

SUBJECT: Increased penalties for repeat violations of sports agent restrictions

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Place, Talton, Dunnam, Hinojosa, Keel, Nixon, A. Reyna
1 nay — Galloway
1 absent — Farrar

WITNESSES: For — None
Against — None
On — Guy Joyner, Secretary of State's Office

BACKGROUND : Athlete or sports agents in Texas must register with the secretary of state and comply with certain statutory requirements for contacting amateur athletes, contracting with athletes, and advertising their services. Violations can incur civil penalties of up to \$25,000. The agent also may have to forfeit rights to any items of value given to an athlete as a contract inducement and refund any consideration paid on the athlete's behalf and may be sued by the athlete. The statute also provides that intentional or knowing violations constitute a Class A misdemeanor, with a maximum penalty of a \$4,000 fine and one year in jail.

DIGEST: HB 369 would provide that repeat violations of the athlete agent requirements could be punished by a fine of up to \$250,000 and one year in jail or both. A judge granting community supervision to an athlete agent who had previously been convicted of violating agent registration laws would have to require the defendant to serve at least 30 days jail time.

The bill would take effect September 1, 1997, and apply to offenses committed on or after the effective date.

SUPPORTERS SAY: HB 369 would help enforce Texas laws regulating sports agents. While the majority of sports agents obey both statutory law and collegiate regulations,

a substantial number of agents will do anything to obtain and hold on to their athlete clients.

Recent headlines have shown that these illegal activities can have a devastating effect on a school's athletic program. Probation or other sanctions can be imposed, resulting in the loss of monies from network television contracts and postseason games or tournaments, as well as restrictions on future athletic scholarships or loss of eligibility for individual athletes.

Left virtually untouched are the agents themselves who created the problems. The \$25,000 civil penalty now provided for is construed as just a cost of doing business. HB 369 would raise those penalties considerably to deter agents from repeat violations. It also would impose mandatory jail time on second-time offenders. Community supervision — or probation — typically waives jail time for nonviolent offenders. With this bill, judges would be required to impose jail time to convey the message that Texas is serious about these offenses. Under the current law, offenses are a Class A misdemeanor, with penalties that can include up to one year in jail. HB 369 would not add to that time; it would merely require judges to impose at least a portion of the jail time for repeat offenders on community supervision.

The bill would not harm persons guilty only of innocent errors or tardy registrations. The current statute specifically provides that an offense is an intentional or knowing violation.

**OPPONENTS
SAY:**

The sanctions proposed under this bill would be far too severe for the offense involved. The proposed maximum civil penalty of \$250,000 would be harshly punitive, and mandatory jail time would be grossly out of proportion to the actual harm committed. No useful purpose would be served by imposing jail terms on a person accused of illegally speaking to a college athlete, of making a misleading claim in advertising the business, or of faulty registration with the Secretary of State's Office, even if that conduct violated state law or collegiate regulations and was a repeat offense. If fraud has been committed, the criminal fraud statutes should be used to pursue that person with possible jail sanctions, rather than a regulatory law designed to impose administrative rules upon a profession. Imposition of fines, civil or

administrative penalties would be appropriate penalties for violations, but imprisonment would not serve any useful purpose.

OTHER
OPPONENTS
SAY:

Requiring judges to impose a minimum 30 days of jail time as a condition of community supervision would be an unwelcome intrusion on the discretion of judges. The courts should be left to use their own judgment and experience to determine when to offer more punitive or lenient options to law breakers.