



**House  
Legislative  
Analysis  
Section**

House Office Building, 9 South  
Lansing, Michigan 48909  
Phone: 517/373-6466

**SECURITY TRAINING, LICENSES &  
FEES**

**Senate Bill 425 (Substitute H-2)**

**Senate Bill 929 (Substitute H-1)**

**Senate Bill 992 with committee  
amendment**

**Sponsor: Sen. Philip E. Hoffman**

**House Committee: Criminal Justice**

**Senate Committees: Judiciary and  
Appropriations**

**First Analysis (6-4-02)**

***THE APPARENT PROBLEM:***

The Private Security Business and Security Alarm Act requires a person or firm to be licensed in order to operate as a security alarm system contractor, private security guard, private security police, or patrol service, or as an agency furnishing those services. Reportedly, the fees charged for various licenses under the Private Security Business and Security Alarm Act apparently have not been increased since its 1968 enactment, and revenue from those fees does not fully fund oversight of the licensing program. (Some of those fees, however, were increased for fiscal year 2001-2002 by Executive Order 9 of 2001.) It has been suggested that the regulatory function of these professions be shared between the Department of Consumer and Industry Services and the Department of State Police, and that the fees be increased and a restricted fund be established so that the two departments' oversight of licensees could be adequately funded without using state general fund money.

In addition, following the events of September 11, 2001, security has been increased at many public venues and events. However, it has been brought to light that the statute regulating the security business only calls for a state fingerprint check. Since security guards, private security police, and security alarm contractors often have access to sensitive information and access to sensitive sites, it has been recommended that the statute be amended to require a national criminal history background check.

Further, people who work as private detectives also have access to sensitive and private information about individuals and companies, as well as access to sensitive locations. Yet, posing as a private

investigator is only a misdemeanor with a maximum term of imprisonment of 90 days. It has been recommended that the penalty for posing as a private investigator be increased to a felony offense, and that other changes be made also, such as increasing license fees, increasing the minimum level of education required for licensing, and allowing reciprocity with other states.

***THE CONTENT OF THE BILLS:***

Senate Bill 425 would amend the Private Security Business and Security Alarm Act (MCL 338.1052 et al.) to do all of the following:

- Place the regulatory oversight of private security guards and security alarm system contractors under the purview of the Department of Consumer and Industry Services and keep the regulatory oversight of private security police under the Department of State Police.
- Increase certain fees required under the act.
- Establish the "Security Business Fund" and require that fees collected under the act be deposited into the fund.
- Require a licensee's employees to have at least a high school education.
- Revise fingerprinting requirements for employees of a licensee.
- Increase the required size of shoulder identification patches or emblems on uniforms.

**Senate Bills 425, 929 and 992 (6-4-02)**

- Revise other licensure and application requirements.

Senate Bill 425 also would delete references to a person in the definitions of "licensee" and "security alarm system contractor", and include in those definitions a sole proprietorship and a limited liability company. (Currently, "licensee" means a person, firm, company, partnership, or corporation licensed under the act; and "security alarm system contractor" means a person, firm, company, partnership, or corporation engaged in the installation, maintenance, alteration, monitoring, or servicing of security alarm systems or who responds to a security alarm system.)

Fees, Licensure. Under the act, the Department of State Police (DSP), when it is satisfied with the good character, competence, and integrity of an applicant, or of its individual members or officers, must issue to the applicant a certificate of license upon the applicant's payment of a fee and filing of a bond. Instead, the bill would place the oversight of private security police with the DSP and all others licensed under the act would be overseen by the Department of Consumer and Industry Services. The bill would also refer to a "license" instead of "a certificate of license."

Currently, the fee is \$200 for a person; \$300 for a private security guard firm, company, partnership, or corporation; and \$500 for a security alarm system contractor. Under the bill, beginning October 1, 2002 and ending October 1, 2004, the fee for a sole proprietorship (rather than a "person") would be \$1,000; the fee for a private security guard firm, company, partnership, limited liability company, or corporation would be \$1,500; and the fee for a security alarm system contractor would be \$1,500.

Branch Offices. The act provides that a licensee may receive a license for a branch office following approval by the department and the payment of an additional fee of \$50 for each private security guard branch office license and \$100 for each security alarm system contractor branch office license. The bill would increase those fees to \$250 and \$500, respectively, for the time period between October 1, 2002 and October 1, 2004.

Renewal. The department may renew a license granted under the act upon the licensee's application, payment of a fee, and filing of a renewal bond.

Currently, the fee is \$100 for an individual; \$150 for a private security guard firm, company, partnership, or corporation; and \$250 for a security alarm system

contractor. (Under Executive Order 9 of 2001, however, each of those fees is \$1,500 in fiscal year 2001-2002.) Under the bill, beginning October 1, 2002 and ending October 1, 2004, the fee for a sole proprietorship (rather than an "individual") would be \$1,000; the fee for a private security guard firm, company, partnership, limited liability company, or corporation would be \$1,500; and the fee for a security alarm system contractor would be \$1,500.

The bill would also remove the requirement that an application for renewing a license be approved by the county sheriff or chief of police and the county prosecutor. (However, this approval would still be required for the initial license application.)

Security Business Fund. The bill would create the Security Business Fund within the state treasury. The DSP or CIS could spend money from the fund, upon appropriation, only for the enforcement and administration of the act. The departments would have to deposit all license fees collected under the act into the fund. The state treasurer could receive money or other assets from any source for deposit into the fund and would have to direct its investment. The state treasurer would have to credit to the fund any interest and earnings on fund investments. Money in the fund at the close of a fiscal year would have to remain in the fund and be available for appropriation and expenditure by the departments in subsequent fiscal years. Money in the fund could not lapse to the general fund.

High School Education. The act requires that people in the employ of a licensee meet certain qualifications, including at least an eighth grade education or its equivalent. Under the bill, after its effective date, employees would have to have at least a high school diploma, a GED, or its equivalent.

Fingerprinting Requirements. Under the act, a licensee must have all prospective employees fingerprinted, and the fingerprints must be submitted to the DSP for processing and approval. Fingerprints of a licensee's employees may be taken by a law enforcement agency or any other person determined by the DSP to be qualified to take fingerprints. If a licensee takes the fingerprints, that licensee must obtain training in taking fingerprints from the DSP or a law enforcement agency or other person determined qualified by the DSP.

The bill would require that the fingerprints of prospective security guard employees be submitted to both the DSP and the FBI. The bill also would require that the fingerprints be accompanied by a

processing fee in the amount prescribed by Section 3 of Public Act 120 of 1935, as well as any costs imposed by the FBI.

(Section 3 of Public Act 120 allows the department to charge a fee of up to \$15 for taking and processing fingerprints and completing a criminal record check of a Michigan resident when fingerprints are requested for employment- or licensing-related purposes. Executive Order 9 of 2001, however, requires the processing fee under Section 3 of Public Act 120 to be \$30 for fiscal year 2001-2002.)

The bill would delete provisions allowing the DSP to charge a fee of up to \$100 for training, requiring a licensee to submit a one-time \$15 processing fee for each person applying for employment, and allowing a local law enforcement agency to charge a fee of up to \$15 per person for the fingerprint process.

The bill also would amend provisions that require a licensee to request that the DSP conduct a background check of each prospective employee based upon a name check, and require the DSP to conduct the background check upon a written or telephone request accompanied by a \$5 fee (which is \$15 for fiscal year 2001-2002, under Executive Order 9). The provisions would specify instead that the name check be conducted on all prospective security guard employees, allow the name check request to be submitted electronically, and raise the fee for the name check from \$5 to \$15. Unlike the other fee increases, the bill would not restrict this increase to a two-year period.

Uniform Patches. Under the act, the particular type of uniform and insignia worn by a licensee or his or her employees must be approved by the DSP or CIS and may not deceive or confuse the public or be identical to that of a federal, state, or local law enforcement officer. Shoulder identification patches must be worn on all uniform jackets, coats, and shirts, and include the name of the licensee or agency. Currently, shoulder identification patches or emblems may not be smaller than two inches by three inches. Under the bill, the shoulder patches or emblems would have to be at least three inches by five inches.

Other Licensure & Application Requirements. Under the act, an applicant for a private security guard or agency license must have one or more types of experience. One of these is experience in the private security guard or agency business for at least three years. Under the bill, this condition would apply to experience in another state. Another type of

experience is law enforcement employment on a full-time basis for at least four years for a city, county, or state, or the U.S. government. The bill would limit this to employment as a certified police officer.

The act provides that the DSP must require an applicant for licensure to obtain reference statements from at least five reputable citizens who are residents of this state. The bill would delete the requirement that the statements come from Michigan residents.

The act requires the DSP to investigate an applicant's "reputation for truth, honesty, integrity and ethical dealing" upon receiving an application. The bill, instead, would require the DSP or CIS to investigate an applicant's "qualifications for licensure" upon receiving the application and application fee.

Under the act, any change in the name or location of an agency or a branch office or subagency must be reported to the DSP or CIS at least 10 days before the change becomes effective. The bill specifies that the change would have to be reported by the licensee and that failure to notify the CIS of a change in name or location could result in a license suspension.

The act requires a licensee to keep and maintain in Michigan adequate and complete personnel information on all employees. The bill also would require each licensee, on a quarterly basis, to file a complete employee roster, in a manner described by the CIS. The rosters would have to be filed with the CIS or DSP by April 15, July 15, October 15, and January 15 for the preceding quarter. Failure to submit accurate rosters would be cause for license suspension. A renewal application could not be processed if the quarterly roster had not been received for each quarter of the preceding two-year license period.

Senate Bill 929. The bill would amend the Private Detective License Act (MCL 338.822 et al.) to do all of the following:

- Increase certain fees required under the act, add an "application processing fee", and extend the length of a license period from two to three years. (Fees already have been increased for fiscal year 2001-2002 pursuant to Executive Order (E.O.) 9 of 2001.)
- Increase the sum of the bond required to be posted under the act and permit a policy of insurance to be used in lieu of a bond.

- Change the qualifications for obtaining a private detective business license, including removing the requirement that a person be a resident of this state.
- Increase penalties for a violation of the act.

The bill also would delete outdated references to the secretary of state and substitute the Department of Consumer and Industry Services. Currently, the act is implemented by the Department of State Police.

The bill would extend the duration of a license from two to three years. Currently, the act sets the license fee for a person at \$100, with a \$50 renewal fee. The current license fee for a firm, partnership, company, limited liability company, or corporation is \$200 and the renewal fee is \$300. Instead, the bill would create an application processing fee of \$150 and an initial license fee of \$600, regardless of whether the license was for a person or a firm, etc. Likewise, the renewal fee would be \$300 for all licensees. The fee for a license for a branch office would be increased from \$25 to \$125. A person holding a license under the act on the effective date of the bill would be required to pay only the license renewal fee.

In addition to requiring a license fee, the act requires the posting of a bond in the sum of \$5,000 if a person, or \$10,000 if a firm, partnership, or corporation. Under the bill, all applicants would have to post a bond of \$10,000 or, in lieu of a bond, a policy of insurance naming the licensee and the state as co-insured in the amount of \$10,000 for property damages, \$100,000 for injury to or death of one person, and \$200,000 for injury to or death of more than one person arising out of the operation of the licensed activity.

The act provides for a refund of an application fee if it is shown that an applicant is ineligible to receive a license due to failure to meet the requirements of the act. Under the bill, a fee could be refunded only in the event of a mistake, inadvertence, or error in collection. The bill also specifies that an investigation of the applicant's qualifications for licensure would begin after the department received the application and license fee.

The bill would delete requirements that a sole or principal license holder be "of good moral character" and a resident of this state. The bill also would change certain types of experience that an applicant must have. Under the act, an applicant must, for at least three years, meet one of the following: have been lawfully engaged in the private detective business; have worked for a government entity in

certain law enforcement capacities; or have obtained an educational degree. Under the bill, experience in the private detective business in another state would be included as qualified experience. Also, to count as required experience, serving as a police officer would qualify only if it were as a certified police officer. In addition, an acceptable degree under the bill would have to be a baccalaureate degree, which could be a degree in criminal justice or, as currently provided, a degree in police administration. The bill also would exempt from licensure under this act, professional engineers acting within the scope of their practice and not performing investigative activities.

The bill would require that a fingerprint check of each prospective employee be submitted to the department and the FBI for processing and approval. The licensee would have to submit a processing fee to cover both the state and federal portions of the fingerprinting costs. The bill also would require that a licensee not knowingly employ any person convicted within the previous eight years of a misdemeanor involving dishonesty or fraud; unauthorized divulging or selling of information or evidence; impersonation of a law enforcement officer or other government employee; illegally using, carrying, or possessing a dangerous weapon; two or more alcohol-related offenses, controlled substances under the Public Health Code; or assault.

The bill would permit a person regulated as a private investigator or detective in another state to engage in activities regulated under this act for a limited time, in order to continue an ongoing investigation originating in the other state, if it has reciprocity with Michigan.

Under the act, a person conducting business without a license is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days or by a fine of not more than \$1,000, or both. The bill would change the offense to a felony punishable by imprisonment for up to four years, a maximum fine of \$5,000, or both. Currently, a violation of the act by a licensee, manager, or employee of a licensee is a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$100. The bill would increase the maximum fine to \$500.

The bill also would permit the department to promulgate rules to enforce and administer the act, and provides that a violation of a rule would be a misdemeanor, punishable by imprisonment for up to 90 days or a fine of up to \$500, or both. The bill would require a notice and an opportunity for a hearing when a suspension, revocation, or other

action against a licensee was taken. The bill also would remove a provision stating that department agents have all the powers of a peace officer in carrying out the provisions of the act.

The bill would take effect October 1, 2002.

Senate Bill 992. The bill would amend the Code of Criminal Procedure (MCL 777.13p) to include in the sentencing guidelines a violation of Section 3 of the Private Detective License Act. A violation would be a Class F felony against the public trust, with a statutory maximum sentence of four years' imprisonment.

The bill is tie-barred to Senate Bill 929, which would amend Section 3 of the Private Detective License Act to elevate the crime of engaging in business as a private detective or private investigator from a misdemeanor punishable by up to 90 days' imprisonment and/or a maximum fine of \$1,000, to a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000. The bill would take effect October 1, 2002.

#### ***HOUSE COMMITTEE ACTION:***

Senate Bill 425. The H-2 substitute made the following changes:

- Redefined the term "department" to mean the Department of Consumer and Industry, except for the regulation of private security police, in which case "department" would still mean the Department of State Police.
- Deleted the requirement that employees who carry a pistol within the scope of their employment obtain a Michigan concealed pistol license.
- Included "educational institution" in the definition of "private security police".
- Increased license fees, renewal fees, and branch office fees between October 1, 2002 and October 1, 2004.
- Expanded the fingerprint check to a national criminal history background check and specify this was for all prospective security guard employees, and required that fingerprints be submitted for the criminal history background check prior to employing the person.
- Deleted a provision prohibiting a person from being hired prior to a fingerprint clearance.

- Reinstated the name check requirement, allowed electronic requests for name checks, and raised the name check fee from \$5 to \$15. Also, restricted name checks to prospective security guard employees.

- Clarified that a license renewal must be filed with a renewal surety bond of \$25,000.

- Deleted the requirement that a license renewal application be approved by the sheriff or chief of police and the county prosecutor.

- Deleted the training requirements for security guards.

- Removed the tie-bar to Senate Bill 420.

- Added an October 1, 2002 effective date.

Senate Bill 929. The committee version made the following changes to the Senate-passed bill:

- Removed the requirement that license renewal applications be approved by the sheriff or chief of police and the county prosecutor.

- Deleted a provision that would have allowed a licensee to hire an employee on a probationary basis pending a fingerprint clearance.

- Removed a tie-bar to Senate Bill 425.

- Added an effective date of October 1, 2002.

Senate Bill 992. The committee adopted an amendment to add an effective date of October 1, 2002.

#### ***FISCAL IMPLICATIONS:***

According to the House Fiscal Agency, the higher fee levels contained in Senate Bills 425 and 929 would increase licensing fee revenue collected by the state by an estimated \$350,000 to \$575,000 annually. An increase in the fee for provisional name-based background checks on prospective security guard employees, from \$5 to \$15, included in Senate Bill 425 would result in increased revenue collections of approximately \$150,000 annually.

The agency reports that state costs under Senate Bill 992 would depend on the extent to which it (in conjunction with Senate Bills 425 and 929) increased the number of offenders receiving prison sentences or assigned to felony probation supervision. Local costs

of misdemeanor probation could be reduced, but jail costs could increase or decrease depending on how the bills affected the use of jail sentences for such offenders. (6-3-02)

### **ARGUMENTS:**

#### **For:**

The minimum standards under the Private Security Business and Security Alarm Act for licensees and their employees are inadequate. For instance, employees of a licensee need to have only an eighth grade education. With the types of responsibilities that private security guards must assume, that level of education is simply too low. A high school education or GED should be the minimum standard for those employees. Also, while the act requires that a licensee have all prospective employees fingerprinted for a criminal history check, the fingerprints must be submitted only to the Department of State Police for processing and approval. Under Senate Bill 425, the fingerprints also would have to be submitted to the FBI. In this way, a broader check of applicants' possible criminal history could be conducted. That bill also would prohibit a licensee from hiring an applicant before submitting the fingerprints for the background check to the DSP, and specifies that each licensee would have to file a complete employee roster with the department providing regulatory oversight on a quarterly basis. Further, the bill would still allow employers to hire a person while the fingerprint check was being conducted. This is important to licensees who supply large numbers of private security guards for seasonal events such as outdoor festivals, concerts, and sporting events. Since a fingerprint check for employment purposes can still take from 3 weeks to two months, requiring a firm to wait until a fingerprint clearance would pose quite a hardship. After all, it is difficult to ask a person to wait 2 months before hiring; most individuals would take other employment by then. Also, security firms have reported no problems so far by using the name check before beginning a provisional time of employment.

#### **Response:**

Actually, the House-committee version specifies that "prospective security guard employees" would be subject to the criminal background check. It is plausible that this could be interpreted as only applying to private security guards and not to private security police or the contractors and their employees who install and maintain security alarm systems. As private security police often carry weapons and alarm system personnel have knowledge of and access to sensitive information and buildings, they should not

be excluded from the requirement of undergoing a rigorous national criminal history check. Reportedly, an attempt had been made to exclude some employees of licensees, such as a receptionist, janitor, or lawn service person who had no access to confidential or sensitive materials or sites, from having to undergo the criminal background check. Regardless of the intent, the bill should be amended to ensure that those who should be screened are done so. Further, it could be argued, especially since September 11<sup>th</sup>, that perhaps it would still be advisable to screen all employees. Just because one's scope of employment doesn't include access to sensitive information, uniforms, or a particular site, this doesn't mean that office personnel or ancillary employees or contract employees, such as janitors, couldn't use those positions as a means to gain such access to documents or business sites.

#### **For:**

In order to provide adequate funding for the Departments of State Police and Consumer and Industry Services for oversight of the private security-licensing program, license fees need to be increased. Reportedly, those fees have not been raised since 1968, when the Private Security Business and Security Alarm Act became law, and the DSP has had to subsidize the program through its annual general fund appropriation. Regulatory programs such as this should be self-funded by the user fees obtained from licensees. Senate Bill 425 would accomplish that goal for two years by increasing fees for licensure under the act and establishing the Security Business Fund as a revenue source for the enforcement and administration of the act. License fees collected under the bill would have to be deposited into that fund and money left in the fund at the end of any particular fiscal year could not lapse to the general fund. This would ensure that the departments had the resources necessary to oversee the private security business without having to use a portion of their general fund appropriations to do so.

#### **Response:**

Rather than basing the fee amounts on the type of business, perhaps the fees should be based on the company's number of employees or value of assets. It is unfair, for instance, to require a higher fee of a small corporation than for a sole proprietorship because a licensee structured as a sole proprietorship actually might have many employees and ample assets while a single individual could form a corporation for business purposes.

**Against:**

Reportedly, four out the five deaths in the past 16 months that occurred at the hands of security providers involved proprietary personnel. In widely publicized cases, at least three deaths occurred at the hands of security providers in southeastern Michigan in 2000 and 2001. In one of those incidents, a shopping mall security guard choked the father of a girl suspected of stealing a bracelet; in another, store personnel sat on a woman who left a drug store without paying for merchandise; and a third death occurred after a man was pinned to the ground while trying to steal meat from a grocery store. Senate Bill 425, therefore, should apply not only to contract security providers but to proprietary providers as well. In other words, security companies that contract their services out to others would have to abide by the increased requirements for licensure, but in-house employees who provide security services only for their own company are not covered by the act. By some estimates, this means that up to 60 percent of the security providers in Michigan would not be affected by the bill. If educational and criminal history check requirements were to be upgraded for contract security providers, the same standards should apply to proprietary security providers.

Further, it stands to reason that security personnel assigned to deal with problem situations, whether a licensee or proprietary personnel, should be required to have at least a minimal amount of training in how to handle those types of situations. Requiring the CIS to prescribe training requirements for employees of private security guard licensees who perform security guard duties would improve the professionalism of security providers and offer a greater degree of protection to the public.

In addition, according to testimony before the Senate Judiciary Committee by the Southfield police chief, local police departments increasingly must rely on and coordinate their activities with private security officers. In some cases, private security officers may even have to act as an unofficial extension of a local police force. Since the terrorist attacks of September 11, 2001, it has become clear that national security interests require local law enforcement agencies to have a greater awareness of the potential for acts of terror and sabotage to be committed on domestic soil. Local police departments are now being designated as first responders in the event of terrorist incidents, and those law enforcement agencies must be able to interact with and rely upon private security sources in the protection of the public and of infrastructure and business facilities. It is essential to this cooperation

between public and private police that private security personnel have adequate education and training.

**Response:**

Reportedly, many, if not all, private security guard companies and businesses that employ their own security guards provide training for their staff. Further, it is in an employer's best interest to provide adequate training because an employee exposes his or her employer to civil liability if an individual being restrained is injured. Further, there is always the possibility of the employee being charged with a criminal offense if undue force is used.

**For:**

Senate Bill 929 would make a number of important changes to the Private Detective License Act. In light of the current state budget woes, the bill would increase license fees to make the regulatory oversight self-funding. In addition, the bill would require at least a baccalaureate degree (instead of an associate degree) for entry into the profession. The reciprocity provisions added by the bill will enable Michigan-licensed detectives to continue their investigations across state lines, as well as enable out-of-state licensed investigators to follow leads across Michigan's borders. Since many investigations involve missing persons or kidnappings by noncustodial parents, this is an important provision. Also, in light of the access to sensitive or confidential information afforded to private detectives, imposters should be subject to stiffer penalties than the current misdemeanor penalties currently available. The bill would increase the penalty for posing as a licensed private detective to a felony punishable by up to four years imprisonment and/or a \$5,000 fine. Further, the bill would require all employees of a licensee to undergo a national criminal history background check. All in all, these and other improvements to the act will upgrade the professionalism of the licensees and modernize the regulations of the profession.

**POSITIONS:**

The Department of State Police supports all three bills. (6-3-02)

The Michigan Council of Private Investigators supports Senate Bill 929. (6-3-02)

Great Northern Security supports Senate Bill 425. (6-3-02)

Pinkerton and Burns Security (a Securitas owned company) supports Senate Bill 425. (6-3-02)

**Senate Bills 425, 929 and 992 (6-4-02)**

Analyst: S. Stutzky

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.