

WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

Enrolled

Committee Substitute

for

Senate Bill 376

BY SENATORS TRUMP, PALUMBO, GAUNCH, WILLIAMS,

BEACH, YOST, MILLER AND MAYNARD, *original sponsors*

[Passed March 10, 2016; in effect 90 days from passage]

1 AN ACT to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended,
2 relating to background checks for applicants for private investigator and security guard
3 licensure; requiring each applicant to submit to a state and national criminal history record
4 check; requiring criminal history record check to be based on fingerprints submitted to
5 West Virginia Secretary of State or its assigned agent for forwarding to Federal Bureau of
6 Investigation; requiring applicant to meet all requirements necessary to accomplish
7 criminal history record check; providing that results of criminal history record check may
8 not be released to or by a private entity except under certain circumstances; providing
9 criminal history record check and related records are not public records; directing applicant
10 to ensure that criminal history record check is completed as soon as possible after date of
11 original application for registration; and providing that applicant pay actual costs of
12 fingerprinting and criminal history record check.

Be it enacted by the Legislature of West Virginia:

1 That §30-18-10 of the Code of West Virginia, 1931, as amended, be amended and
2 reenacted to read as follows:

ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.

§30-18-10. Authority of Secretary of State.

1 (a) When the Secretary of State is satisfied as to the good character, competency and
2 integrity of an applicant, of all employees or individuals conducting the private investigation
3 business or security guard services under a firm license and, if the applicant is a firm, of each
4 member, officer or partner, he or she shall issue and deliver to the applicant a certificate of license.
5 Each license issued shall be for a period of one year and is revocable at all times for cause shown
6 pursuant to subsection (b) of this section or any rules promulgated pursuant thereto.

7 (b) The Secretary of State may propose for promulgation in accordance with the provisions
8 of chapter twenty-nine-a of this code legislative rules necessary for the administration and
9 enforcement of this article and for the issuance, suspension and revocation of licenses issued

10 under the provisions of this article. The Secretary of State shall afford any applicant an opportunity
11 to be heard in person or by counsel when a determination is made to deny, revoke or suspend an
12 applicant's license or application for license, including a renewal of a license. The applicant has
13 fifteen days from the date of receiving written notice of the Secretary of State's adverse
14 determination to request a hearing on the matter of denial, suspension or revocation. The action
15 of the Secretary of State in granting, renewing, or in refusing to grant or to renew, a license is
16 subject to review by the circuit court of Kanawha County or other court of competent jurisdiction.

17 (c) At any hearing before the Secretary of State to challenge an adverse determination by
18 the Secretary of State on the matter of a denial, suspension or revocation of a license, if the
19 adverse determination is based upon a conviction for a crime which would bar licensure under
20 the provisions of this article, the hearing shall be an identity hearing only and the sole issue which
21 may be contested is whether the person whose application is denied or whose license is
22 suspended or revoked is the same person convicted of the crime.

23 (d) The Secretary of State shall require each applicant to submit to a state and national
24 criminal history record check, as set forth in this subsection:

25 (1) The criminal history record check shall be based on fingerprints submitted to the West
26 Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

27 (2) The applicant shall meet all requirements necessary to accomplish the state and
28 national criminal history record check, including:

29 (A) Submitting fingerprints for the purposes set forth in this section; and

30 (B) Authorizing the Secretary of State, the West Virginia State Police and the Federal
31 Bureau of Investigation to use all records submitted and produced for the purpose of screening
32 the applicant for a license.

33 (3) The results of the state and national criminal history record check may not be released
34 to or by a private entity except:

35 (A) To the individual who is the subject of the criminal history record check;

36 (B) With the written authorization of the individual who is the subject of the criminal history
37 record check; or

38 (C) Pursuant to a court order.

39 (4) The criminal history record check and related records are not public records for the
40 purposes of chapter twenty-nine-b of this code.

41 (5) The applicant shall ensure that the criminal history record check is completed as soon
42 as possible after the date of the original application for registration.

43 (6) The applicant shall pay the actual costs of the fingerprinting and criminal history record
44 check.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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Chairman, Senate Committee

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Chairman, House Committee

Originated in the Senate.

In effect 90 days from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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President of the Senate

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Speaker of the House of Delegates

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Day of, 2016.

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Governor