

**ALASKA STATE LEGISLATURE
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 13, 2015

3:38 p.m.

MEMBERS PRESENT

Representative Kurt Olson, Chair
Representative Shelley Hughes, Vice Chair
Representative Jim Colver
Representative Gabrielle LeDoux
Representative Cathy Tilton
Representative Andy Josephson

MEMBERS ABSENT

Representative Sam Kito
Representative Mike Chenault (alternate)

COMMITTEE CALENDAR

HOUSE BILL NO. 9

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

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 9

SHORT TITLE: PRIVATE INVESTIGATORS/AGENCIES

SPONSOR(S): REPRESENTATIVE(S) HUGHES

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	L&C, FIN
02/11/15	(H)	L&C AT 3:15 PM BARNES 124
02/11/15	(H)	Heard & Held
02/11/15	(H)	MINUTE(L&C)
02/23/15	(H)	L&C AT 3:15 PM BARNES 124
02/23/15	(H)	-- MEETING CANCELED --
03/02/15	(H)	L&C AT 3:15 PM BARNES 124
03/02/15	(H)	Bills Previously Heard/Scheduled
03/13/15	(H)	L&C AT 3:15 PM BARNES 124

WITNESS REGISTER

GINGER BLAISDELL, Staff
Representative Shelley Hughes
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Testified on behalf of the sponsor,
Representative Shelley Hughes, prime sponsor of HB 9.

STEVE CHRISTOPHER, Owner
Investigative Services of Alaska, LLC
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 9.

WILLIAM PARLIER, Owner
McHenry Detective Agency
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 9.

ROBERT SHAW, Owner
Robert Shaw Agency
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 9.

JAMES HOFERER, Owner
JPH Enterprises
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 9.

FRANK WAKE, Private Investigator
Frank Wake Private Investigative Services, LLC
Anchorage, Alaska

POSITION STATEMENT: Testified in opposition to HB 9.

DENA BOUGHTON, Owner
Justice Investigations
Eagle River, Alaska

POSITION STATEMENT: Testified in opposition to HB 9.

ANTHONY COZZETTI, Owner
Paladin Investigations
Anchorage, Alaska

POSITION STATEMENT: Testified during the discussion of HB 9.

LINK FANNON, Owner
Oracle Investigations
Meadow Lakes, Alaska

POSITION STATEMENT: Testified in opposition to HB 9.

ACTION NARRATIVE

[3:38:32 PM](#)

CHAIR KURT OLSON called the House Labor and Commerce Standing Committee meeting to order at 3:38 p.m. Representatives Colver, Tilton, Josephson, LeDoux, Hughes, and Olson were present at the call to order.

HB 9-PRIVATE INVESTIGATORS/AGENCIES

[3:38:45 PM](#)

CHAIR OLSON announced that the only order of business would be HOUSE BILL NO. 9, "An Act providing for the licensing and regulation of private investigators and private investigator agencies; and providing for an effective date."

[3:39:25 PM](#)

GINGER BLAISDELL, Staff, Representative Shelley Hughes, Alaska State Legislature, on behalf of the prime sponsor, Representative Shelley Hughes, offered to review the original version of the bill and highlight any changes that were incorporated into the proposed committee substitute (CS) for HB 9, Version H. This bill would establish licensing and regulation of private investigators and private investigator agencies.

MS. BLAISDELL indicated that a similar bill came before the House Labor and Commerce Standing Committee last year and the committee recommended changes, which were incorporated into the original version of HB 9 this legislative session. She provided a section-by-section analysis of HB 9. Section 1 would require the private investigator job class to be added to the list of professional licenses the Department of Commerce, Community & Economic Development oversees. The private investigator license requirements would add requirements beyond the current standard business license for private investigators. The initial bill, HB 9, established two classifications: a private investigator and a private investigator agency. The scope of practice identified the types of tasks a private investigator could perform such as investigating criminal offenses, considering the identity and habits of individuals, or basically conducting general surveillance activities. Private investigators could

work for a variety of people, not just one entity, noting that private investigator services can be contracted by the public or by other companies.

MS. BLAISDELL reviewed the general requirements for licensure, including that a private investigator must be a US citizen, not be convicted of a felony within the past ten years, or have been convicted by another jurisdiction of a crime of moral turpitude or sexual misconduct. She stated that moral turpitude was defined in statute to include crimes such as murder or rape. Applicants cannot be on probation or parole or be declared by the court as incompetent, be currently employed as a peace officer or as an agent of the US conducting investigative work, nor could they have a conflict of interest as determined by the [Department of Commerce, Community & Economic Development].

[3:44:27 PM](#)

MS. BLAISDELL related that the bill, HB 9, originally contemplated two different classes of licenses: the professional private investigator and a paraprofessional class, with each class requiring slightly different levels of education. The license application process outlined that applicants must submit to fingerprinting and an investigation, in which the department would conduct an investigation to identify and "weed out" applicants who should not be awarded a license. In addition, private investigators who held private investigator licenses in another jurisdiction could apply for reciprocity in Alaska, she said. Under the bill, the department would issue a professional license identification and an agency certificate plus it would require bonding and liability provisions. The license renewal would be non-transferable, which is a provision that will be retained in the proposed committee substitute (CS) for HB 9, Version H [not yet before the committee], since licenses should not be transferable. She noted that firearms training was added last year in a hearing on a similar bill for private investigator licensure. Although anyone in Alaska can have a "concealed carry" weapon permit, due to the nature of the work, it was felt that private investigators should be subject to a firearms training course. She stated that confidentiality of a licensee's personal identifying information was initially included, but the provisions have proven difficult for the division, so the language [Sec. 08.85.250] was removed in proposed Version H.

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MS. BLAISDELL turned to [Sec. 08.85.260] to prohibited practices, which would allow the department to impose disciplinary sanctions, including revoking a license or imposing a fine for inappropriate activity. This section would clearly identify the types of circumstances for which the department could impose fines on licensees. She directed attention to the immunity for complainants, [under Sec. 08.85.270] which was added due to a lawsuit. She related that the Administrative Procedures Act (APA) provisions would allow the department to adopt regulations for private investigators. She directed attention to the long list of exemptions, which includes people who would not need to comply with private investigator licensure.

[3:48:23 PM](#)

MS. BLAISDELL directed attention to definitions for the commissioner and department that would oversee the private investigator program. The transitional provisions would provide "grandfathering in" of current private investigators until their licenses were renewed. She stated that the original bill, [HB 9], had an effective date of July 2015.

[3:49:09 PM](#)

REPRESENTATIVE HUGHES moved to adopt the proposed committee substitute (CS) for HB 9, Version H, labeled 29-LS0056\H, Strasbaugh, 3/12/15 as the working document.

CHAIR OLSON objected for the purpose of discussion.

[3:50:41 PM](#)

MS. BLAISDELL pointed out that she "redlined" a copy of the original version of the bill, [HB 9], and offered to highlight the changes included in the proposed committee substitute for HB 9, Version H.

CHAIR OLSON asked whether she could provide the committee with a side-by-side comparison outlining the changes in Version H for the committee.

MS. BLAISDELL agreed to do so.

[3:51:31 PM](#)

MS. BLAISDELL directed attention to page 1 of Version H, which has a slight change in the title to reflect changes made in the bill. Section 1 would remain the same, but would add regulation of private investigators to the professional licensure class of jobs. On page 1, line 9, references to private investigator agencies were removed, so even if a person owned an agency, the license would be limited solely to the private investigator who conducts the private investigator's duties. On page 2, line 18 [Sec. 08.85.110] the scope of practice added language, which read, "A license entitles an individual to operate a private investigator agency as an individual, a partner, or chief executive officer of a corporation."

[3:53:08 PM](#)

MS. BLAISDELL directed attention to page 2, line 20, of Version H, which would establish general requirements for private investigators. She clarified that the language in the original bill appeared to allow the DCCED to make the determination on "moral turpitude," however, moral turpitude was defined in statute. This provision was removed in Version H, since most of the crimes of this type fall under Section 2 to those convicted of a felony. She clarified that language was left to prohibit persons convicted of sexual offenses from becoming private investigators.

[3:54:27 PM](#)

REPRESENTATIVE LEDOUX asked for further clarification on whether this language would only apply to felonies. She asked whether some misdemeanors, such as crimes of dishonesty should also be included.

MS. BLAISDELL answered that she was not sure whether dishonesty would be classified as a misdemeanor or a felony. She suggested that was part of the reason "moral turpitude" was placed in the original bill; however, due to significant public opposition, the provision was removed. She suggested this could be something the committee could further consider.

[3:55:31 PM](#)

REPRESENTATIVE JOSEPHSON said he was concerned with the bill from the outset since it was "just too much in just about every respect." He acknowledged that Representative LeDoux made a good point, since crimes of dishonesty are impeachable in court, but a client may wish to know if the private investigator who

acted as a witness in court was impeachable. He suggested that fact could be an important point.

3:56:07 PM

MS. BLAISDELL referred to page 2, lines 29-30, to paragraph (5) of Version H, which would preclude applicants who may have been declared by a court to be mentally incompetent. One item removed from the original bill was that a person dishonorably discharged from the armed forces of the United States could not serve as a private investigator. After further review, it was suggested that the meaning of "dishonorable discharge" has changed over time. She said that dishonorable discharges issued during the Vietnam War related to fairly egregious crimes that were committed; however, more recently some of the dishonorable discharges issued are related to such things as military members who suffered from alcohol addiction or post-traumatic stress syndrome, which may not necessarily be disqualifying reasons to work in this professional job class. Another paragraph [(7)] was removed that disqualified applicants who were employed in other jobs, such as peace officers or those who work in other state or federal law enforcement positions. This provision was removed because it was likely that the employee would have signed a waiver with respect to employment. [On page 3, lines 13-14, subparagraph (C), of Version A] language was also removed, which read, "in a position the department determines to represent a conflict of interest for the prospective licensee." This language was removed since it appeared to leave significant discretion to the department with respect to determining any conflicts of interest.

3:58:43 PM

MS. BLAISDELL directed attention to the private investigator license [AS 08.85.130, Version H] on page 3, beginning on line 1, which read, "Applicants must be at least 21 years of age and pay the required fee." She suggested that the committee also consider removing language on page 3, lines 5-20, which would require minimum educational requirements for the two classes of private investigator licenses. This language was inadvertently not removed during the development of Version H, she said.

MS. BLAISDELL directed attention on page 3, lines 21-31, of Version H, to the license application process. Instead of listing every single piece of identifying information, the applicant can now choose the appropriate application form, she said.

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CHAIR OLSON related his understanding that three political jurisdictions, including Fairbanks, Anchorage, and Juneau currently offer private investigator licenses.

MS. BLAISDELL answered that the City of Fairbanks and the [Municipality] of Anchorage offer private investigator licenses, but Juneau does not currently do so.

UNIDENTIFIED SPEAKER in the audience interjected that "it was on the books in Kenai, but it hasn't been enforced."

4:01:07 PM

MS. BLAISDELL stated that applicants must sign their application, attesting that the information is true, rather than necessitating that the department verify that the information on the application is true and accurate. If an applicant submits false information, the applicant could be prosecuted for the offense, she said, plus, the applicant must submit fingerprints and fees for a national criminal history background check.

4:01:42 PM

REPRESENTATIVE LEDOUX asked whether the applicant would sign under penalty of perjury that everything on the application was true.

MS. BLAISDELL was unsure, but suggested that additional language could be added.

REPRESENTATIVE TILTON pointed out that the language was also on page 5, line 22 of the marked-up redline version of [HB 9].

4:02:27 PM

MS. BLAISDELL directed attention to the language that removed the requirement for a notarized signature [page 5, lines 24-25, of HB 9]. The sponsor initially wanted applicants to show their identification in order to verify who they were, but changed it to allow applicants to sign that the information was accurate, so the requirement for the notarized signature was also removed.

4:03:14 PM

MS. BLAISDELL turned to the requirement for fingerprints. She said she reviewed the screening process for fingerprinting requirements, noting the reason to submit fingerprints for each application was to recognize that the criminal history for the person submitting the information could change. Fingerprints remain as the only source of identifying a person, since the bill does not recognize DNA [Deoxyribonucleic acid] or biometrics since the national identification index holds fingerprints, but does not retain DNA or iris scans or other types of biometrics. Fingerprints can help identify other alias an applicant has used, plus it is part of the interstate compact, she said.

[4:04:18 PM](#)

REPRESENTATIVE LEDOUX asked whether fingerprint requirements are required for license renewal.

MS. BLAISDELL answered that another section in the bill requires fingerprints be submitted once every 10 years to update the private investigator's criminal history; however, applicants can have multiple renewals within that 10-year period.

[4:04:49 PM](#)

CHAIR OLSON said he did not think that was standard procedure, since he holds several professional licenses. He recalled he was able to use one set of fingerprints to apply for reciprocity in several other states.

MS. BLAISDELL didn't specifically recall the source of this language, but suggested it was derived from another state's requirements. She further recalled that the program she used as a model required a background check every third application renewal.

CHAIR OLSON also did not think the Alaska Bar Association required that type of requirement.

REPRESENTATIVE LEDOUX offered her belief that she submitted one set of fingerprints when she was initially licensed in Alaska for the bar, but wasn't required to submit to subsequent fingerprinting.

[4:06:02 PM](#)

MS. BLAISDELL directed attention to page 4 of Version H to the requirement of two photographs for the applicant. She suggested the department might decide to issue private investigator identification cards at a later date.

[4:06:43 PM](#)

MS. BLAISDELL said that on page 4, line 5, [subsection (d) of Version H], the department shall require that an application for a license issued under this chapter be submitted with notice that false statements are punishable as unsworn falsification in the second degree under AS 11.56.210. She was unsure if that language would help satisfy Representative LeDoux's earlier concern about perjury on applications.

CHAIR OLSON asked that the record reflect that Representative LeDoux agreed.

REPRESENTATIVE LEDOUX clarified that she was curious about the provision, but not necessarily concerned.

[4:07:38 PM](#)

MS. BLAISDELL related some time consuming provisions were removed from the application process, including the need for letters of recommendations, documentation to substantiate that the applicant met the requirements, and the need for the department to conduct an investigation. Instead, the application process relies on the applicant's word that the information is true, rather than require a notarized signature on the application form, which should simplify the application process.

MS. BLAISDELL directed attention to page 4, line 8 [of Version H] to [proposed AS 08.85.150] to the unlawful practices for private investigator agencies. She said a private investigator may operate a private investigator agency if the person holds a private investigator license and carries an insurance policy, a surety bond or other form of security for not less than \$15,000, which was fairly standard practice for many businesses. She pointed out that initially the bill established a class A misdemeanor for anyone who knowingly violated this provision, but due to adverse public comment, the penalty was changed to a violation under AS 12.55.

[4:09:34 PM](#)

REPRESENTATIVE LEDOUX asked whether someone operating an agency without a license or a policy of insurance would constitute a violation.

MS. BLAISDELL answered yes; that it would similar to failure to obtain requirements for being licensed and bonded.

[4:10:16 PM](#)

REPRESENTATIVE LEDOUX asked whether a person who doesn't hold a private investigator license but operates as a private investigator would be guilty of a violation. She asked for further clarification on the punishment under AS 12.55.

MS. BLAISDELL answered that AS 12.55 relates to the code of criminal procedure, with a wide variety of punishments, sentencing and probation. She suggested that the level of punishment would likely be decided in regulation by the department. She added that the public felt that misdemeanors and criminal fines did not seem warranted.

[4:11:30 PM](#)

REPRESENTATIVE LEDOUX asked what the highest fine could be under AS 12.55 for a violation.

MS. BLAISDELL suggested that it would be left to the discretion of the department to establish by regulation.

[4:11:47 PM](#)

REPRESENTATIVE JOSEPHSON offered his belief that a violation was considered an infraction, with a maximum fine of a few hundred dollars.

MS. BLAISDELL pointed out in members' packets was a five-page list from the Division of Corporations, Business, and Professional Licensing (DCBPL) entitled "Criminal Prosecution [Authority]," which lists criminal misdemeanors and felonies for every profession. However, at this point, the bill would limit the maximum offense to violation and the process to develop regulations would set the penalty.

REPRESENTATIVE JOSEPHSON stated that this list was useful to him since he had concerns about the penalties.

[4:13:24 PM](#)

MS. BLAISDELL directed attention to page 4, line 15 of Version H to the license renewal and nontransferability in [proposed AS 08.85.160]. This language was also included in the original bill, with the exception of line 27, in which the department may require a new set of fingerprints within 10 years. She suggested that the committee may wish to review proposed subsection (d).

MS. BLAISDELL directed attention to page 5, line 3, to, prohibited practices [proposed AS 08.85.170]. This language mirrored the language in the original bill, and would allow the department to sanction a private investigator. Since the private investigator structure was established without a board, the department will assume the responsibility that a board might otherwise undertake.

[4:15:11 PM](#)

MS. BLAISDELL advised members that Version H also removed firearms training requirements [in proposed AS 08.85.240 and AS 08.85.250 on page 9 of the original bill and confidentiality of licensee's personal identifying information]. In addition, immunity for complainants [on page 10, proposed AS 08.85.270 of Version A] was also removed.

MS. BLAISDELL directed attention to page 6, lines 9-10, to the Administrative Procedure Act reference, which would allow the department to implement regulations that was also in the original bill.

[4:15:52 PM](#)

MS. BLAISDELL directed attention to page 6, lines 11-31 through page 8, line 5, of Version H to exemptions, [which mirror provisions in HB 9]. She reviewed the exemptions and the rationale used for them. She directed attention to paragraph (1), which refers to investigations conducted by a human resources department, who investigate prospective employees and conduct background checks within the affairs of the employer. Thus the internal staff would obtain information on prospective employees, but those activities do not extend to the public, she said.

MS. BLAISDELL said paragraph (2) relates to an officer or employee of the US, such as police officer, who have the statutory duty to perform investigations in the course of

performing his/her official duties. Paragraph (3) would relate to a person engaged exclusively in the business of obtaining financial information, such as companies who offer loans or credit services that are restricted to financial services only. She said that paragraph (4) related to investigations by an attorney, while performing duties as an attorney, noting these professionals are licensed and subject to ethics. Paragraph (5) relates to investigations conducted by a licensed collection agency, who perform investigations for the specific purpose of soliciting collections.

[4:18:06 PM](#)

MS. BLAISDELL directed attention to additional exemptions, including paragraph (6) for claim adjustors, who investigate the facts of an incident and do not investigate the general public; and paragraph (7) for an employee of a bank, who conduct duties within the scope of his/her employment, noting there activities do not extend to the general public, but are limited to the scope of employment to the bank. She stated that paragraph (8) relates to activities of a licensed insurance adjuster who performs duties within the scope of the adjuster's license; and paragraph (9), relates to "repo" work, by the owner of the debt if the debtor does not pay, which is covered under uniform commercial code (UCC). She said that paragraph (10) relates to a forensic scientist, who basically assembles facts to support an opinion, but does not investigate behavior; and paragraph (11) relates to those gathering information from other records, such as using Alaska's CourtView [public access website] or Google, but were not offering services beyond what the public can access. She stated that (12) related to a person solely engaged in pre-employment or human resources background screening, which does not include surveillance, but might be someone performing lie detector screenings or fingerprints; while paragraph (13) exempted news media, who conduct journalistic investigations.

MS. BLAISDELL directed attention to paragraph (14), which would exempt a person from another jurisdiction who holds a private investigator license, who might be conducting a specific incident review. She specifically pointed out that subparagraph (B), would allow private investigators reciprocity in the state for less than 30 days in a calendar year, but beyond that the out-of-state investigator would need to obtain licensure in Alaska.

[4:20:53 PM](#)

MS. BLAISDELL directed attention to paragraph (15), which would exempt process servers, who are licensed to perform duties under the Alaska Rules of Court; and to paragraph (16), which would exempt a paralegal in the employ of an attorney or law firm. She stated that paragraph (17) would allow a person to conduct genealogical research; and paragraph (18) would exempt a person who conducts fact-finding investigations in order to determine the cause of a fire, explosion, or accident.

[4:21:28 PM](#)

MS. BLAISDELL indicated a significant number of people assess information for businesses and agencies, but two key elements specifically apply to private investigators: that the private investigator can work for multiple entities rather than just one employer; and the private investigator was authorized to conduct surveillance.

[4:22:02 PM](#)

REPRESENTATIVE JOSEPHSON commented that the proposed committee substitute (CS) for HB 9, Version H, was vastly improved over the original bill; however, he still has several questions. With respect to the right to surveil, he was unsure of the extent that these rights encroach on AS 18.66, which relates to restraining orders. He suggested that the sponsor may wish to give some thought to those provisions. In addition, he pointed out that paragraph (15) would exempt process servers, who perform surveillance activities, he said.

REPRESENTATIVE JOSEPHSON recalled earlier testimony, that the public can perform these investigative task themselves; however, he questioned whether that identifies the correct test, since a lot of what private investigators can do, a person can also do themselves. For example, a person can record a conversation unless it is law enforcement doing the recording, he said.

CHAIR OLSON clarified that one party must be aware of the recording.

REPRESENTATIVE JOSEPHSON agreed that the aforementioned exemptions were necessary.

[4:23:39 PM](#)

MS. BLAISDELL referred to page 8, line 6, of Version H, noting the definition section did not change. She referred to page 8, line 13, licensing of private investigators, which would reserve the authority to license private investigators except as specifically provided in statute. Under this provision, municipalities cannot enforce the licensure of private investigators since it will allow licensees to conduct business in any part of the state. Currently, if a private investigator was operating in a city without a licensure program, the private investigator wouldn't need any license [other than a business license], but if the private investigator was working in Anchorage, he/she would go through the process to obtain municipal licensure, including paying fees. She described this section as creating a "one license fits all."

[4:24:54 PM](#)

MS. BLAISDELL directed attention to the last change made in the transitional provisions, which would change the date from July 1, 2015 to July 1, 2016 to allow the department sufficient time to implement regulations and allow time for applicants to go through the process to obtain licensure.

[4:25:20 PM](#)

MS. BLAISDELL noted that currently a person who obtains a business license may indicate investigative services as the job class, which would allow them access private information in 70 to 80 databases without undergoing a background check, by paying a \$50 fee for a business license and a small fee, such as a \$10 fee to access a database. Thus private investigators can currently gain access to the Division of Motor Vehicles' (DMV) information, including obtaining information on license holders, such as driving infractions, insurance carriers, vehicle lienholders, and their physical addresses.

REPRESENTATIVE JOSEPHSON asked for further clarification that this can be currently be done.

MS. BLAISDELL answered yes.

REPRESENTATIVE JOSEPHSON asked whether this bill would change this ability.

MS. BLAISDELL answered that this bill will provide protections, since a person working as a private investigator must submit to a background check and pay a professional license fee. Although

she was uncertain of the amount of private investigator licensing fees, she hoped instituting fees would deter some people from applying.

[4:27:32 PM](#)

REPRESENTATIVE JOSEPHSON asked for further clarification on which bill section would preclude him from accessing CourtView. He expressed concern over disallowing 700,000 Alaskans from accessing information that they currently can access. He asked whether that was something the bill would do.

MS. BLAISDELL answered no; that the general public would not be precluded from accessing public databases. Instead, this bill would establish licensure requirements for private investigators, which would be the access point to private databases. She stated that private investigators can currently obtain a business license and access databases to obtain information.

[4:28:37 PM](#)

REPRESENTATIVE JOSEPHSON asked if the bill were to pass, whether it would prevent people from paying a \$50 fee for a business license to access databases containing private information.

MS. BLAISDELL answered that under HB 9, [Version H], a person would need to go through a background check, submit a completed application, and be awarded a private investigator's professional license in order to have access to databases containing confidential information. She said that under the bill if a person was interested in accessing private databases, the person would need to go through the private investigator licensing process to do so.

REPRESENTATIVE JOSEPHSON thought he heard the answer was yes.

MS. BLAISDELL agreed.

[4:29:43 PM](#)

REPRESENTATIVE LEDOUX asked what private databases people can access with a business license.

MS. BLAISDELL answered that people can access the DMV's database by paying a \$10 fee. She said the access criteria requires a

business license by the state that indicates the person provides investigative services.

REPRESENTATIVE LEDOUX said it sounded like the DMV database in question was a state database and not a private database.

MS. BLAISDELL answered that the general public cannot query DMV and obtain the same information.

REPRESENTATIVE LEDOUX suggested she would like to speak to the DMV to get further information.

[4:31:13 PM](#)

REPRESENTATIVE HUGHES suggested that "private" in this context referred access to personal information not otherwise available. She said the public can search the DMV database, but this bill would reach into another layer of information. In response to a question by Representative Josephson, she replied that people would need to become licensed as a private investigator; however, they do not need to operate a practice in order to have access to personal information. She explained that as sponsor, her primary concern was about protection of personal information, which is very important during this electronic age. She has discovered instances in which a person's privacy was invaded and this protection for Alaskans is important. This bill has evolved as a result of input she has received. Certainly, a significant number of private investigators are doing good work, helping Alaskans and she does not want to hinder the private investigators practicing in Alaska, but to "shore up the profession," allow it to be more credible, and to enhance the respect the field should have, while providing Alaskans with the comfort that they are also protected.

REPRESENTATIVE LEDOUX said this hearing may have identified a problem beyond this bill if the Division of Motor Vehicles (DMV) has been giving out private information.

[4:33:55 PM](#)

MS. BLAISDELL said she researched investigators licensed in Anchorage and Fairbanks. She noted that 46 licensed private investigators operate in Anchorage. She further asked the Municipality of Anchorage (MOA) to project the financial impact if the MOA was no longer licensing private investigators. The MOA anticipated a reduction in revenue of \$4,600 if HB 9 passed. She reported that Fairbanks currently licenses 17 private

investigators, and charges \$400 for a biennial license. The City of Fairbanks estimated an anticipated reduction in revenue of \$2,000 per year. She indicated that Fairbanks has not had any complaints against private investigators, but the Municipality of Anchorage recalled one complaint, although that case was referred to the police.

MS. BLAISDELL, in response to Representative Josephson's concern about stalking, said that the aforementioned complaint related to that type of activity, which was turned over to the police. She stated that the Department of Commerce, Community & Economic Development had 96 business licenses that listed investigative services as the services offered. She estimated approximately 50 private investigators in the state currently provide investigative work, with an additional 50 out-of-state licensees offering services, although many of the out-of-state licenses likely were "state stacking" in order to add Alaska to the number of states in which the person was licensed, but the private investigator did not actually practice in Alaska. She said the private investigators are a small, but important group of professionals.

[4:35:56 PM](#)

REPRESENTATIVE JOSEPHSON asked whether this bill was introduced due to a kidnapped barista case.

MS. BLAISDELL answered that the aforementioned case was certainly an eye opener, but other reasons exist in terms of licensing private investigators in Alaska. She offered her belief that this bill will improve public safety for Alaskans.

[4:36:41 PM](#)

CHAIR OLSON removed his objection. There being no further objection, Version H was before the committee.

[4:36:56 PM](#)

CHAIR OLSON opened public testimony on HB 9, Version H.

[4:37:18 PM](#)

STEVE CHRISTOPHER, Owner, Investigative Services of Alaska, LLC, with respect to the public safety aspect, indicated that current laws protect the public from private investigators and other individuals. For example, he said the situation with the

barista constituted fraud so the public had other criminal and civil penalties available to provide protection. Secondly, the state prosecutes offenses, such as impersonation of a police officer, so the current statutes protect the public from that type of activity. As far as private investigators having access to databases, he offered his belief that a private person can access the same information. For example, Motznik Information Services provides Division of Motor Vehicle (DMV) information and anyone can pay fees to obtain access to that data, which does not require a private investigator license; however, the information provided is limited to the name of the individual, the vehicle, and the lienholder, but not personal information. In terms of exemptions, he directed attention to paragraph (14), which he said promotes out-of-state hire since the average rate in Alaska is significantly higher than the Lower 48. He offered his belief that the Lower 48 investigative rates are \$15-20 per hour as compared to Alaska's rates of \$50 to \$100 per hour. He expressed concern that the insurance companies could hire Lower 48 private investigators since it will be cheaper to fly them to Alaska, yet the Lower 48 investigator can avoid the licensure process.

[4:40:29 PM](#)

MR. CHRISTOPHER said that if he travels to the Lower 48, he must pay a fee to practice, which is not how it happens in Alaska. He said that many of the background sites simply require a person to pay a fee to obtain any information a private investigator can currently access, except for a few sites such as the LexisNexis Group data that requires special clearance; therefore private investigators cannot access the information. He said that databases have safeguards in place to prevent people from obtaining personal information. He pointed out he has addressed other issues, such as fingerprints, in letters of opposition he has previously sent in. He related his understanding that "violations" typically relate to fish and game offenses; however, he has not found any occupations subject to class A misdemeanor or felony charges.

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WILLIAM PARLIER, Owner, McHenry Detective Agency, stated that he owns the McHenry Detective Agency, which was established in 1975. He said he purchased the company in 1993 and has been actively engaged as a private investigator for 22 years. He offered his belief that most of the people involved as private investigators work as part-time investigators. He said he

agreed with Mr. Christopher's testimony. He explained his issues relate to what constitutes a private investigator. He stated that he reviewed the ACS [Alaska Communications Group, Inc.] June 2014 yellow pages and found 29 listings for private investigators or detectives. He telephoned each of them and found that 13 of 29 listings for private investigators were not functioning numbers and had been disconnected. He identified seven private investigators currently operating in Anchorage, although only two were working as fulltime investigators. He suggested the state should look at the classification term for "employee" since many attorney firms hire private investigators, but by definition they should fall under "employee" rather than private investigators or private contractors. He explained that the Department of Labor & Workforce Development's (DLWD) laws distinguish between private contractors and employees. He asked to read a paragraph from DLWD's website, which read, "Control is exercised when workers are totally dependent upon the employer economically. The employer exercises the necessary control of the employee through monetary means. For example, a worker who performs services primarily for one company would be economically dependent upon that company." Therefore, any private investigators who call themselves private investigators, but work for one or two law firms technically are not private investigators or independent contractors, but are actually employees. He characterized that this [bill] was a "tempest in a teapot." He suggested that in Anchorage there were literally 5-6 people working fulltime.

CHAIR OLSON surmised that Mr. Parlier did not like the new version of the bill.

MR. PARLIER suggested that there are less than 10 fulltime private investigators who currently work in Alaska.

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ROBERT SHAW, Owner, Robert Shaw Agency, stated that he has been licensed in Alaska and by the Municipality of Anchorage since 1996, and prior to that he has worked in the field for 20 years in the Lower 48 and overseas. While it has taken significant time and energy to put together the background for the bill, he did not understand why the state would make such a "big production" for the few people involved in the private investigator industry. He expressed concern about the investigative services being billed out by law firms, but he doubted any investigative services occurred, which he characterized as fraudulent. He directed attention to the

audience in the [legislative information office] hearing room, noting only a half dozen people showed up. He asked members to reconsider the bill in its current format.

4:49:01 PM

JAMES HOFERER, Owner, JPH Enterprises, stated he runs a private investigative agency in Anchorage. He grew up in California, but he has resided in Alaska for 13 years. He studied criminal justice and psychology at the University of California, Irvine. After doing some work in Alaska, he decided to start his own business since he has an interest in the law and in investigations. He has operated a licensed private detective agency for the last three and one-half years and has another year remaining on his biennial license. He expressed concern about the bill because he prides himself on the work he performs for attorneys and private citizens. This bill makes it sound like there has been some type of taint on the type of work private investigators perform. He recalled Ms. Blaisdell's testimony that 17 licensed investigators in Fairbanks have operating without any complaints and 46 licensed private investigators operate in Anchorage, but one complaint was filed in the past 10 years and that complaint was referred to the police department. He said that it does not sound like a lot of public safety concerns about the profession exist. He offered his belief that private investigators are doing a good job by helping attorneys and the defense, in helping private citizens locate relatives, or working on civil cases, such as infidelity or workers' compensation, but these private investigators are not getting a "fair shake." He said he thought this bill represented an "overkill." He acknowledged that the sponsor and committee have put in significant time and effort, but this time and effort could be used on something more important than trying to regulate private investigators when there have not been complaints filed against them. In conclusion, he said the whole premise in bringing this bill forward was a mistake, including last year's bill that this committee heard.

4:51:36 PM

FRANK WAKE, Private Investigator, Frank Wake Private Investigative Services, LLC, recalled reading an opinion piece a few days ago written by Senator MacKinnon. The opinion suggested that a bill is an "idea" or a "policy consideration" to engage Alaskans in a discussion about their government and how the proposed idea would affect people. Therefore he characterized this bill, HB 9, as being a discussion. He said

that [private investigators] have offered their opinions, mostly negative, about this bill. He has not seen any letters other than several brief and uninspired e-mails regarding the bill, and there are no other comments to support the proposed legislation.

MR. WAKE wondered which committee members favored HB 9 since significant issues have been raised about the projected costs by the Division [of Corporations, Business, and Professional Licensing]. He acknowledged that he considers the projected costs to be a big issue. In fact, this bill represents an unknown cost based on an unknown number of potential licensees. He trusted that members have read the letters and are aware of [private investigators'] opposition to the bill. He considered HB 9 to be a waste of time. As far as he was concerned other remedies exist for any transgressions rather than licensing private investigators. For example, people can file civil lawsuits or criminal charges and fraud and theft can be handled by local law enforcement. He asked members to engage in a dialogue with private investigators since they are the ones who will be regulated under HB 9. He asked what other concerns exist that necessitate private investigator licensing, other than public safety concerns, which have been found lacking. He said that private investigators are willing to answer any questions. In conclusion, he said he did not understand the "burning need" for this proposed legislation. For example, he asked whether the state has been overrun by private investigators who are running around causing problems that necessitate licensing the entire profession. "I haven't seen it in my 28 years. In my opinion, there isn't a need, there isn't a good reason, and this bill should stay right where it is as a policy consideration to engage Alaskans in a discussion with their government," he said.

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CHAIR OLSON said that the committee is willing to listen to the concerns. He also expressed concern about the cost of the program, based on the size of fiscal note.

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DENA BOUGHTON, Owner, Justice Investigations, stated that she has been a professional investigator in Anchorage for 10 years and her Fairbanks license is pending. She did not think the figures presented today were accurate. She failed to see how this bill will protect the public, given that private

investigators are licensed in Anchorage, yet an event in Anchorage happened to the Koenig family and licensure did not protect them. She did not see how this bill would prevent anyone from coming into the state and conning a family. Instead, this bill will place a burden on the people living and working in the community. She said she lives in Alaska where people know her and what she does for a living. She found it difficult to imagine how she could con anyone since she has a public business. The aforementioned databases that she can access are also ones committee members and the public can also access. She thanked members for considering the private investigator profession, but she did not think it was being considered in the right light. She has basically heard that the bill will provide the public with protection from private investigators, but she would like to support her colleagues who testified today.

[4:56:40 PM](#)

ANTHONY COZZETTI, Owner, Paladin Investigations, stated that he primarily works on legal investigations, which requires him to go to the prisons to interview prisoners. The Department of Corrections has been deliberately interdicting the services of a private investigator, he said, and he hoped that the committee will consider that once a person is licensed as a private investigator that the state shouldn't interfere with his/her investigations. He viewed this interference as being a constitutional issue, in particular, when a prisoner hires his/her own private investigator. He hoped the committee would address this issue in the bill. Further, investigators for the state and attorneys have been getting "a free ride," which should be examined. Also, every paralegal works as an investigator, but not every investigator is a paralegal, he said, which should also be taken into consideration.

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LINK FANNON, Owner, Oracle Investigations, expressed concern that he did not have much of an opportunity to review the proposed committee substitute; however, some of the issues the committee has heard today are absolutely 100 percent inaccurate. He preferred not use the word "lie," but said the information is simply not true. He referred to a document in members' packets, which he thought was considered a sponsor statement, and read, "With this credential an individual can now access 70 to 80 percent of restricted national databases that provide access to personal information." He said, "That's not true." He recalled

an earlier question that Representative LeDoux had about the DMV records. He replied that anyone can go through Motznik Information Services [Motznik] to obtain the Division of Motor Vehicle (DMV) records. He questioned the "70 to 80 percent of restricted national databases," that private investigators can access. He said that private investigators are private citizens without law enforcement status or anything else that a private citizen doesn't have. Thus the tasks that private investigators can perform under this bill are ones private citizens can do themselves. He further recalled that Representative Josephson raised the idea that individuals can surveil, in fact, anyone can watch someone, but not stalk them, since stalking raises a different issue.

MR. FANNON emphasized that he has other problems with the bill. He said the fiscal impact was extensive. He read from the sponsor statement for HB 9, which read, "HB 9 is not a new concept for Alaska nor the profession." It goes on to talk about the Municipality of Anchorage and the City of Fairbanks licensing of private investigators. He suggested that those licenses were basically a background check process to weed out people who are felons. He said that HB 9 contains extensive restrictions. The bill attempts to protect the public from private investigators, but then exempts most of them. He highlighted that he previously worked as an adjustor, handling personal injury protection cases. As a personal injury protection adjuster, the adjuster ensures that treatment is reasonable and necessary and related to an accident. In fact, under the bill, adjusters work would be considered conducting an investigation so the public doesn't need be protected against them. He simply did not think the bill made any sense, he said. He characterized HB 9 as "legislation looking for a problem."

MR. FANNON offered his belief that this bill was not well thought out and included numerous ambiguities. For example, he referred to page 6, line 8, [under prohibited practices] to paragraph, which read "(8) failed to comply with an order issued by the department." He said that he was unsure what that meant, who in the department it referred to, and what order was being referenced. He emphasized that this bill was far reaching in terms of government overreach and with the current \$50 per barrel oil prices, he suggested that the state has a lot of other things to worry about. He appreciated members' time today since he knows legislators have a lot of pressing issues. Unfortunately, this bill would affect the lives and professions of private investigators, he said. In conclusion, he stated that he strongly opposes HB 9 since this bill is not well

thought out, has a lot of problems, and doesn't solve anything that has been "proposed as a problem."

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CHAIR OLSON noted that the biggest stumbling block at this point was the fiscal note.

[HB 9 was held over.]

5:03:29 PM

ADJOURNMENT

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 5:03 p.m.