

HOUSE BILL NO. 1161

Introduced by

Government and Veterans Affairs Committee

(At the request of the Private Investigative and Security Board)

1 A BILL for an Act to create and enact a new section to chapter 43-30 of the North Dakota
2 Century Code, relating to citations for unlicensed provision of private investigative services or
3 unlicensed private security services; to amend and reenact sections 43-30-10 and 43-30-12 of
4 the North Dakota Century Code, relating to disciplinary measures for persons engaged in
5 private investigative service or private security service; and to provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-30-10 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-30-10. Penalty - Injunction - Unlicensed activity.** Any person who violates this
10 chapter or rules adopted under this chapter, or any person who provides a private investigative
11 service or private security service without a current license issued by the board, or falsely states
12 or represents that the person has been or is an investigative officer or employed by an
13 investigative or security officer or agency is guilty of a class B A misdemeanor. In addition to
14 the criminal penalties provided, the civil remedy of an injunction is available to restrain and
15 enjoin violations of any provisions of this chapter, without proof of actual damages sustained by
16 any person. An injunction does not preclude criminal prosecution and punishment of a violator.
17 The board is not liable for the lost income, costs, or any other expenses that may be incurred by
18 a person against whom an injunction is sought, and the board may not be required to provide
19 security or a bond. The board may seek costs for reimbursement of expenses for obtaining an
20 injunction, including attorney's fees. In addition to issuing the injunction, the court may impose
21 a civil penalty pursuant to section 2 of this Act if the person has violated a provision of chapter
22 43-30.

23 **SECTION 2.** A new section to chapter 43-30 of the North Dakota Century Code is
24 created and enacted as follows:

- 1 **Issuance of citations for unauthorized practice - Administrative fine - Appeal.**
- 2 1. The board may issue a citation to a person who the board finds probable cause to
- 3 believe has violated section 43-30-10.
- 4 2. A citation must be in writing and describe with particularity the nature of the
- 5 violation. The citation must also inform the person of the provisions of
- 6 subsection 5. A separate citation must be issued for each violation.
- 7 3. If appropriate, the citation must contain an order of abatement fixing a reasonable
- 8 time for abatement of the violation.
- 9 4. The board may assess an administrative fee of:
- 10 a. For the first violation, up to two hundred fifty dollars.
- 11 b. For the second violation, up to five hundred dollars.
- 12 c. For the third or subsequent violation, up to one thousand dollars.
- 13 5. To appeal the finding of a violation, the person must request a hearing by written
- 14 notice of appeal to the board within thirty days after the date of issuance of the
- 15 citation.
- 16 6. An appeal must be heard under the procedures contained in chapter 28-32.
- 17 7. A citation does not preclude a civil injunction or the criminal prosecution and
- 18 punishment of a violator.

19 **SECTION 3. AMENDMENT.** Section 43-30-12 of the North Dakota Century Code is

20 amended and reenacted as follows:

21 **43-30-12. Disciplinary action.** The board may refuse to renew, suspend, or revoke a

22 license, or place on probationary status any licensee, or issue a letter of reprimand to any

23 licensee, for any one or any combination of the following causes:

- 24 1. Fraud in obtaining a license.
- 25 2. Violation of this chapter or rules adopted which implement section 43-30-04.
- 26 3. If the holder of any license or a member of any copartnership, an officer of any
- 27 corporation, or a manager of any limited liability company has been adjudged guilty
- 28 of the commission of an offense determined by the board to have a direct bearing
- 29 upon a holder's ability to serve the public as a private investigative or security
- 30 agency, or if the board determines that, following conviction of any offense, the
- 31 holder is not sufficiently rehabilitated under section 12.1-33-02.1.

- 1 4. Upon the disqualification or insolvency of the surety of the licenseholder.
- 2 5. Any person licensed, certified, or registered by the board pursuant to this chapter
3 who violates any statute or board regulation and who is not criminally prosecuted is
4 subject to a monetary penalty, which may be assessed at a hearing under the
5 procedures contained in chapter 28-32. If the board determines that a respondent
6 is guilty of the violation complained of, the board shall determine the amount of the
7 monetary penalty for the violation, which may not exceed two thousand five
8 hundred dollars for each violation. The penalty may be sued for and recovered in
9 the name of the board. The monetary penalty must be paid into the board's
10 general fund.
- 11 The board may impose a fee on any person subject to regulation under this chapter to
12 reimburse the board for all or part of the costs of administrative actions resulting in disciplinary
13 action, including the amount paid by the board for services from the office of administrative
14 hearings, attorney's fees, court costs, witness fees, staff time, and other expenses.