

29-LS0056VH
Strasbaugh
3/12/15

CS FOR HOUSE BILL NO. 9()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES HUGHES, Gruenberg

A BILL

FOR AN ACT ENTITLED

1 **"An Act providing for the licensing and regulation of private investigators; relating to**
2 **private investigator agencies; reserving to the state the authority to license private**
3 **investigators; and providing for an effective date."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 *** Section 1.** AS 08.01.010 is amended by adding a new paragraph to read:

6 (42) regulation of private investigators under AS 08.85.

7 *** Sec. 2.** AS 08 is amended by adding a new chapter to read:

8 **Chapter 85. Private Investigators.**

9 **Sec. 08.85.100. License required.** (a) A person may not practice as a private
10 investigator unless the person is licensed under this chapter or exempt from licensure
11 under AS 08.85.190.

12 (b) A person may not use the title "private investigator," or any variation of
13 the title, or hold out publicly as a private investigator unless the person is licensed
14 under this chapter.

1 (c) A person who knowingly violates this section is guilty of a violation and
2 may be punished as provided in AS 12.55.

3 **Sec. 08.85.110. Scope of practice.** (a) A private investigator licensed under
4 this chapter may engage in business or accept employment to furnish, agree to
5 conduct, or conduct an investigation for the purpose of obtaining information about

6 (1) criminal offenses;

7 (2) the identity, habits, conduct, business, occupation, honesty,
8 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity,
9 movement, whereabouts, affiliations, associations, transactions, acts, reputation, or
10 character of a person, entity, or thing;

11 (3) the location, disposition, or recovery of lost or stolen property;

12 (4) the cause or responsibility for fires, libels, losses, accidents, or
13 damage or injury to persons or property;

14 (5) evidence to be used before a court, board, officer, or investigative
15 committee;

16 (6) the presence of electronic eavesdropping devices; or

17 (7) the truth or falsity of a statement or representation.

18 (b) A license entitles an individual to operate a private investigator agency as
19 an individual, partner, or chief executive officer of a corporation.

20 **Sec. 08.85.120. General requirements for private investigators.** To obtain a
21 private investigator license, an applicant

22 (1) must be a citizen or resident alien of the United States;

23 (2) may not have been convicted of a felony in any jurisdiction in the
24 10 years preceding the application for a license;

25 (3) may not have been convicted of a crime that is a sex offense; in this
26 paragraph, "sex offense" has the meaning given in AS 12.63.100;

27 (4) may not be on probation or parole for a felony offense or named on
28 an outstanding arrest warrant; and

29 (5) may not have been declared by a court of competent jurisdiction to
30 be mentally incompetent unless a court has since declared the person to be competent.

31 **Sec. 08.85.130. Private investigator license; qualifications.** (a) The

1 department shall issue a private investigator license to an individual who, in addition
2 to meeting the requirements of AS 08.85.120,

3 (1) is at least 21 years of age;

4 (2) pays the required fee; and

5 (3) has provided evidence satisfactory to the department of work
6 experience and education or their equivalent of one of the following:

7 (A) a high school diploma or equivalent and three or more
8 years of experience in investigative work;

9 (B) an associate's degree from an accredited college or
10 university and two or more years of experience in investigative work; or

11 (C) a bachelor's, master's, or doctorate degree from an
12 accredited college or university and one or more years of experience in
13 investigative work.

14 (b) In this section, a year's experience means 1,500 hours or more of actual
15 compensated work performed before the filing of an application. An applicant shall
16 substantiate the experience by providing written certifications from previous
17 employers. If an applicant is unable to supply written certifications from previous
18 employers, an applicant may offer written certifications from people other than
19 employers who, based on personal knowledge, can substantiate the applicant's
20 employment.

21 **Sec. 08.85.140. License application.** (a) An applicant for a license under this
22 chapter shall submit an application to the department on a form and in a manner
23 provided by the department.

24 (b) The application must include the applicant's statement that the information
25 contained in the application is true.

26 (c) The applicant shall submit with the application

27 (1) fingerprints and the fees required by the Department of Public
28 Safety under AS 12.62.160 for criminal justice information and a national criminal
29 history record check; the department shall submit the fingerprints and fees to the
30 Department of Public Safety for a report of criminal justice information under
31 AS 12.62 and a national criminal history record check under AS 12.62.400;

1 (2) two photographs of the applicant in a form required by the
2 department; and

3 (3) evidence satisfactory to the department that the applicant meets the
4 applicable requirements of this chapter.

5 (d) The department shall require that an application for a license issued under
6 this chapter be submitted with notice that false statements made are punishable as
7 unsworn falsification in the second degree under AS 11.56.210.

8 **Sec. 08.85.150. Private investigator agency; unlawful practice.** (a) A person
9 may operate a private investigator agency if

10 (1) the person holds a license under this chapter; and

11 (2) the agency has a policy of insurance, surety bond, or other form of
12 security for not less than \$15,000.

13 (b) A person who knowingly violates this section is guilty of a violation and
14 may be punished as provided in AS 12.55.

15 **Sec. 08.85.160. License renewal; nontransferability.** (a) A license issued
16 under this chapter is nontransferable and, unless revoked or suspended, may be
17 renewed on a date set by the department upon proof of the licensee's continued
18 competency.

19 (b) A licensee shall apply for renewal and pay the renewal fee as established
20 by the department on or before the renewal date of the license. A licensee who fails to
21 pay the renewal fee by the renewal date set by the department may, within 30 days,
22 pay the renewal fee plus a penalty in an amount to be established by the department
23 that is not more than twice the amount of the renewal fee.

24 (c) If a licensee fails to pay the renewal fee, with accrued penalty, within 30
25 days after the renewal date, the license terminates. The person may reapply under
26 AS 08.85.130.

27 (d) The department may require a licensee who has applied for the renewal of
28 a license to submit the fingerprints and fees required for criminal justice information if
29 the licensee has not submitted fingerprints and fees for criminal justice information
30 and a national criminal history record check within the 10 years preceding the date of
31 the application for renewal. The department shall submit the fingerprints and fees as

1 provided in AS 12.62.160. The department may not renew the license of a licensee
2 who does not meet the requirements of AS 08.85.120.

3 **Sec. 08.85.170. Prohibited practices.** The department may impose the
4 disciplinary sanctions authorized for boards under AS 08.01.075 or refuse to issue a
5 license under this chapter when it finds that the licensee or the applicant

6 (1) knowingly violated a provision of this chapter or a regulation
7 adopted under this chapter;

8 (2) accepted employment that the licensee under this chapter knows to
9 include gathering information intended for illegal purposes;

10 (3) knowingly made a material misstatement or omission in the
11 application for or renewal of a license, including falsifying requested identification
12 information;

13 (4) violated AS 11.56.827 or 11.56.830 or otherwise caused another
14 person to reasonably believe that the private investigator is an agent or employee of
15 the state, the United States, or a political subdivision of the state or United States by

16 (A) wearing a uniform or presenting or displaying a badge or
17 credentials that would cause a reasonable person to believe that the person has
18 official authority as a state, federal, or municipal representative or law
19 enforcement officer;

20 (B) displaying warning or flashing vehicle lights; or

21 (C) committing an act or making a statement intended to
22 convey official status;

23 (5) has been convicted of a crime that directly relates to the business
24 for which the license is held or sought, regardless of whether a sentence was
25 suspended; a conviction based on a plea of nolo contendere creates a rebuttable
26 presumption of guilt as to the underlying charges, and the department shall allow the
27 individual being disciplined or denied a license under this chapter to present any
28 mitigating evidence relevant to the reason for or circumstances surrounding the plea;

29 (6) solicited business for an attorney in return for compensation;

30 (7) failed to cooperate with the department by

31 (A) not furnishing necessary papers or documents requested for

1 purposes of conducting an investigation for disciplinary action, denial,
2 suspension, or revocation of a license under this chapter;

3 (B) not furnishing in writing a full and complete explanation
4 covering the matter contained in a complaint filed with the department; or

5 (C) not responding to a subpoena issued by the department,
6 regardless of whether the recipient of the subpoena is the accused in the
7 proceeding; or

8 (8) failed to comply with an order issued by the department.

9 **Sec. 08.85.180. Administrative Procedure Act.** AS 44.62 (Administrative
10 Procedure Act) governs regulations and proceedings under this chapter.

11 **Sec. 08.85.190. Exemptions.** The licensing requirements of this chapter do not
12 apply to

13 (1) a person who is employed exclusively or regularly by one
14 employer that is not a private investigator agency and who performs investigations
15 solely in connection with the affairs of that employer;

16 (2) an officer or employee of the United States, a political subdivision
17 of the United States, this state, or a political subdivision of this state, while engaged in
18 the performance of the officer's or employee's official duties;

19 (3) a person engaged exclusively in the business of obtaining and
20 furnishing information about the financial rating of persons;

21 (4) an attorney, while performing duties as an attorney;

22 (5) a licensed collection agency, or its employee while acting within
23 the scope of that person's employment and making an investigation incidental to the
24 business of the agency;

25 (6) an insurer, insurance agent, or insurance broker licensed by the
26 state, while performing duties in connection with insurance transacted by the insurer,
27 insurance agent, or insurance broker;

28 (7) an employee of a bank subject to the jurisdiction of the department
29 or the United States Comptroller of the Currency, or a savings and loan association
30 subject to the jurisdiction of this state or the Federal Home Loan Bank Board while
31 acting within the scope of that person's employment;

1 (8) a licensed insurance adjuster performing the adjuster's duties within
2 the scope of the adjuster's license;

3 (9) a secured creditor engaged in the repossession of the creditor's
4 collateral or a lessor engaged in the repossession of leased property in which the lessor
5 claims an interest;

6 (10) a forensic scientist or an accident reconstructionist who is
7 engaged exclusively in collecting and analyzing physical evidence and data relating to
8 an accident or other matter and compiling the evidence or data to render an opinion of
9 likely cause, fault, or circumstance of the accident or matter, and who does not hold
10 out to be an investigator in any other capacity;

11 (11) a person solely engaged in the business of securing information
12 about persons or property from public records;

13 (12) a person solely engaged in the business of pre-employment
14 background screenings;

15 (13) a member or employee of the news media, while engaged in
16 obtaining information for the purpose of disseminating news to the public;

17 (14) a person who has a private investigator license or the equivalent
18 from another jurisdiction who

19 (A) registers with the department before acting as a private
20 investigator in the state;

21 (B) acts as a private investigator in the state for less than 30
22 days in a calendar year;

23 (C) demonstrates to the satisfaction of the department that the
24 license requirements of the other jurisdiction are at least as restrictive as this
25 state's requirements; and

26 (D) demonstrates to the satisfaction of the department that the
27 other jurisdiction allows licensees from this state to operate in the other
28 jurisdiction;

29 (15) a private process server who is licensed in this state and is
30 performing duties under the Alaska Rules of Court;

31 (16) a paralegal in the employ of an attorney or law firm, while

1 performing paralegal services on behalf of the attorney or law firm;

2 (17) a person who, for hire, or otherwise, conducts genealogical
3 research and does not represent that the person is a private investigator; and

4 (18) a person conducting an investigation to determine the cause of a
5 fire, explosion, or accident.

6 **Sec. 08.85.250. Definition.** In this chapter, "department" means the
7 Department of Commerce, Community, and Economic Development.

8 * **Sec. 3.** AS 12.62.400 is amended by adding a new paragraph to read:

9 (18) licensure as a private investigator under AS 08.85.

10 * **Sec. 4.** AS 29.10.200 is amended by adding a new paragraph to read:

11 (65) AS 29.35.148 (licensing of private investigators).

12 * **Sec. 5.** AS 29.35 is amended by adding a new section to article 1 to read:

13 **Sec. 29.35.148. Licensing of private investigators.** (a) The authority to
14 license private investigators is reserved to the state, and, except as specifically
15 provided by statute, a municipality may not enact or enforce an ordinance requiring
16 professional licensure of private investigators.

17 (b) This section applies to home rule and general law municipalities.

18 * **Sec. 6.** AS 44.62.330(a) is amended by adding a new paragraph to read:

19 (46) Department of Commerce, Community, and Economic
20 Development concerning the licensing and regulation of private investigators under
21 AS 08.85.

22 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
23 read:

24 **TRANSITIONAL PROVISIONS.** (a) An individual who, before July 1, 2016, was
25 licensed as a private investigator or private investigator agency by a political subdivision of
26 this state or who, before July 1, 2016, held a current business license from the state for a
27 private investigator business shall be issued a private investigator license by the department if
28 the person

29 (1) meets the qualifications of AS 08.85.120, enacted by sec. 2 of this Act;

30 (2) provides evidence satisfactory to the department that the person has
31 performed 1,500 hours or more of private investigation work in the business for which the

1 person holds a license;

2 (3) completes the application process required under AS 08.85.140, enacted
3 by sec. 2 of this Act; and

4 (4) pays the required fees.

5 (b) A person licensed under this section shall comply with license renewal
6 requirements under AS 08.85.160, enacted by sec. 2 of this Act.

7 (c) In this section, "department" means the Department of Commerce, Community,
8 and Economic Development.

9 * **Sec. 8.** This Act takes effect July 1, 2016.