

# **WEST VIRGINIA LEGISLATURE**

## **2016 REGULAR SESSION**

**Introduced**

### **Senate Bill 376**

BY SENATORS TRUMP, PALUMBO, GAUNCH, WILLIAMS,

BEACH, YOST, MILLER AND MAYNARD

[Introduced January 25, 2016;

Referred to the Committee on the Judiciary.]

1 A BILL to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating  
2 to background checks for applicants for private investigator and security guard licensure.

*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 ~~shall be~~ is satisfied as to the good character, competency  
2 and 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 ~~such~~ the applicant a certificate of  
5 license. Each license issued shall be for a period of one year and ~~shall be~~ is revocable at all times  
6 for cause shown pursuant to subsection (b) of this section or any rules promulgated pursuant  
7 thereto.

8 (b) The Secretary of State ~~shall have the authority to~~ may propose for promulgation in  
9 accordance with the provisions of chapter twenty-nine-a of this code ~~such~~ legislative rules ~~as may~~  
10 ~~be~~ necessary for the administration and enforcement of this article and for the issuance,  
11 suspension and revocation of licenses issued under the provisions of this article. The Secretary  
12 of State shall afford any applicant an opportunity to be heard in person or by counsel when a  
13 determination is made to deny, revoke or suspend ~~any such~~ an applicant's license or application  
14 for license, including a renewal of a license. ~~Such~~ The applicant ~~shall have~~ has fifteen days from  
15 the date of receiving written notice of the Secretary of State's adverse determination to request a  
16 hearing on the matter of denial, suspension or revocation. The action of the Secretary of State in  
17 granting, renewing, or in refusing to grant or to renew, a license, ~~shall be~~ is subject to review by  
18 the circuit court of Kanawha County or other court of competent jurisdiction.

19 (c) At any hearing before the Secretary of State to challenge an adverse determination by

20 the Secretary of State on the matter of a denial, suspension or revocation of a license, if the  
21 adverse determination is based upon a conviction for a crime which would bar licensure under  
22 the provisions of this article, the hearing shall be an identity hearing only, and the sole issue which  
23 may be contested is whether the person whose application is denied or whose license is  
24 suspended or revoked is the same person convicted of the crime.

25 (d) In the course of determining an applicant's eligibility to be a private investigator or  
26 security guard, the Secretary of State shall request each applicant to submit a full set of  
27 fingerprints for the purpose of conducting a criminal history record check. Records shall be  
28 checked through the Criminal Identification Bureau of the West Virginia State Police and the  
29 United States Federal Bureau of Investigation for a national criminal history record check, by  
30 paragraph two, subsection g, section three of this article or paragraph two, subsection g, section  
31 six of this article, to ensure the applicants are not disqualified by reason of committing a felony in  
32 this or any other state.

NOTE: The purpose of this bill is to expand the authority of the Secretary of State and West Virginia State Police to conduct a national criminal history records check on applicants for private investigator or security guard licensure.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.