expenses incurred because, as a result of the conduct of an athlete agent, the former*  
23 *student athlete was penalized, disqualified, or suspended from participation in athletics*  
24 *by a national association for the promotion and regulation of athletics, by an athletic*  
25 *conference, or because of reasonable self-imposed disciplinary action taken to mitigate*  
26 *sanctions likely to be imposed such an organization. Damages shall not include those*  
27 *damages imposed by judgments against the former athlete agent.*

28 V. This chapter does not restrict rights, remedies, or defenses of any person under law or  
29 equity.

30 3 Repeal. The following are repealed:

31 I. RSA 332-J:1, IX, relative to the definition of "registration" for purposes of regulating  
32 athlete agents.

33 II. RSA 332-J:2 through 332-J:8, relative to the registration of athlete agents.

34 III. RSA 332-J:12, relative to required records of athlete agents.

35 IV. RSA 332-J:15, relative to administrative penalties against athlete agents.

36 4 Effective Date. This act shall take effect 60 days after its passage.