

H. B. 2787

(By Delegates Morgan, Swartzmiller, Givens,
Hartman, Manypenny, Michael and C. Miller)

[Introduced January 24, 2011; referred to the
Committee on Government Organization then Judiciary.]

**FISCAL
NOTE**

A BILL to repeal §30-18-2, §30-18-3, §30-18-4, §30-18-5, §30-18-6,
§30-18-7, §30-18-8, §30-18-9, §30-18-10, §30-18-11 §30-18-12,
and §30-18-13 of the Code of West Virginia, 1931, as amended;
to amend said code by adding thereto a new article, designated
§15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6,
§15-14-7, §15-14-8, §15-14-9, §15-14-10, §15-14-11, §15-14-12,
§15-14-13, §15-14-14, §15-14-15, §15-14-16, §15-14-17, §15-14-
18 and §15-14-19; and to amend said code by adding thereto a
new section, designated §30-18-14, all relating to
transferring private security services from the Secretary of
State to the Division of Criminal Justice Services; license
requirement; authority of the Director of the Division of
Criminal Justice Services; rulemaking requirements; the
creation of the West Virginia Private Security Fund; use of
the West Virginia Private Security Fund; eligibility
requirements for licensure of private investigators and
security services; application requirements for license to do

1 business as a private investigator or security services;
 2 requirements of employees under firm license; license renewal
 3 requirements; complaint and investigation procedures; due
 4 process requirements; grounds for disciplinary action; hearing
 5 procedures; judicial review; criminal sanctions; providing
 6 that a single act may be evidence of pattern of practice;
 7 action for damages; and requiring a report to the Joint
 8 Committee on Government Organization.

9 *Be it enacted by the Legislature of West Virginia:*

10 That §30-18-2, §30-18-3, §30-18-4, §30-18-5, §30-18-6, §30-18-
 11 7, §30-18-8, §30-18-9, §30-18-10, §30-18-11 §30-18-12, and §30-18-
 12 13 of the Code of West Virginia, 1931, as amended, be repealed;
 13 that said code be amended by adding thereto a new article,
 14 designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-
 15 14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10, §15-14-11 §15-14-12,
 16 §15-14-13, §15-14-14, §15-14-15, §15-14-16, §15-14-17, §15-14-18
 17 and §15-14-19; and that said code be amended by adding thereto a
 18 new section, designated §30-18-14, all to read as follows:

19

20 **ARTICLE 14. SECURITY SERVICES.**

21 **§15-14-1. License Required to Practice.**

22 (a) A person may not engage in the private investigation
 23 business or security guard business without having first obtained
 24 a license to conduct the business.

1 (b) All licensed persons, including private detectives,
2 private investigators, security guards, private detective or
3 investigative firms and security guard firms, are prohibited from
4 transferring their licenses to an unlicensed person, firm or
5 agency. This prohibition includes contracting or subcontracting
6 with an unlicensed person, firm or agency to conduct the private
7 investigation business or security guard business.

8 **§15-14-2. Definitions.**

9 For the purposes of this article, the following terms mean the
10 following:

11 (1) "Applicant" means a person who files a completed
12 application to be licensed to conduct a private investigation
13 business or a security guard business.

14 (2) "Director" means the Director of the Division of Criminal
15 Justice Services.

16 (3) "Division" means the Division of the Criminal Justice
17 Services.

18 (4) "Firm license" means the license held by a person who is
19 authorized to operate a private detective investigative firm or
20 security guard firm.

21 (5) "Person" means a natural person, a group of persons or
22 individuals acting individually or as a group, a corporation,
23 company, partnership, association, society, firm, or any business
24 organization or entity organized or existing under the laws of this

1 or any other state or country;

2 (6) "Private investigation business" means the business of
3 doing an investigation or investigations, for hire, reward or any
4 other type of remuneration, to obtain information about:

5 (A) A crime which is alleged to have occurred or is threatened
6 to occur;

7 (B) The habits, activities, conduct, movements, location,
8 associations, transactions, reputation or character of any person;

9 (C) The credibility of witnesses or other persons;

10 (D) The location or recovery of lost or stolen property;

11 (E) The causes or origins of any fire, accident or injury to
12 any property, real or personal, or to identify or locate any person
13 or persons responsible for any such fire, accident or injury;

14 (F) The truth or falsity of any statement or representation,
15 whether written or oral, or of any type of depiction;

16 (G) Any matters which constitute evidence or which may lead to
17 the discovery of evidence to be used before any judicial or
18 quasijudicial tribunal, including, but not limited to, civil or
19 criminal courts, administrative agencies, investigating committees,
20 or boards of award or arbitration;

21 (H) The whereabouts of any missing or kidnapped person;

22 (I) The affiliation, connection or relationship of any person
23 with any corporation or other business entity, union, organization,
24 society or association, or with any official, member or

1 representative thereof;

2 (J) Any person or persons seeking employment in the place of
3 any employee or employees who have quit work by reason of any
4 strike; or

5 (K) The conduct, honesty, efficiency, loyalty or activities of
6 employees, agents, contractors and subcontractors.

7 (7) (A) "Private detective" or "private investigator" means a
8 person who is licensed pursuant to the provisions of this article
9 to conduct a private investigation business, and who conducts the
10 business individually and independently from any private detective
11 or investigative firm;

12 (B) "Private detective" or "private investigator" does not
13 include:

14 (i) Any individual while acting as an adjuster for an
15 insurance company or companies;

16 (ii) Individuals employed exclusively and regularly by only
17 one employer in connection with the affairs of such employer only;

18 (iii) An officer or employee of the United States, or any law-
19 enforcement officer of this state or any political subdivision
20 thereof, while such officer or employee is engaged in the
21 performance of his or her official duties or while working for a
22 private employer in his or her off-duty hours;

23 (iv) Attorneys or counselors-at-law or any employee or
24 representative of such attorney or counselor;

1 (v) Any corporation duly authorized by this state to operate
2 central burglar or fire alarm protection business; or

3 (vi) Any investigator of crime appointed by a prosecuting
4 attorney of a county pursuant to the provisions of section two,
5 article four, chapter seven of this code.

6 (8) "Private detective or investigative firm" means any
7 private detective agency or business or any investigative agency or
8 business that is operated by a licensed private detective or
9 investigator and which employs one or more other persons who
10 actually conduct the private investigation business

11 (9) (A) "Security guard" means a person who is licensed
12 pursuant to the provisions of this article to conduct a security
13 guard business, and who conducts such business individually and
14 independently from a security guard firm.

15 (B) "Security guard" does not include a person who is employed
16 exclusively and regularly by only one employer in connection with
17 the affairs of such employer only, or a person who is otherwise
18 hereinafter excluded from the requirements of this article;

19 (10) (A) "Security guard business" means the business of
20 furnishing, for hire, reward or other remuneration, watchmen,
21 guards, bodyguards, private patrolmen or other persons, to:

22 (i) Protect property, real or personal, or any person;

23 (ii) To prevent theft, unlawful taking, misappropriation or
24 concealment of goods, wares or merchandise, money, bonds, stocks,

1 notes or other valuable documents, papers and articles of value; or
2 (iii) To furnish for hire, guard dogs or armored motor vehicle
3 security services, in connection with the protection of persons or
4 property;

5 (B) "Security guard business" does not include any activities
6 or duties for which it is necessary to be trained and certified as
7 a law-enforcement officer in accordance with the provisions of
8 article twenty-nine, chapter thirty of this code.

9 (11) "Security guard firm" means any security guard agency or
10 business that is operated by a licensed security guard and which
11 employs one or more other persons who actually conduct a security
12 guard business as defined in subdivision (8) of this section.

13 **§15-14-3. Authority of the Director of the Division of Criminal**
14 **Justice Services.**

15 (a) The director shall:

16 (1) Establish requirements for licenses and permits;

17 (2) Establish procedures for submitting, approving and
18 rejecting applications for licenses and permits;

19 (3) Determine the qualifications of any applicant for licenses
20 and permits;

21 (4) Prepare, conduct, administer and grade examinations for
22 professional licenses;

23 (5) Determine the passing grade for the examinations;

24 (6) Maintain records of the examinations the division or a

1 third party administrators, including the number of persons taking the
2 examinations and the pass and fail rate;

3 (7) Investigate alleged violations of the provisions of this
4 article, legislative rules, orders and final decisions;

5 (8) Conduct disciplinary hearings of persons regulated;

6 (9) Determine disciplinary action and issue orders;

7 (10) Institute appropriate legal action for the enforcement of
8 the provisions of this article;

9 (11) Maintain an accurate registry of names and addresses of
10 all licensees by the board;

11 (12) Create a photo identification card for licensees;

12 (13) Keep accurate and complete records of its proceedings,
13 and certify the same as may be necessary and appropriate;

14 (14) Establish the continuing education requirements for
15 professional licensees;

16 (15) Issue, renew, combine, deny, suspend, revoke or reinstate
17 licenses and permits;

18 (16) Establish a fee schedule;

19 (17) Propose rules for legislative approval in accordance with
20 the provisions of article three, chapter twenty-nine-a of this code
21 to implement the provisions of this article; and

22 (18) Take all other actions necessary and proper to effectuate
23 the purposes of this article.

24 (b) The director may:

1 (1) Contract with third parties to administer the examinations
2 required under the provisions of this article;

3 (2) Sue and be sued in its official name as an agency of this
4 state; and

5 (3) Confer with the Attorney General or his or her assistant
6 in connection with legal matters and questions.

7 **§15-14-4. Rulemaking.**

8 (a) The director shall promulgate emergency rules and propose
9 rules for legislative approval, in accordance with the provisions
10 of article three, chapter twenty-nine-a of this code, to implement
11 the provisions of this article, including:

12 (1) Standards and requirements for licenses;

13 (2) Procedures for examinations and reexaminations;

14 (3) Requirements for third parties to prepare and/or
15 administer examinations and reexaminations;

16 (4) Educational and experience requirements;

17 (5) The passing grade on the examinations;

18 (6) Standards for approval of courses and curriculum;

19 (7) Procedures for the issuance and renewal of licenses;

20 (8) A fee schedule;

21 (9) Continuing education requirements for professional
22 licensees;

23 (10) The procedures for denying, suspending, revoking,
24 reinstating or limiting the practice of licensees;

1 (11) Requirements for inactive or revoked licenses or permits;
2 and
3 (12) Any other rules necessary to effectuate the provisions of
4 this article.

5 **§15-14-5. Fees; special revenue account; administrative fines.**

6 (a) All fees and other moneys, except administrative fines,
7 received by the division shall be deposited in a separate Special
8 Revenue Fund in the State Treasury designated the "West Virginia
9 Private Security Fund". The fund is used by the division for the
10 administration of this article. Except as may be provided in
11 article one of this chapter, the division retains the amount in the
12 special revenue account from year to year. No compensation or
13 expense incurred under this article is a charge against the General
14 Revenue Fund.

15 (b) Any amount received as fines imposed pursuant to this
16 article shall be deposited into the General Revenue Fund of the
17 State Treasury.

18 **§15-14-6. Eligibility requirements for license to conduct the**
19 **private investigation business.**

20 (a) In order to be eligible for any license to conduct the
21 private investigation business, an applicant shall:

22 (1) Be at least eighteen years of age;

23 (2) Be a citizen of the United States or an alien who is
24 legally residing within the United States;

1 (3) Not have had any previous license or authorization to
2 conduct a private investigation business or to conduct a security
3 guard business revoked or any application for any authorization
4 denied by the appropriate governmental authority in any
5 jurisdiction;

6 (4) Not have been declared incompetent by reason of mental
7 defect or disease by any court of competent jurisdiction unless a
8 court has subsequently determined that the applicant's competency
9 has been restored;

10 (5) Not be an alcohol or drug abuser as these terms are
11 defined in section eleven, article one-a, chapter twenty-seven of
12 this code;

13 (6) Be of good moral character;

14 (7) Have a minimum of two years of experience, education or
15 training in any one of the following areas, or some combination
16 thereof:

17 (A) Course work that is relevant to the private investigation
18 business at an accredited college or university;

19 (B) Employment as a member of any United States government
20 investigative agency, employment as a member of a state or local
21 law-enforcement agency or service as a sheriff;

22 (C) Employment by a licensed private investigative or
23 detective agency for the purpose of conducting the private
24 investigation business;

- 1 (D) Service as a magistrate in this state; or
2 (E) Any other substantially equivalent training or experience;
3 (8) Not have been convicted of a felony in this state or any
4 other jurisdiction;
5 (9) Not have been convicted of any of the following:
6 (A) Illegally using, carrying or possessing a firearm or other
7 dangerous weapon;
8 (B) Making or possessing burglar's instruments;
9 (C) Buying or receiving stolen property;
10 (D) Entering a building unlawfully;
11 (E) Aiding an inmate's escape from prison;
12 (F) Possessing or distributing illicit drugs;
13 (G) Any misdemeanor involving moral turpitude or for which
14 dishonesty of character is a necessary element; and
15 (10) Not have violated any provisions of section one or
16 subdivisions (1) through (7), subsection (g), section thirteen of
17 this article.
18 (b) The provisions of this section do not prevent the issuance
19 of a license to any person who, subsequent to his or her
20 conviction, has received an executive pardon therefor, removing
21 this disability.
22 (c) Any person who qualifies for a private investigator's
23 license shall also be qualified to conduct security guard business
24 upon notifying the director in writing.

1 (d) No person may be employed as a licensed private
2 investigator while serving as magistrate.

3 **§15-14-7. Application requirements for a license to conduct the**
4 **private investigation business.**

5 (a) To be licensed to be a private detective, a private
6 investigator or to operate a private detective or investigative
7 firm, each applicant shall complete and file a written application,
8 under oath, with the director and on form as prescribed by the
9 director.

10 (b) On the application each applicant shall provide the
11 following information: The applicant's name, birth date,
12 citizenship, physical description, military service, current
13 residence, residences for the preceding seven years, qualifying
14 education or experience, the location of each of his or her offices
15 in this state and any other information requested by the director
16 in order to comply with the requirements of this article.

17 (c) In the case of a corporation that is seeking a firm
18 license, the application shall be signed by the president, and
19 verified by the secretary or treasurer of such corporation and
20 shall specify the name of the corporation, the date and place of
21 its incorporation, the names and titles of all officers, the
22 location of its principal place of business, and the name of the
23 city, town or village, stating the street and number, and otherwise
24 such apt description as will reasonably indicate the location. If

1 the corporation has been incorporated in a state other than West
2 Virginia, a certificate of good standing from the state of
3 incorporation must accompany the application. This information
4 must be provided in addition to that required to be provided by the
5 applicant.

6 (d) The applicant shall provide:

7 (1) Information in the application about whether the applicant
8 has ever been arrested for or convicted of any crime or wrongs,
9 either done or threatened, against the government of the United
10 States;

11 (2) Information about offenses against the laws of West
12 Virginia or any jurisdiction; and

13 (3) Any facts as may be required by the director to show the
14 good character, competency and integrity of the applicant.

15 To qualify for a firm license, the applicant shall provide
16 such information for each person who will be authorized to conduct
17 the private investigation business and for each officer, member or
18 partner of the firm.

19 (e) As part of the application, each applicant shall give the
20 director permission to review the records held by the West Virginia
21 State Police for any convictions that may be on record for the
22 applicant.

23 (f) For each applicant for a license and for each officer,
24 member and partner of the firm applying for a license, the

1 application shall be accompanied by one recent full-face photograph
2 and one complete set of the person's fingerprints.

3 (g) For each applicant, the application shall be accompanied
4 by:

5 (1) Character references from at least five reputable
6 citizens. Each reference must have known the applicant for at
7 least five years preceding the application. No reference may be
8 connected to the applicant by blood or marriage. All references
9 must have been written for the purpose of the application for a
10 license to conduct the private investigation business; and

11 (2) A nonrefundable application processing service charge of
12 \$50, which shall be payable to the director to offset the cost of
13 license review and criminal investigation background report from
14 the West Virginia State Police, along with a license fee of \$100 if
15 the applicant is an individual, or \$200 if the applicant is a firm,
16 or \$500 if the applicant is a nonresident of West Virginia or a
17 foreign corporation or business entity.

18 (h) All applicants for private detective, private investigator
19 or private investigation firm licenses shall file in the office of
20 director a surety bond. Such bond shall:

21 (1) Be in the sum of \$2,500 and conditioned upon the faithful
22 and honest conduct of such business by such applicant;

23 (2) Be written by a company recognized and approved by the
24 Insurance Commissioner of West Virginia and approved by the

1 Attorney General of West Virginia with respect to its form;

2 (3) Be in favor of the State of West Virginia for any person
3 who is damaged by any violation of this article. The bond must
4 also be in favor of any person damaged by such a violation.

5 (i) Any person claiming against the bond required by
6 subsection (h) of this section for a violation of this article may
7 maintain an action at law against any licensed individual or firm
8 and against the surety. The surety shall be liable only for
9 damages awarded under section eighteen of this article and not the
10 punitive damages permitted under that section. The aggregate
11 liability of the surety to all persons damaged by a person or firm
12 licensed under this article may not exceed the amount of the bond.

13 **§15-14-8. Requirements for employees conducting the private**
14 **investigation business under a firm license.**

15 (a) Any person who has a private detective firm or
16 investigative firm license is responsible for supervising any
17 employee or other individual who conducts the private investigation
18 business under the authority of such person's firm license,
19 regardless of whether the employee or other individual receives
20 compensation for conducting the business. The supervision shall
21 include providing any education or training that is reasonably
22 necessary to ensure compliance with the requirements of this
23 article.

24 (b) Any employee or individual who conducts the private

1 investigation business under the authority of a private detective
2 or investigative firm license shall:

3 (1) Satisfy the requirements of section five of this article,
4 except that such person need not satisfy the education and training
5 requirements contained in subdivision (7) of section five; and

6 (2) Authorize the director to review the records held by the
7 West Virginia State Police for any convictions that may be on
8 record for such employee or individual.

9 (c) A holder of a private detective or investigative firm
10 license is prohibited from authorizing any individual or employee
11 to conduct a private investigation business if such individual does
12 not comply with the requirements of this section.

13 (d) For every employee or individual who conducts the business
14 of private investigation under the authority of a private detective
15 or investigative firm license, the holder of such license must
16 maintain a recent full-face photograph and one complete set of
17 fingerprints on file at such firm's central business location in
18 this state. Upon request, the holder of the firm license must
19 release the photographs and fingerprints to the director.

20 **§15-14-9. Eligibility requirements to be licensed to conduct**
21 **security guard business.**

22 (a) In order to be eligible for any license to conduct
23 security guard business, an applicant shall:

24 (1) Be at least eighteen years of age;

1 (2) Be a citizen of the United states or an alien who is
2 legally residing within the United States;

3 (3) Not have had any previous license or authorization to
4 conduct a security guard business or to conduct a private
5 investigation business revoked or any application for any such
6 licenses or registrations denied by the appropriate governmental
7 authority in this or any other state or territory;

8 (4) Not have been declared incompetent by reason of mental
9 defect or disease by any court of competent jurisdiction unless
10 said court has subsequently determined that the applicant's
11 competency has been restored;

12 (5) Not be an alcohol or drug abuser as these terms are
13 defined in section eleven, article one-a, chapter twenty-seven of
14 this code;

15 (6) Be of good moral character;

16 (7) Have had at least one year verified, full-time employment
17 conducting security guard business or conducting the private
18 investigation business working for a licensed firm or have one year
19 of substantially equivalent training or experience;

20 (8) Not have been convicted of a felony in this state or any
21 other state or territory;

22 (9) Not have been convicted of any of the following:

23 (A) Illegally using, carrying or possessing a firearm or other
24 dangerous weapon;

1 (B) Making or possessing burglar's instruments;

2 (C) Buying or receiving stolen property;

3 (D) Entering a building unlawfully;

4 (E) Aiding an inmate's escape from prison;

5 (F) Possessing or distributing illicit drugs;

6 (G) Any misdemeanor involving moral turpitude or for which
7 dishonesty of character is a necessary element; and

8 (10) Not having violated any provision of section eight of
9 this article.

10 (b) This section does not prevent the issuance of a license
11 to any person who, subsequent to his or her conviction, has
12 received an executive pardon therefor, removing this disability.

13 **§15-14-10. Application requirements for a license to conduct**
14 **security guard business.**

15 (a) To be licensed as a security guard or to operate a
16 security guard firm, each applicant shall complete and file a
17 written application, under oath, with the director and on a form
18 prescribed by the director.

19 (b) On the application, each applicant shall provide the
20 following information: The applicant's name, birth date,
21 citizenship, physical description, military service, current
22 residence, residences for the preceding seven years, qualifying
23 education or experience, the location of each of his or her offices
24 in this state and any other information requested by the director

1 in order to comply with the requirements of this article.

2 (c) In the case of a corporation that is seeking a firm
3 license, the application shall be signed by the president, and
4 verified by the secretary or treasurer of such corporation and
5 shall specify the name of the corporation, the date and place of
6 its incorporation, the names and titles of all officers, the
7 location of its principal place of business, and the name of the
8 city, town or village, stating the street and number, and otherwise
9 such apt description as will reasonably indicate the location. If
10 the corporation has been incorporated in a state other than West
11 Virginia, a certificate of good standing from the state of
12 incorporation must accompany the application. This information
13 shall be provided in addition to that required to be provided the
14 applicant.

15 (d) The applicant shall provide:

16 (1) Information in the application about whether the applicant
17 has ever been arrested for or convicted of any crime or wrongs,
18 either done or threatened, against the government of the United
19 States;

20 (2) Information about offenses against the laws of West
21 Virginia or any state; and

22 (3) Any facts as may be required by the director to show the
23 good character, competency and integrity of the applicant.

24 To qualify for a firm license, the applicant shall provide

1 such information for each person who would be authorized to conduct
2 security guard business under the applicant's firm license and for
3 each officer, member or partner in the firm.

4 (e) As part of the application, each applicant shall give the
5 director permission to review the records held by the West Virginia
6 State Police for any convictions that may be on record for the
7 applicant.

8 (f) For each applicant for a license and for each officer,
9 member and partner of the firm applying for a license, the
10 application shall be accompanied by one recent full-face photograph
11 and one complete set of the person's fingerprints.

12 (g) For each applicant, the application shall be accompanied
13 by:

14 (1) Character references from at least five reputable
15 citizens. Each reference must have known the applicant for at
16 least five years preceding the application. No reference may be
17 connected to the applicant by blood or marriage. All references
18 must have been written for the purpose of the application for a
19 license to conduct security guard business; and

20 (2) A nonrefundable application processing service charge of
21 \$50, which shall be payable to the division to offset the cost of
22 license review and criminal investigation background report from
23 the West Virginia State Police, along with a license fee of \$100 if
24 the applicant is an individual, or \$200 if the applicant is a firm,

1 or \$500 if the applicant is a nonresident of West Virginia or a
2 foreign corporation or business entity.

3 (h) All applicants for security guard licenses or security
4 guard firm licenses shall file in the office of director a surety
5 bond. Such bond shall:

6 (1) Be in the sum of \$2,500 and conditioned upon the faithful
7 and honest conduct of such business by such applicant;

8 (2) Be written by a company recognized and approved by the
9 Insurance Commissioner of West Virginia and approved by the
10 Attorney General of West Virginia with respect to its form;

11 (3) Be in favor of the State of West Virginia for any person
12 who is damaged by any violation of this article. The bond must
13 also be in favor of any person damaged by such a violation.

14 (i) Any person claiming against the bond required by
15 subsection (h) of this section for a violation of this article may
16 maintain an action at law against any licensed individual or firm
17 and against the surety. The surety shall be liable only for
18 damages awarded under section eighteen of this article and not the
19 punitive damages permitted under that section. The aggregate
20 liability of the surety to all persons damaged by a person or firm
21 licensed under this article may not exceed the amount of the bond.

22 **§15-14-11. Requirements for employees conducting security guard**
23 **business under a firm license.**

24 (a) Any person who has a security guard firm license is

1 responsible for supervising any employee or other individual who
2 conducts security guard business under the authority of such
3 person's firm license, regardless of whether such employee or other
4 individual receives compensation for conducting such business.
5 Such supervision shall include providing any education or training
6 that is reasonably necessary to ensure compliance with the
7 requirements of this article.

8 (b) Any employee or individual who conducts security guard
9 business under the authority of a firm license shall:

10 (1) Satisfy the requirements of section nine of this article,
11 except that the person need not satisfy the prior employment
12 requirements contained in subdivision (7) of section nine; and

13 (2) Authorize the director to review the records held by the
14 West Virginia State Police for any convictions that may be on
15 record for such employee or individual.

16 (c) A holder of a security guard firm license is prohibited
17 from authorizing any individual or employee to conduct security
18 guard business if such individual does not comply with the
19 requirements of this section.

20 (d) For every employee or individual who conducts security
21 guard business under the authority of a security guard firm
22 license, the holder of such license must maintain a recent full-
23 face photograph and one complete set of fingerprints on file at
24 such firm's central business location in this state. Upon request,

1 the holder of the firm license must release the photographs and
2 fingerprints to the director.

3 **§15-14-12. Renewal of license.**

4 A license granted under the provisions of this article is in
5 effect for one year from the date the certificate of license is
6 issued and may be renewed for a period of one year by the director
7 upon application, in a form as the director may prescribe, and upon
8 payment of the fee and the filing of the surety bond. At the time
9 of applying for renewal of a license, the director may require any
10 person to provide additional information to reflect any changes in
11 the original application or any previous renewal.

12 **§15-14-13. Complaints; investigations; due process procedure;**
13 **grounds for disciplinary action.**

14 (a) The director may, based on credible information, and shall
15 upon the written complaint of any person cause an investigation to
16 be made to determine whether grounds exist for disciplinary action
17 under this article or the legislative rules.

18 (b) Upon initiation or receipt of the complaint, the director
19 shall provide a copy of the complaint to the licensee.

20 (c) After reviewing any information obtained through an
21 investigation, the director shall determine if probable cause
22 exists that the licensee has committed a violation of any of the
23 acts contained in subdivisions (1) through (7), subsection (g) or
24 rules promulgated pursuant to this article.

1 (d) Upon a finding that probable cause exists that the
2 licensee has violated of any of the acts contained in subdivisions
3 (1) through (7), subsection (g) or rules promulgated pursuant to
4 this article, the director may enter into a consent decree or hold
5 a hearing for the suspension or revocation of the license or the
6 imposition of sanctions against the licensee.

7 (e) The director may issue subpoenas and subpoenas duces tecum
8 to obtain testimony and documents to aid in the investigation of
9 allegations against any person regulated by the article.

10 (f) The director may sign a consent decree or other legal
11 document.

12 (g) The director may, after notice and opportunity for
13 hearing, deny or refuse to renew, suspend or revoke the license of,
14 impose probationary conditions upon or take disciplinary action
15 against, any licensee for any of the following reasons once a
16 violation has been proven by a preponderance of the evidence:

17 (1) Obtaining a license by fraud, misrepresentation or
18 concealment of material facts;

19 (2) Being convicted of a felony or other crime involving moral
20 turpitude;

21 (3) Being guilty of unprofessional conduct which placed the
22 public at risk, as defined by legislative rule;

23 (4) Intentional violation of a lawful order or legislative
24 rule;

1 (5) Having had a license or other authorization revoked or
2 suspended, other disciplinary action taken, or an application for
3 licensure or other authorization revoked or suspended by the proper
4 authorities of another jurisdiction;

5 (6) Aiding or abetting unlicensed practice; or

6 (7) Engaging in an act while acting in a professional capacity
7 which has endangered or is likely to endanger the health, welfare
8 or safety of the public.

9 (c) It is unlawful for any person subject to the provisions of
10 this article to knowingly commit any of the following:

11 (1) Employ any individual to perform the duties of an employee
12 who has not first complied with all provisions of this article and
13 the adopted regulations;

14 (2) Falsely represent that a person is the holder of a valid
15 license;

16 (3) Make a false report with respect to any matter with which
17 he or she is employed;

18 (4) Divulge any information acquired from or for a client to
19 persons other than the client or his or her authorized agent
20 without express authorization to do so or unless required by law;

21 (5) Accept employment which includes obtaining information
22 intended for illegal purposes;

1 (6) Authorize or permit another person to violate any
2 provision of this article or any rule of the director adopted for
3 this article.

4 (h) For the purposes of subsection (g) of this section,
5 disciplinary action may include:

6 (1) Reprimand;

7 (2) Probation;

8 (3) Administrative fine, not to exceed \$1,000 per day per
9 violation;

10 (4) Mandatory attendance at continuing education seminars or
11 other training;

12 (5) Practicing under supervision or other restriction;

13 (6) Requiring the licensee to report to the director for
14 periodic interviews for a specified period of time; or

15 (7) Other corrective action considered by the director to be
16 necessary to protect the public, including advising other parties
17 whose legitimate interests may be at risk.

18 **§15-14-14. Procedures for hearing; right of appeal.**

19 (a) Hearings are governed by the provisions of article five,
20 chapter twenty-nine-a.

21 (b) An administrative law judge shall conduct the hearing.

22 (c) At the conclusion of a hearing, the administrative law
23 judge shall prepare a proposed written order containing findings of
24 fact and conclusions of law. The proposed order may contain

1 proposed disciplinary actions if the director so directs. The
2 director may accept, reject or modify the decision of the
3 administrative law judge.

4 (d) The director has the authority to administer oaths,
5 examine any person under oath and issue subpoenas and subpoenas
6 duces tecum.

7 (e) If, after a hearing, the director determines the licensee,
8 has violated of any of the acts contained in subdivisions (1)
9 through (7), subsection (g), section thirteen of this article or
10 the rules, a formal written decision shall be prepared which
11 contains findings of fact, conclusions of law and a specific
12 description of the disciplinary actions imposed.

13 **§15-14-15. Judicial review.**

14 Any licensee affected by a decision of the director entered
15 after a hearing may obtain judicial review of the decision in
16 accordance with section four, article five, chapter twenty-nine-a
17 of this code, and may appeal any ruling resulting from judicial
18 review in accordance with article six, chapter twenty-nine-a of
19 this code.

20 **§15-14-16. Criminal proceedings; penalties.**

21 (a) When, as a result of an investigation under this article
22 or otherwise, the director has reason to believe that a licensee,
23 has committed a criminal offense under this article, the director

1 shall bring its information to the attention of an appropriate law-
2 enforcement official.

3 (b) A person violating a provision of this article is guilty
4 of a misdemeanor and, upon conviction thereof, shall be fined not
5 less than \$1,000 nor more than \$10,000 or confined in jail not more
6 than six months, or both fined and confined.

7 **§15-14-17. Single act evidence of practice.**

8 In any action brought or in any proceeding initiated under
9 this article, evidence of the commission of a single act prohibited
10 by this article is sufficient to justify a penalty, injunction,
11 restraining order or conviction without evidence of a general
12 course of conduct.

13 **§15-14-18. Action for damages**

14 Any individual who is injured by a violation of this article
15 may bring an action for recovery of damages, including punitive
16 damages plus reasonable attorney's fees and court costs.

17 **§15-14-19. Report to the Joint Committee on Government**

18 **Organization.**

19 The director, with the assistance of other interested parties
20 shall study the private security industry. The director shall
21 report to the Joint Committee on Government Organization during the
22 2011 October interims. The report shall include:

23 (1) Types of licensure;

- 1 (2) Qualifications and training of applicants, including the
- 2 use of community colleges to provide the training”;
- 3 (3) Licensure fees;
- 4 (4) Powers and responsibilities of licensees; and
- 5 (5) Any other statutory change.

6 **CHAPTER 30. PROFESSIONS AND OCCUPATIONS.**

7 **ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.**

8 **§30-18-14. Transfer of duties to the Division of Criminal**
9 **Justice Services.**

10 Effective July 1, 2011, the duties and responsibilities
11 contained in this article are transferred to the Division of
12 Criminal Justice Services.

NOTE: The purpose of this bill is to transfer the authority to license private security services from the Secretary of State to the Division of Criminal Justice Services.

§15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8, §15-14-9, §15-14-10, §15-14-11 §15-14-12, §15-14-13, §15-14-14, §15-14-15, §15-14-16, §15-14-17, §15-14-18, §15-14-19 and §30-18-14 are new; therefore, they been completely underscored.