

**CS FOR HOUSE BILL NO. 158(JUD)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 4/4/07**

**Referred: Finance**

**Sponsor(s): REPRESENTATIVES ROSES, Gruenberg**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act providing for the licensing and regulation of private investigators and private**  
2 **investigator agencies; and providing for an effective date."**

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

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

5 (39) regulation of private investigators under AS 08.85.

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

7 **Chapter 85. Private Investigators and Private Investigator Agencies.**

8 **Sec. 08.85.100. License and certificate required.** (a) Unless a person is  
9 licensed under this chapter or is exempt from licensure under AS 08.85.800, a person  
10 may not

11 (1) perform the functions and duties of a private investigator;

12 (2) act in a manner intended to convey the impression that the person  
13 is a private investigator;

14 (3) act in a manner that may reasonably be construed as performance

1 the functions and duties of a private investigator; or

2 (4) advertise to the public in the media as being engaged in performing  
3 or as qualified to perform the functions and duties of a private investigator in this  
4 state.

5 (b) Unless exempt under AS 08.85.800, a person may not

6 (1) perform the functions and duties of a private investigator unless the  
7 person is, or is employed by, a person holding a private investigator agency certificate  
8 issued under this chapter;

9 (2) operate a private investigator agency without a private investigator  
10 agency certificate issued under this chapter.

11 (c) A person who knowingly violates this section is guilty of a class A  
12 misdemeanor.

13 **Sec. 08.85.110. General requirements for private investigators.** To obtain a  
14 class A or class B private investigator license an applicant

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

16 (2) may not have been convicted of a felony in any jurisdiction in the  
17 20 years preceding license application;

18 (3) may not have been convicted of a crime of dishonesty or sexual  
19 misconduct, as defined by the department in any jurisdiction that the department  
20 determines

21 (A) directly relates to the applicant's capacity to perform the  
22 duties of a private investigator; and

23 (B) provides grounds for denying licensure under this chapter  
24 to protect the citizens of the state;

25 (4) may not be on probation, parole, or named on an outstanding arrest  
26 warrant;

27 (5) may not have been dishonorably discharged from the armed forces  
28 of the United States;

29 (6) may not have been declared by a court of competent jurisdiction to  
30 be incompetent by reason of mental disease or defect unless a court has since declared  
31 the person to be competent; and

1 (7) may not be currently employed

2 (A) as a peace officer;

3 (B) by an agency of the United States, or of a state or local  
4 government, if the position held involves the enforcement of law or provides  
5 access to police or intelligence information or files generally considered to be  
6 restricted to law enforcement or investigative personnel only; or

7 (C) in a position that, in the judgment of the department,  
8 represents a conflict of interest for the prospective licensee.

9 **Sec. 08.85.120. Classes of license.** (a) The department shall issue a class A  
10 license under this chapter to an individual who qualifies under AS 08.85.110 and  
11 08.85.130. A class A license entitles an individual to operate a private investigator  
12 agency as an individual, partner, or chief executive officer of a corporation.

13 (b) The department shall issue a class B license under this chapter to an  
14 individual who qualifies under AS 08.85.110 and 08.85.140. A class B license entitles  
15 an individual to be employed by a private investigator agency to perform private  
16 investigations.

17 **Sec. 08.85.130. Private investigator class A license; qualifications.** (a) The  
18 department shall issue a private investigator class A license to an applicant who, in  
19 addition to meeting the requirements of AS 08.85.110,

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

21 (2) passes a written examination as required by the department;

22 (3) pays the required fee; and

23 (4) has provided evidence satisfactory to the department of work  
24 experience and education or their equivalent of one of the following;

25 (A) a high school diploma and three or more years experience  
26 in investigative work;

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

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

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

8 **Sec. 08.85.140. Private investigator class B license; qualifications.** The  
 9 department shall issue a class B license under this chapter to an applicant who, in  
 10 addition to meeting the general requirements of AS 08.85.110,

- 11 (1) is 18 years of age or older;
- 12 (2) passes a written examination as required by the department; and
- 13 (3) pays the required fee;
- 14 (4) has a high school diploma or equivalent;
- 15 (5) is employed by or has an offer of employment from a private  
 16 investigator agency licensed under this chapter.

17 **Sec. 08.85.150. License application.** (a) An application for a license under  
 18 this chapter shall be submitted to the department on a form and in a manner provided  
 19 by the department.

- 20 (b) An application must include the following information about an applicant:
- 21 (1) the applicant's full name;
  - 22 (2) the applicant's business name;
  - 23 (3) the applicant's residence address;
  - 24 (4) the applicant's residential telephone number;
  - 25 (5) the applicant's residential mailing address;
  - 26 (6) the applicant's residence history for the five years immediately  
 27 preceding the application;
  - 28 (7) the applicant's business address;
  - 29 (8) the applicant's business telephone number;
  - 30 (9) the applicant's sex;
  - 31 (10) the applicant's height and weight;

- 1 (11) the applicant's hair and eye color;
- 2 (12) the applicant's date of birth;
- 3 (13) the applicant's social security number;
- 4 (14) the applicant's Alaska driver's license number and expiration date;
- 5 (15) the applicant's citizenship;
- 6 (16) the applicant's criminal history and conviction record;
- 7 (17) the applicant's employment history for the five-year period
- 8 preceding the date of application, including reasons for termination and the applicant's
- 9 eligibility for rehire;
- 10 (18) the name and address of all business entities in which the
- 11 applicant or the applicant's spouse has a vested interest.

12 (c) The application must include the applicant's

- 13 (1) sworn statement that the applicant is free from any mental or
- 14 emotional disorder that may adversely affect the applicant's performance as a private
- 15 investigator;
- 16 (2) sworn statement that the applicant has read and understands
- 17 AS 08.85.100 - 08.85.900;
- 18 (3) sworn statement that the information contained in the application is
- 19 true; and
- 20 (4) notarized signature.

21 (d) The applicant shall submit with the application

- 22 (1) two complete fingerprint cards containing fingerprints and other
- 23 information required by the Department of Public Safety to obtain state and national
- 24 criminal history record information under AS 12.62 and AS 12.64;
- 25 (2) a fee payable to the department for fingerprint processing and for a
- 26 national criminal history record check under AS 12.62.400;
- 27 (3) two photographs of the applicant suitable for a passport;
- 28 (4) letters of recommendation from three reputable citizens, at least
- 29 one of whom is a resident of the state, attesting to the good character of the applicant;
- 30 and
- 31 (5) documentation required by the department to substantiate that the

1 applicant meets the applicable requirements of this chapter.

2 (e) On receipt of an application for a license, the department shall conduct an  
3 investigation to determine whether the facts set out in the application are accurate.

4 **Sec. 08.85.160. Investigation of applicants.** (a) When investigating an  
5 applicant for licensure or a certificate under this chapter, the department may require  
6 any information and documentation that reasonably relates to the need to determine  
7 whether the applicant meets the criteria for a license or certificate. The department  
8 shall also request the Department of Public Safety to compare the fingerprints  
9 submitted with an application to national and state fingerprint records available under  
10 AS 12.62.

11 (b) The department may, by regulation, require that fingerprints of licensees  
12 be periodically reprocessed to identify criminal convictions subsequent to licensure  
13 under this chapter.

14 (c) A summary of the information acquired under this section, to the extent  
15 that it is public information, may be forwarded by the department to an applicant's  
16 employer.

17 **Sec. 08.85.200. Reciprocal licensure.** The department may grant a private  
18 investigator license class A or B under this chapter to a person who

19 (1) applies on a form prescribed by the department;

20 (2) pays the appropriate application fee; and

21 (3) holds a valid license, registration, identification, or similar card  
22 issued by a state that

23 (A) recognizes and accepts licenses issued under this chapter in  
24 a reciprocal manner; and

25 (B) is determined by the department to have selection, training,  
26 and other requirements at least as stringent as those required by this chapter.

27 **Sec. 08.85.300. License cards.** (a) The department shall issue a class A license  
28 card to each individual licensed as a class A private investigator under this chapter and  
29 a class B license card to each individual licensed as a class B private investigator  
30 under this chapter.

31 (b) The license cards shall bear the name, license number, class of license,

1 photograph, signature, and identifying data of the licensee, and the signature of the  
2 commissioner.

3 (c) A licensed private investigator shall carry the license card while  
4 performing the duties of a private investigator and shall produce the card within 72  
5 hours on request of an employee of the department.

6 (d) A licensed private investigator whose license is suspended or revoked shall  
7 return the license card to the department within 10 days after the date of notification of  
8 the license suspension or revocation.

9 (e) In the event of loss or destruction of a license card, the licensee may apply  
10 to the department for a replacement card, stating the circumstances of the loss.

11 **Sec. 08.85.400. Private investigator agency certificate.** (a) The department  
12 shall issue to each private investigator agency that qualifies under this section a  
13 certificate bearing the name or names of the agency's licensees, the license numbers,  
14 the business name under which the agency is operating, the authorized operating  
15 location of the business, the expiration date, and the signature of the commissioner.  
16 An individual is not eligible for a certificate unless the individual holds a class A  
17 license under this chapter. A partnership is not eligible for a certificate unless each  
18 partner holds a class A license under this chapter. A corporation is not eligible for a  
19 certificate unless the chief executive officer holds a class A license under this chapter.  
20 To qualify for a certificate, the agency shall provide evidence satisfactory to the  
21 department of the agency's possession of

22 (1) errors and omissions insurance of \$100,000 or more; and

23 (2) a current business license issued by the department and a municipal  
24 or borough license, if required.

25 (b) A private investigator agency certificate holder

26 (1) shall post and display the certificate in a conspicuous place in the  
27 principal office of the certificate holder in the state;

28 (2) may not post the certificate on premises other than those described  
29 in the certificate;

30 (3) may not materially alter a certificate;

31 (4) shall include the agency's certificate number in any advertisement

1 by the agency; and

2 (5) shall notify the department within 30 days after a change in the  
3 agency's officers, directors, or partners, or a material change in the information  
4 furnished to the department.

5 (c) A certificate issued under this section may not be assigned or transferred  
6 without prior written approval of the department.

7 (d) A person who knowingly violates (b) of this section is guilty of a class A  
8 misdemeanor.

9 **Sec. 08.85.500. License renewal; nontransferability.** (a) A license issued  
10 under this chapter is nontransferable and, unless revoked or suspended, may be  
11 renewed on a date set by the department upon proof of the licensee's continued  
12 competency.

13 (b) A licensee shall apply for renewal and pay the renewal fee as established  
14 by the department on or before the renewal date of the license. A licensee who fails to  
15 pay the renewal fee by the renewal date set by the department may, within 30 days,  
16 pay the renewal fee plus a penalty in an amount to be established by the department,  
17 not to exceed twice the amount of the renewal fee.

18 (c) If a licensee fails to pay the renewal fee, with accrued penalty, within 30  
19 days after the renewal date, the license terminates. The person may reapply under  
20 AS 08.85.150.

21 (d) Before renewing a license, the department may request criminal history  
22 information from the Department of Public Safety. The department may not renew the  
23 license of a licensee who does not meet the requirements of AS 08.85.110 for a license  
24 application.

25 **Sec. 08.85.550. Continuing education.** (a) Class A and B licensees under this  
26 chapter shall complete 20 hours or more of education every two years.

27 (b) When a licensee applies for a license renewal under AS 08.85.500, the  
28 licensee shall provide proof satisfactory to the department of having completed the  
29 education requirements under this section.

30 (c) Continuing education requirements shall be established by the department.

31 **Sec. 08.85.600. Confidentiality of licensee's personal identifying**

1       **information.** A licensee's residential address, residential telephone number, electronic  
2       mail address, social security number, photograph, and other personal identifying  
3       information that is disclosed under AS 08.85.150 is required to be kept confidential  
4       and is not subject to disclosure under AS 40.25.110 - 40.25.220 unless written consent  
5       is provided by the licensee.

6                **Sec. 08.85.700. Prohibited practices.** The following acts by a person licensed  
7       under this chapter are prohibited and constitute grounds for a disciplinary action of a  
8       type authorized for boards under AS 08.01.075 or denial of a license under this  
9       chapter, as determined by the department:

10                   (1) knowingly violating a provision of this chapter or a regulation  
11                   adopted under this chapter;

12                   (2) accepting employment that the licensee under this chapter knows to  
13                   include gathering information intended for illegal purposes;

14                   (3) knowingly making a material misstatement or omission in the  
15                   application for or renewal of a license, including falsifying requested identification  
16                   information;

17                   (4) causing another person to reasonably believe that the private  
18                   investigator is an agent or employee of the state, the United States, or a political  
19                   subdivision of the state or United States by

20                           (A) wearing a uniform or presenting or displaying a badge or  
21                           credentials that would cause a reasonable person to believe that the person has  
22                           official authority as a state, federal, or municipal representative or law  
23                           enforcement officer

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

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

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

1 relevant to the reason for or circumstances surrounding the plea;

2 (6) soliciting business for an attorney in return for compensation;

3 (7) failure to cooperate with the department by

4 (A) not furnishing necessary papers or documents requested for  
5 purposes of conducting an investigation for disciplinary action, denial,  
6 suspension, or revocation of a license under this chapter;

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

9 (C) not responding to a subpoena issued by the department,  
10 regardless of whether the recipient of the subpoena is the accused in the  
11 proceeding; or

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

13 **Sec. 08.85.750. Immunity for complainants.** An action may not be brought  
14 against a person for damages resulting from a complaint filed in good faith with the  
15 department about a person licensed a holding or certificate under this chapter.

16 **Sec. 08.85.760. Fees.** Under AS 08.01.065, the department shall establish fees  
17 for private investigators and private investigator agencies for the following:

18 (1) filing an examination or licensing application;

19 (2) examination fee;

20 (3) investigation of application;

21 (4) initial license;

22 (5) filing a reexamination application;

23 (6) duplicate license;

24 (7) license certificate;

25 (8) license card;

26 (9) renewal of a license;

27 (10) delinquent renewal of a license;

28 (11) fingerprint investigation;

29 (12) review of an application under AS 08.85.120.

30 **Sec. 08.85.770. Administrative Procedure Act.** Regulations and proceedings  
31 under this chapter are governed by AS 44.62 (Administrative Procedure Act).

1           **Sec. 08.85.800. Exemptions.** The licensing requirements of this chapter do not  
2 apply to

3           (1) a person who is employed exclusively or regularly by one  
4 employer who performs investigations solely in connection with the affairs of that  
5 employer if the employer is not a private investigator agency;

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

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

11           (4) an attorney, while performing the attorney's duties as an attorney;

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

15           (6) an insurer, insurance agent, or insurance broker licensed by the  
16 state, while performing duties in connection with insurance transacted by the insurer,  
17 insurance agent, or insurance broker;

18           (7) a bank subject to the jurisdiction of the department or the United  
19 States Comptroller of the Currency, or a savings and loan association subject to the  
20 jurisdiction of this state or the Federal Home Loan Bank Board;

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

23           (9) a secured creditor engaged in the repossession of the creditor's  
24 collateral or a lessor engaged in the repossession of leased property in which it claims  
25 an interest;

26           (10) a person who is a forensic scientist or an accident  
27 reconstructionist or who performs similar functions and who does not hold out to be  
28 an investigator in any other capacity;

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

31           (12) a member or employee of the news media, while engaged in

1 obtaining information for the purposes of disseminating news to the public;

2 (13) a person who has a private investigator license or the equivalent  
3 from another jurisdiction who

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

6 (B) acts as a private investigator in the state for less than 14  
7 days in a calendar year;

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

11 (D) demonstrates to the satisfaction of the department that the  
12 other jurisdiction allows licensees from this state to operate in the other  
13 jurisdiction;

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

16 (15) a paralegal in the employ of an attorney or law firm, while  
17 performing paralegal services on behalf of an attorney or law firm; and

18 (16) a person who, for hire, or otherwise, conducts genealogical  
19 research and does not represent that the person is a private investigator.

20 **Sec. 08.85.900. Definitions.** In this chapter,

21 (1) "commissioner" means the commissioner of commerce,  
22 community, and economic development;

23 (2) "department" means the Department of Commerce, Community,  
24 and Economic Development;

25 (3) "forensic scientist" or "accident reconstructionist" means a person  
26 engaged exclusively in collecting and analyzing physical evidence and data relating to  
27 an accident or other matter and compiling the evidence or data to render an opinion of  
28 likely cause, fault, or circumstance of the accident or matter;

29 (4) "perform the functions and duties of a private investigator" means  
30 to engage in business or accept employment to furnish, agree to conduct, or conduct  
31 an investigation for the purpose of obtaining information about

- 1 (A) criminal offenses;
- 2 (B) the identity, habits, conduct, business, occupation, honesty,  
3 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity,  
4 movement, whereabouts, affiliations, associations, transactions, acts,  
5 reputation, or character of a person, entity, or thing;
- 6 (C) the location, disposition, or recovery of lost or stolen  
7 property;
- 8 (D) the cause or responsibility for fires, libels, losses,  
9 accidents, or damage or injury to persons or property;
- 10 (E) evidence to be used before a court, board, officer, or  
11 investigative committee;
- 12 (F) detecting the presence of electronic eavesdropping devices;
- 13 or
- 14 (G) the truth or falsity of a statement or representation;

15 (5) "private investigator" means a person who performs the functions  
16 and duties of a private investigator.

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

18 (15) licensure as a private investigator or private investigator agency  
19 under AS 08.85.

20 \* **Sec. 4.** AS 44.62.330(a) is amended by adding a new paragraph to read:

21 (47) Department of Commerce, Community, and Economic  
22 Development concerning the licensing and regulation of private investigators under  
23 AS 08.85.

24 \* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to  
25 read:

26 TRANSITIONAL PROVISIONS. (a) An individual who, before July 1, 2008, was  
27 validly licensed as a private investigator or private investigator agency by a political  
28 subdivision of this state or who, before July 1, 2008, held a current and active business license  
29 from the state for a private investigator business shall be issued a private investigator class A  
30 license by the department if the person

31 (1) meets the qualifications of AS 08.85.110, enacted by sec. 2 of this Act;

1           (2) provides evidence satisfactory to the department that the person has  
2 performed 1,500 hours or more of private investigation work in the business for which the  
3 person holds a license;

4           (3) completes the application process required under AS 08.85.150, enacted  
5 by sec. 2 of this Act; and

6           (4) pays the required fees.

7           (b) A person who does not meet the requirements of (a) of this section and, before  
8 July 1, 2008, was a private investigator employed by a person who satisfied the requirements  
9 of (a) of this section shall be issued a private investigator class B license by the department if  
10 the person

11           (1) meets the qualifications of AS 08.85.110, enacted by sec. 2 of this Act;

12           (2) completes the application process required under AS 08.85.150, enacted  
13 by sec. 2 of this Act; and

14           (3) pays the required fees.

15           (c) A person licensed under this section shall comply with license renewal  
16 requirements under AS 08.85.500, added by sec. 2 of this Act.

17           (d) In this section, "department" means the Department of Commerce, Community,  
18 and Economic Development.

19       \* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to  
20 read:

21           REGULATIONS. The Department of Commerce, Community, and Economic  
22 Development may proceed to adopt regulations to implement this Act. A regulation adopted  
23 under the authority of this section takes effect under AS 44.62 (Administrative Procedure Act)  
24 but not before the effective date of the law implemented by the regulation.

25       \* **Sec. 7.** Except as provided in sec. 8 of this Act, this Act takes effect immediately under  
26 AS 01.10.070(c).

27       \* **Sec. 8.** AS 08.85.100 and 08.85.400, enacted by sec. 2 of this Act, take effect July 1,  
28 2008.