

WEST VIRGINIA LEGISLATURE

2020 REGULAR SESSION

Committee Substitute

for

House Bill 4453

BY DELEGATES FOSTER, D. JEFFRIES AND JENNINGS

[Originating in the Committee on Government

Organization; February 3, 2020.]

1 A BILL to amend and reenact §30-18-2, §30-18-3, §30-18-5, §30-18-6, and §30-18-9 of the Code
2 of West Virginia, 1931, as amended, all relating to the eligibility and application
3 requirements for private investigator and security guard licensure; recognizing military
4 service; removing a disparate out of state license fee; removing the ambiguous reference
5 to moral turpitude as grounds for disqualification; and by capping the license renewal fee.

Be it enacted by the Legislature of West Virginia:

ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICE.

§30-18-2. Eligibility requirements for license to conduct the private investigation business.

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

3 (1) Be at least 18 years of age;

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

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

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

13 (5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

14 ~~(6) Be of good moral character~~

15 ~~(7)~~ (6) Have a minimum of ~~two years~~ one year of experience, education or training in any
16 one of the following areas, or some combination thereof:

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

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

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

23 (D) Service as a magistrate in this state; ~~or~~

24 (E) Any other substantially equivalent training or experience; or

25 (F) Military service.

26 ~~(8)~~ (7) Not have been convicted of a felony in this state or any other state or territory;

27 ~~(9)~~ (8) Not have been convicted of any of the following:

28 (A) Illegally using, carrying or possessing a pistol or other dangerous weapon;

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

30 (C) Buying or receiving stolen property;

31 (D) Entering a building unlawfully;

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

33 (F) Possessing or distributing illicit drugs; and

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

36 ~~(10)~~ (9) Not have violated any provision of section eight of this article.

37 The provisions of this section shall not prevent the issuance of a license to any person
38 who, subsequent to his or her conviction, shall have received an executive pardon therefor,
39 removing this disability.

40 (b) Any person who qualifies for a private investigator's license shall also be qualified to
41 conduct security guard business upon notifying the Secretary of State in writing that the person
42 will be conducting such business.

43 (c) No person may be employed as a licensed private investigator while serving as
44 magistrate.

§30-18-3. Application requirements for a license to conduct the private investigation business.

1 (a) To be licensed to be a private detective, a private investigator or to operate a private
2 detective or investigative firm, each applicant shall complete and file a written application, under
3 oath, with the Secretary of State and in such form as the secretary may prescribe.

4 (b) On the application each applicant shall provide the following information: The
5 applicant's name, birth date, citizenship, physical description, military service, current residence,
6 residences for the preceding seven years, qualifying education or experience, the location of each
7 of his or her offices in this state and any other information requested by the Secretary of State in
8 order to comply with the requirements of this article.

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

17 (d) The applicant shall provide:

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

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

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

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

27 (e) As part of the application, each applicant shall give the Secretary of State permission
28 to review the records held by the Division of Public Safety for any convictions that may be on
29 record for the applicant.

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

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

34 (1) Character references from at least five reputable citizens of the United States of
35 America. Each reference must have known the applicant for at least five years preceding the
36 application. No reference may be connected to the applicant by blood or marriage. All references
37 must have been written for the purpose of the application for a license to conduct the private
38 investigation business; and

39 (2) A nonrefundable application processing service charge of \$50, which shall be payable
40 to the Secretary of State to offset the cost of license review and criminal investigation background
41 report from the ~~department~~ Division of Public Safety, along with a license fee of \$100 if the
42 applicant is an individual, or \$200 if the applicant is a firm. ~~or \$500 if the applicant is a nonresident~~
43 ~~of West Virginia or a foreign corporation or business entity~~ The license fee shall be deposited to
44 the General Revenue Fund, and shall be refunded only if the license is denied.

45 (h) All applicants for private detective or private investigator licenses or for private
46 investigation firm licenses shall file in the office of Secretary of State a surety bond. Such bond
47 shall:

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

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

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

54 (i) Any person claiming against the bond required by subsection (h) of this section for a
55 violation of this article may maintain an action at law against any licensed individual or firm and
56 against the surety. The surety shall be liable only for damages awarded under section twelve of
57 this article and not the punitive damages permitted under that section. The aggregate liability of
58 the surety to all persons damaged by a person or firm licensed under this article may not exceed
59 the amount of the bond.

§30-18-5. Eligibility requirements to be licensed to conduct security guard business.

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

3 (1) Be at least 18 years of age;

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

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

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

12 (5) Not suffer from habitual drunkenness or from narcotics addiction or dependence;

13 ~~(6) Be of good moral character~~

14 ~~(7)~~ (6) Have had at least one year verified, full time employment conducting security guard
15 business or conducting the private investigation business working for a licensed firm or have one
16 year of ~~substantially~~ equivalent training or experience;

17 ~~(8)~~ (7) Not have been convicted of a felony in this state or any other state or territory;

18 ~~(9)~~ (8) Not have been convicted of any of the following:

19 (A) Illegally using, carrying or possessing a pistol or other dangerous weapon;

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

21 (C) Buying or receiving stolen property;

22 (D) Entering a building unlawfully;

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

24 (F) Possessing or distributing illicit drugs; and

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

27 ~~(10)~~ (9) Not having violated any provision of section eight of this article.

28 The provisions of this section shall not prevent the issuance of a license to any person
29 who, subsequent to his or her conviction, shall have received an executive pardon therefor,
30 removing this disability.

§30-18-6. Application requirements for a license to conduct security guard business.

1 (a) To be licensed as a security guard or to operate a security guard firm, each applicant
2 shall complete and file a written application, under oath, with the Secretary of State and in such
3 form as the secretary may prescribe.

4 (b) On the application, each applicant shall provide the following information: The
5 applicant's name, birth date, citizenship, physical description, military service, current residence,
6 residences for the preceding seven years, qualifying education or experience, the location of each
7 of his or her offices in this state and any other information requested by the Secretary of State in
8 order to comply with the requirements of this article.

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

17 (d) The applicant shall provide:

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

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

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

24 To qualify for a firm license, the applicant shall provide such information for each person
25 who would be authorized to conduct security guard business under the applicant's firm license
26 and for each officer, member or partner in the firm.

27 (e) As part of the application, each applicant shall give the Secretary of State permission
28 to review the records held by the ~~department~~ Division of Public Safety for any convictions that
29 may be on record for the applicant.

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

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

34 (1) Character references from at least five reputable citizens of the United States of
35 America. Each reference must have known the applicant for at least five years preceding the
36 application. No reference may be connected to the applicant by blood or marriage. All references
37 must have been written for the purpose of the application for a license to conduct security guard
38 business; and

39 (2) A nonrefundable application processing service charge of \$50, which shall be payable
40 to the Secretary of State to offset the cost of license review and criminal investigation background
41 report from the department of public safety, along with a license fee of \$100 if the applicant is an
42 individual, or \$200 if the applicant is a firm. ~~or \$500 if the applicant is a nonresident of West~~
43 ~~Virginia or a foreign corporation or business entity~~ The license fee shall be deposited to the
44 General Revenue Fund, and shall be refunded only if the license is denied.

45 (h) All applicants for security guard licenses or security guard firm licenses shall file in the
46 office of Secretary of State a surety bond. Such bond shall:

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

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

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

53 (i) Any person claiming against the bond required by subsection (h) of this section for a
54 violation of this article may maintain an action at law against any licensed individual or firm and
55 against the surety. The surety shall be liable only for damages awarded under section twelve of
56 this article and not the punitive damages permitted under that section. The aggregate liability of
57 the surety to all persons damaged by a person or firm licensed under this article may not exceed
58 the amount of the bond.

§30-18-9. Renewal of license.

1 A license granted under the provisions of this article shall be in effect for one year from
2 the date the certificate of license is issued and may be renewed for a period of one year by the
3 Secretary of State upon application, in such form as the secretary may prescribe, and upon
4 payment of the fee and the filing of the surety bond. At the time of applying for renewal of a license,
5 the Secretary of State may require any person to provide additional information to reflect any
6 changes in the original application or any previous renewal. Any fee charged by the Secretary of
7 State for renewal of a license shall not exceed \$50.

NOTE: The purpose of this bill is to expand the eligibility requirements for private investigator and security guard licensure, remove the increased application fee for a nonresident of West Virginia or a foreign corporation or entity, and limit the fee charged by the Secretary of State for renewal of 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.