

COMMITTEE SUBSTITUTE

FOR

H. B. 2787

(BY DELEGATES MORGAN, SWARTZMILLER, GIVENS,
HARTMAN, MANYPENNY, MICHAEL AND C. MILLER)

(Originating in the Committee on the Judiciary.)
[February 3, 2011]

A BILL to repeal §30-18-1, §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; and 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, all

relating to transferring private security services from the Secretary of State to the Division of Criminal Justice and Community Services; license requirement; authority of the Director of the Division of Justice and Community 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 business as a private investigator or security services; requirements of employees under firm license; license renewal requirements; complaint and investigation procedures; due process requirements; grounds for disciplinary action; hearing procedures; judicial review; criminal sanctions; providing that a single act may be evidence of pattern of practice; action for damages; and requiring a report to the Joint Committee on Government Organization.

Be it enacted by the Legislature of West Virginia:

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12, and §30-18-13 of the Code of West Virginia, 1931, as amended, be repealed; that said code be amended by adding thereto a new article, designated §15-14-1, §15-14-2, §15-14-3, §15-14-4, §15-14-5, §15-14-6, §15-14-7, §15-14-8,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

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 14. SECURITY SERVICES.

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

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

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

§15-14-2. Definitions.

1 For the purposes of this article, the following terms mean
2 the following:

3 (1) “Applicant” means a person who files a completed
4 application to be licensed to conduct a private investigation
5 business or a security guard business.

6 (2) “Director” means the Director of the West Virginia
7 Division of Justice and Community Services.

8 (3) “Division” means the West Virginia Division of
9 Justice and Community Services.

10 (4) “Firm license” means the license held by a person
11 who is authorized to operate a private detective investigative
12 firm or security guard firm.

13 (5) “Person” means a natural person, a group of persons
14 or individuals acting individually or as a group, a
15 corporation, company, partnership, association, society, firm,
16 or any business organization or entity organized or existing
17 under the laws of this or any other state or country;

18 (6) “Private investigation business” means the business
19 of doing an investigation or investigations, for hire, reward
20 or any other type of remuneration, to obtain information
21 about:

22 (A) A crime which is alleged to have occurred or is
23 threatened to occur;

24 (B) The habits, activities, conduct, movements, location,
25 associations, transactions, reputation or character of any
26 person;

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

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

29 (E) The causes or origins of any fire, accident or injury
30 to any property, real or personal, or to identify or locate any
31 person or persons responsible for any such fire, accident or
32 injury;

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

35 (G) Any matters which constitute evidence or which may
36 lead to the discovery of evidence to be used before any

37 judicial or quasijudicial tribunal, including, but not limited
38 to, civil or criminal courts, administrative agencies,
39 investigating committees, or boards of award or arbitration;

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

42 (I) The affiliation, connection or relationship of any
43 person with any corporation or other business entity, union,
44 organization, society or association, or with any official,
45 member or representative thereof;

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

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

51 (7) (A) “Private detective” or “private investigator”
52 means a person who is licensed pursuant to the provisions of
53 this article to conduct a private investigation business, and
54 who conducts the business individually and independently
55 from any private detective or investigative firm;

56 (B) “Private detective” or “private investigator” does not
57 include:

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

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

63 (iii) An officer or employee of the United States, or any
64 law-enforcement officer of this state or any political
65 subdivision thereof, while such officer or employee is
66 engaged in the performance of his or her official duties or
67 while working for a private employer in his or her off-duty
68 hours;

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

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

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

76 (8) “Private detective or investigative firm” means any
77 private detective agency or business or any investigative
78 agency or business that is operated by a licensed private
79 detective or investigator and which employs one or more
80 other persons who actually conduct the private investigation
81 business.

82 (9) (A) “Security guard” means a person who is licensed
83 pursuant to the provisions of this article to conduct a security
84 guard business, and who conducts such business individually
85 and independently from a security guard firm.

86 (B) “Security guard” does not include a person who is
87 employed exclusively and regularly by only one employer in
88 connection with the affairs of such employer only, or a
89 person who is otherwise hereinafter excluded from the
90 requirements of this article;

91 (10) (A) “Security guard business” means the business of
92 furnishing, for hire, reward or other remuneration, watchmen,
93 guards, bodyguards, private patrolmen or other persons, to:

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

95 (ii) To prevent theft, unlawful taking, misappropriation
96 or concealment of goods, wares or merchandise, money,
97 bonds, stocks, notes or other valuable documents, papers and
98 articles of value; or

99 (iii) To furnish for hire, guard dogs or armored motor
100 vehicle security services, in connection with the protection of
101 persons or property;

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

106 (11) "Security guard firm" means any security guard
107 agency or business that is operated by a licensed security
108 guard and which employs one or more other persons who
109 actually conduct a security guard business.

§15-14-3. Authority of the Director of the West Virginia
Division of Justice and Community Services.

1 (a) The director shall:

2 (1) Establish requirements for licenses and permits;

3 (2) Establish procedures for submitting, approving and
4 rejecting applications for licenses and permits;

5 (3) Determine the qualifications of any applicant for
6 licenses and permits;

7 (4) Prepare, conduct, administer and grade examinations
8 for professional licenses;

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

10 (6) Maintain records of the examinations the division or
11 a third party administers, including the number of persons
12 taking the examinations and the pass and fail rate;

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

15 (8) Conduct disciplinary hearings of persons regulated;

16 (9) Determine disciplinary action and issue orders;

17 (10) Institute appropriate legal action for the enforcement
18 of the provisions of this article;

19 (11) Maintain an accurate registry of names and
20 addresses of all licensees;

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

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

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

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

29 (16) Establish a fee schedule;

30 (17) Propose rules in accordance with the provisions of
31 article three, chapter twenty-nine-a of this code to implement
32 the provisions of this article; and

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

35 (b) The director may:

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

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

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

§15-14-4. Rulemaking.

- 1 (a) The director shall promulgate emergency rules and
2 propose rules for legislative approval, in accordance with the
3 provisions of article three, chapter twenty-nine-a of this code,
4 to implement the provisions of this article, including:
- 5 (1) Standards and requirements for licenses;
6 (2) Procedures for examinations and reexaminations;
7 (3) Requirements for third parties to prepare and/or
8 administer examinations and reexaminations;
- 9 (4) Educational and experience requirements;
10 (5) The passing grade on the examinations;
11 (6) Standards for approval of courses and curriculum;
12 (7) Procedures for the issuance and renewal of licenses;
13 (8) A fee schedule;
14 (9) Continuing education requirements for professional
15 licensees;
- 16 (10) The procedures for denying, suspending, revoking,
17 reinstating or limiting the practice of licensees;
- 18 (11) Requirements for inactive or revoked licenses or
19 permits; and

20 (12) Any other rules necessary to effectuate the
21 provisions of this article.

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

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

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

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

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

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

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

6 (3) Not have had any previous license or authorization to
7 conduct a private investigation business or to conduct a
8 security guard business revoked or any application for any
9 authorization denied by the appropriate governmental
10 authority in any jurisdiction;

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

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

18 (6) Be of good moral character;

19 (7) Have a minimum of two years of experience,
20 education or training in any one of the following areas, or
21 some combination thereof;

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

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

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

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

32 (E) Any other substantially equivalent training or
33 experience;

34 (8) Not have been convicted of a felony in this state or
35 any other jurisdiction;

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

37 (A) Illegally using, carrying or possessing a firearm or
38 other dangerous weapon;

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

40 (C) Buying or receiving stolen property;

41 (D) Entering a building unlawfully;

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

43 (F) Possessing or distributing illicit drugs;

44 (G) Any misdemeanor involving moral turpitude or for

45 which dishonesty of character is a necessary element; and

46 (10) Not have violated any provisions of section one or

47 subdivisions (1) through (7), subsection (g), section thirteen

48 of this article.

49 (b) The provisions of this section do not prevent the

50 issuance of a license to any person who, subsequent to his or

51 her conviction, has received an executive pardon therefor,

52 removing this disability.

53 (c) Any person who qualifies for a private investigator's

54 license shall also be qualified to conduct security guard

55 business upon notifying the director in writing.

56 (d) No person may be employed as a licensed private

57 investigator while serving as magistrate.

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

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

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

14 (c) In the case of a corporation that is seeking a firm
15 license, the application shall be signed by the president, and
16 verified by the secretary or treasurer of such corporation and
17 shall specify the name of the corporation, the date and place
18 of its incorporation, the names and titles of all officers, the
19 location of its principal place of business, and the name of

20 the city, town or village, stating the street and number, and
21 otherwise such apt description as will reasonably indicate the
22 location. If the corporation has been incorporated in a state
23 other than West Virginia, a certificate of good standing from
24 the state of incorporation must accompany the application.
25 This information must be provided in addition to that
26 required to be provided by the applicant.

27 (d) The applicant shall provide:

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

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

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

37 To qualify for a firm license, the applicant shall provide
38 such information for each person who will be authorized to

39 conduct the private investigation business and for each
40 officer, member or partner of the firm.

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

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

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

51 (1) Character references from at least 5 reputable citizens.
52 Each reference must have known the applicant for at least
53 five years preceding the application. No reference may be
54 connected to the applicant by blood or marriage. All
55 references must have been written for the purpose of the
56 application for a license to conduct the private investigation
57 business; and

58 (2) A nonrefundable application processing service
59 charge of \$50, which shall be payable to the director to offset
60 the cost of license review and criminal investigation
61 background report from the West Virginia State Police, along
62 with a license fee of \$100 if the applicant is an individual, or
63 \$200 if the applicant is a firm, or \$500 if the applicant is a
64 nonresident of West Virginia or a foreign corporation or
65 business entity.

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

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

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

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

80 (i) Any person claiming against the bond required by
81 subsection (h) of this section for a violation of this article
82 may maintain an action at law against any licensed individual
83 or firm and against the surety. The surety shall be liable only
84 for damages awarded under section eighteen of this article
85 and not the punitive damages permitted under that section.
86 The aggregate liability of the surety to all persons damaged
87 by a person or firm licensed under this article may not exceed
88 the amount of the bond.

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

1 (a) Any person who has a private detective firm or
2 investigative firm license shall be responsible for supervising
3 any employee or other individual who conducts the private
4 investigation business under the authority of such person's
5 firm license, regardless of whether the employee or other

6 individual receives compensation for conducting the
7 business. The supervision shall include providing any
8 education or training that is reasonably necessary to ensure
9 compliance with the requirements of this article.

10 (b) Any employee or individual who conducts the private
11 investigation business under the authority of a private
12 detective or investigative firm license shall:

13 (1) Satisfy the requirements of section six of this article,
14 except that such person need not satisfy the education and
15 training requirements contained in subdivision (7) of section
16 six; and

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

20 (c) A holder of a private detective or investigative firm
21 license is prohibited from authorizing any individual or
22 employee to conduct a private investigation business if such
23 individual does not comply with the requirements of this
24 section.

25 (d) For every employee or individual who conducts the
26 business of private investigation under the authority of a
27 private detective or investigative firm license, the holder of
28 such license must maintain a recent full-face photograph and
29 one complete set of fingerprints on file at such firm's central
30 business location in this state. Upon request, the holder of
31 the firm license must release the photographs and fingerprints
32 to the director.

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

1 (a) In order to be eligible for any license to conduct
2 security guard business, an applicant shall:
3 (1) Be at least eighteen years of age;
4 (2) Be a citizen of the United states or an alien who is
5 legally residing within the United States;
6 (3) Not have had any previous license or authorization to
7 conduct a security guard business or to conduct a private
8 investigation business revoked or any application for any
9 such licenses or registrations denied by the appropriate
10 governmental authority in any jurisdiction;

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

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

18 (6) Be of good moral character;

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

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

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

27 (A) Illegally using, carrying or possessing a firearm or
28 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;

34 (G) Any misdemeanor involving moral turpitude or for

35 which dishonesty of character is a necessary element; and

36 (10) Not having violated any provision of section eight of
37 this article.

38 (b) This section may not prevent the issuance of a license
39 to any person who, subsequent to his or her conviction, has
40 received an executive pardon therefor, removing this
41 disability.

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

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

5 (b) On the application, each applicant shall provide the
6 following information: The applicant's name, birth date,

7 citizenship, physical description, military service, current
8 residence, residences for the preceding seven years,
9 qualifying education or experience, the location of each of
10 his or her offices in this state and any other information
11 requested by the director in order to comply with the
12 requirements of this article.

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

26 (d) The applicant shall provide:

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

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

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

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

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

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

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

50 (1) Character references from at least five reputable
51 citizens. Each reference must have known the applicant for
52 at least five years preceding the application. No reference
53 may be connected to the applicant by blood or marriage. All
54 references must have been written for the purpose of the
55 application for a license to conduct security guard business;
56 and

57 (2) A nonrefundable application processing service
58 charge of \$50, which shall be payable to the division to offset
59 the cost of license review and criminal investigation
60 background report from the West Virginia State Police, along
61 with a license fee of \$100 if the applicant is an individual, or
62 \$200 if the applicant is a firm, or \$500 if the applicant is a

63 nonresident of West Virginia or a foreign corporation or
64 business entity.

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

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

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

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

79 (i) Any person claiming against the bond required by
80 subsection (h) of this section for a violation of this article
81 may maintain an action at law against any licensed individual

82 or firm and against the surety. The surety shall be liable only
83 for damages awarded under section eighteen of this article
84 and not the punitive damages permitted under that section.
85 The aggregate liability of the surety to all persons damaged
86 by a person or firm licensed under this article may not exceed
87 the amount of the bond.

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

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

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

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

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

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

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

§15-14-12. Renewal of license.

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

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

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

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

8 (c) After reviewing any information obtained through an
9 investigation, the director shall determine if probable cause

10 exists that the licensee has committed a violation of any of
11 the acts contained in subdivisions (1) through (7), subsection
12 (g) or rules promulgated pursuant to this article.

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

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

24 (f) The director may sign a consent decree or other legal
25 document.

26 (g) The director may, after notice and opportunity for
27 hearing, deny or refuse to renew, suspend or revoke the
28 license of, impose probationary conditions upon or take

29 disciplinary action against, any licensee for any of the
30 following reasons once a violation has been proven by a
31 preponderance of the evidence:

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

34 (2) Being convicted of a felony or other crime involving
35 moral turpitude;

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

38 (4) Intentional violation of a lawful order or legislative
39 rule;

40 (5) Having had a license or other authorization revoked
41 or suspended, other disciplinary action taken, or an
42 application for licensure or other authorization revoked or
43 suspended by the proper authorities of another jurisdiction;

44 (6) Aiding or abetting unlicensed practice; or

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

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

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

53 (2) Falsely represent that a person is the holder of a valid
54 license;

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

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

61 (5) Accept employment which includes obtaining
62 information intended for illegal purposes;

63 (6) Authorize or permit another person to violate any
64 provision of this article or any rule of the director adopted for
65 this article.

66 (h) For the purposes of subsection (g) of this section,

67 disciplinary action may include:

68 (1) Reprimand;

69 (2) Probation;

70 (3) Administrative fine, not to exceed \$1,000 per day per

71 violation;

72 (4) Mandatory attendance at continuing education

73 seminars or other training;

74 (5) Practicing under supervision or other restriction;

75 (6) Requiring the licensee to report to the director for

76 periodic interviews for a specified period of time; or

77 (7) Other corrective action considered by the director to

78 be necessary to protect the public, including advising other

79 parties whose legitimate interests may be at risk.

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

1 (a) Hearings are governed by the provisions of article

2 five, chapter twenty-nine-a.

3 (b) An administrative law judge shall conduct the

4 hearing.

5 (c) At the conclusion of a hearing, the administrative law
6 judge shall prepare a proposed written order containing
7 findings of fact and conclusions of law. The proposed order
8 may contain proposed disciplinary actions if the director so
9 directs. The director may accept, reject or modify the
10 decision of the administrative law judge.

11 (d) The director has the authority to administer oaths,
12 examine any person under oath and issue subpoenas and
13 subpoenas duces tecum.

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

§15-14-15. Judicial review.

1 Any licensee affected by a decision of the director
2 entered after a hearing may obtain judicial review of the
3 decision in accordance with section four, article five, chapter

4 twenty-nine-a of this code, and may appeal any ruling
5 resulting from judicial review in accordance with article six,
6 chapter twenty-nine-a of this code.

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

1 (a) When, as a result of an investigation under this article
2 or otherwise, the director has reason to believe that a
3 licensee, has committed a criminal offense under this article,
4 the director shall bring its information to the attention of an
5 appropriate law-enforcement official.

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

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

1 In any action brought or in any proceeding initiated under
2 this article, evidence of the commission of a single act
3 prohibited by this article is sufficient to justify a penalty,
4 injunction, restraining order or conviction without evidence
5 of a general course of conduct.

§15-14-18. Action for damages.

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

§15-14-19. Transition from the Secretary of State to the
Director of the Division of Justice and
Community Services; and Report to the Joint
Committee on Government Organization.

1 (a) In order to implement an orderly and efficient
2 transition from the Secretary of State to the Division Justice
3 and Community Services, the Secretary of State and Director
4 may establish interim policies and procedures for the transfer
5 of authority to administer and enforce this article.

6 (b) On the effective date of this article, all records
7 necessary to effectuate the purposes of this article shall be
8 transferred from the Secretary of State to the Director:
9 Provided, That the transfer of records provided for in this
10 subsection shall take place no later than July 15, 2011.

11 (c) The director, with the assistance of other interested
12 parties shall study the private security industry. On or before
13 the October 1, 2011, the Director shall submit a report to the
14 Joint Committee on Government Organization on the
15 activities of the Division in the administration of this article.

16 The report shall include:

17 (1) Types of licensure;

18 (2) Qualifications and training of applicants, including
19 the use of community colleges to provide the training”;

20 (3) Licensure fees;

21 (4) Powers and responsibilities of licensees; and

22 (5) Any other statutory change.