

Fifty-ninth
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1165

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 exceptions to private investigative services licensing; to amend and
3 reenact sections 43-30-01, 43-30-02, and 43-30-03 of the North Dakota Century Code, relating
4 to licensing persons engaged in private investigative service or private security service; and to
5 provide a penalty.

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

7 **SECTION 1. AMENDMENT.** Section 43-30-01 of the North Dakota Century Code is
8 amended and reenacted as follows:

9 **43-30-01. Definitions.** As used in this chapter, unless the context or subject matter
10 otherwise requires:

- 11 1. "Board" means the private investigative and security board.
- 12 2. "Employee" means an employee under a contract of employment as defined in
13 chapter 34-01, and not an independent contractor as defined by the "common law"
14 test.
- 15 3. "License" includes a registration issued by the board.
- 16 ~~3.~~ 4. "Licensee" includes an individual who is registered by the board.
- 17 ~~4.~~ 5. "Private investigative service" means ~~obtaining or furnishing information with~~
18 ~~reference to any act or individual, for a fee, reward, or other consideration,~~
19 undertaking any of the following acts for the purpose of obtaining information for
20 others:
 - 21 a. Investigating the identity, habits, conduct, movements, whereabouts,
22 transactions, reputation, or character of any person or organization;
 - 23 b. Investigating the credibility of persons;

- 1 c. Investigating the location or recovery of lost or stolen property, missing
2 persons, owners of abandoned property or escheated property, or heirs to
3 estates;
- 4 d. Investigating the origin of and responsibility for libels, losses, accidents, or
5 damage or injuries to persons or property;
- 6 e. Investigating the affiliation, connection, or relationship of any person, firm, or
7 corporation with any organization, society, or association, or with any official,
8 representative, or member thereof;
- 9 f. Investigating the conduct, honesty, efficiency, loyalty, or activities of
10 employees, persons seeking employment, agents, or contractors and
11 subcontractors;
- 12 g. Investigating or obtaining evidence to be used before any authorized
13 investigating committee, board of award, board of arbitration, administrative
14 body, or officer or in preparation for trial of civil or criminal cases; or
- 15 h. Investigating the identity or location of persons suspected of crimes or
16 wrongdoing.
- 17 5- 6. "Private security service" means furnishing for hire security officers or other
18 persons to ~~protect~~;
- 19 a. Protect persons or property, ~~or to prevent the~~;
- 20 b. Prevent or detect theft or the unlawful taking of goods, wares, ~~and or~~
21 merchandise, or to prevent the misappropriation or concealment of goods,
22 wares, merchandise, money, bonds, stocks, choses in action, notes, or other
23 valuable documents or papers, ~~or the business of performing the service of~~
24 ~~such security officer or other person for any of these purposes;~~
- 25 c. Control, regulate, or direct the flow of or movements of the public, whether by
26 vehicle or otherwise, to assure protection of private property;
- 27 d. Prevent or detect intrusion, unauthorized entry or activity, vandalism, or
28 trespass on private property;
- 29 e. Perform the service of a security officer or other person for any of these
30 purposes; or

1 f. Transport money or negotiable securities to or from a financial institution or
2 between business locations on a regular or daily basis, except for mail
3 delivery.

4 **SECTION 2. AMENDMENT.** Section 43-30-02 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **43-30-02. Exemptions.** This chapter does not apply to:

- 7 1. Any investigator or officer directly employed by or under any direct contract with
8 the federal government, state, or any county or city thereof, appointed, elected, or
9 contracted with, by due authority of law, while engaged in the performance of
10 official duties. Subcontractors of agencies directly contracted with these entities
11 are not exempted.
- 12 2. Any state's attorney.
- 13 3. Any attorneys or counselors at law in the regular practice of their profession and
14 any paralegal or legal assistant employed by an attorney or law firm when the
15 attorney or law firm retains complete responsibility for the work product of the
16 paralegal or legal assistant.
- 17 4. Any person ~~whose sole investigative business is the furnishing of information as to~~
18 ~~the business and financial standing and credit of persons~~ engaged exclusively in
19 obtaining and furnishing information as to the financial standing, rating, and credit
20 responsibility of persons or as to the personal habits and financial responsibilities
21 of applicants for insurance, indemnity bonds, or commercial credit.
- 22 5. A collection agency or finance company licensed to do business under the laws of
23 this state, or an employee of one of those companies, while acting within the scope
24 of employment when making an investigation incidental to the business of the
25 agency, including an investigation as to location of a debtor and of the debtor's
26 assets or property, provided the client has a financial interest in or a lien upon the
27 assets or property of the debtor.
- 28 ~~6.~~ 6. Any person making any investigation of any matter in which that person or the
29 person by whom that person is solely employed is interested or involved.
- 30 ~~6.~~ 6. ~~Any person making any investigation for any person engaged in the business of~~
31 ~~transporting persons or property in interstate commerce.~~

- 1 7. ~~Any adjuster or investigator representing an insurance company.~~
2 8. 7. A person whose sole investigative business is obtaining or furnishing information
3 about acts or individuals from public records, other than those investigating the
4 location or recovery of abandoned or escheated property, owners of abandoned or
5 escheated property, or heirs to estates.
6 8. An expert who specializes in a specific, limited area of practice, including
7 automotive accident reconstructions, fire cause and origin inspections, technical
8 surveillance counter measures, handwriting analysis, auditor, accountant or
9 accounting clerk performing audits or accounting functions, or other areas of
10 practice covered by other licensure in the state, and other areas determined by the
11 board, that fall within the individual's scope of employment, incidental to the
12 investigative profession.
13 9. Persons reporting for any media, including news reporters or news investigators.
14 10. A person providing mystery or secret shopping services, or providing a similar
15 service, used for evaluating customer service, products, services, pricing,
16 locations, or consumer issues so long as the evaluation is not for purposes of
17 litigation or discovering violations of law.

18 **SECTION 3.** A new section to chapter 43-30 of the North Dakota Century Code is
19 created and enacted as follows:

20 **Fair housing law compliance - Exception - Penalty.** This chapter does not apply to a
21 person testing for fair housing law compliance who is employed by or volunteers with an
22 organization recognized for this purpose under federal or state law and who meets the
23 requirements, except for actual registration, of a registered private investigator established by
24 the board. These requirements include a state and nationwide criminal history background
25 check conducted by the bureau of criminal investigation and the federal bureau of investigation.
26 The results of the state and nationwide criminal history background check must be on file with
27 the organization. The board, at its request, may review the criminal history background check
28 and other information related to any person conducting the compliance test. Any person who
29 knowingly violates the requirements for an exception under this section is guilty of a class B
30 misdemeanor.

1 **SECTION 4. AMENDMENT.** Section 43-30-03 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **43-30-03. Private investigative and security board.** The governor shall appoint a
4 private investigative and security board. The board must consist of not less than five nor more
5 than eleven members appointed for staggered four-year terms. Appointees to the board must
6 be knowledgeable in private investigative or private security matters. A majority of the
7 members of the board must be actively engaged in the private investigative or security
8 profession, with at least one member actively engaged in law enforcement. Members of the
9 board may not receive any compensation for their service on the board, but they are entitled to
10 be reimbursed for their expenses incurred in performing their duties in the amounts provided by
11 law for state employees.