

Act No. 474  
Public Acts of 2002  
Approved by the Governor  
June 21, 2002  
Filed with the Secretary of State  
June 21, 2002  
EFFECTIVE DATE: October 1, 2002

**STATE OF MICHIGAN  
91ST LEGISLATURE  
REGULAR SESSION OF 2002**

Introduced by Senator Hoffman

# ENROLLED SENATE BILL No. 929

AN ACT to amend 1965 PA 285, entitled "An act to license and regulate private detectives and investigators; to provide penalties for violations; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; and to repeal certain acts and parts of acts," by amending the title and sections 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, 13, 14, 16, 17, 18, 20, 21, 22, 23, 24, 25, 26, 27, 28, and 31 (MCL 338.821, 338.822, 338.823, 338.824, 338.825, 338.826, 338.827, 338.829, 338.830, 338.831, 338.832, 338.833, 338.834, 338.836, 338.837, 338.838, 338.840, 338.841, 338.842, 338.843, 338.844, 338.845, 338.846, 338.847, 338.848, and 338.851).

*The People of the State of Michigan enact:*

## TITLE

An act to license and regulate private detectives and investigators; to provide for certain powers and duties for certain state agencies and local officials; to provide for the imposition for certain fees; to protect the general public against unauthorized, unlicensed and unethical operations by private detectives and private investigators; to provide for penalties and remedies; and to repeal acts and parts of acts.

Sec. 1. This act shall be known and may be cited as the "private detective license act".

Sec. 2. As used in this act:

(a) "Department" means the Michigan department of consumer and industry services.

(b) "Private detective" or "private investigator" means a person, other than an insurance adjuster who is on salary and employed by an insurance company or other than a professional engineer, who, for a fee, reward, or other consideration, engages in business or accepts employment to furnish, or subcontracts or agrees to make, or makes an investigation for the purpose of obtaining information with reference to any of the following:

(i) Crimes or wrongs done or threatened against the United States or a state or territory of the United States.

(ii) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of a person.

(iii) The location, disposition, or recovery of lost or stolen property.

(iv) The cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or property.

(v) Securing evidence to be used before a court, board, officer, or investigating committee.

(c) "Insurance adjuster" means a person other than a private detective or private investigator who, for a consideration, engages in the activities described in subdivision (b) in the course of adjusting or otherwise participating

in the disposal of claims under or in connection with a policy of insurance. Insurance adjuster includes a person who is employed on a salary basis by an insurance company; a person, firm, partnership, company, limited liability company, or corporation who acts for insurance companies solely in the capacity of a claim adjuster, a person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including surveillance activities.

(d) "Licensee" means a person licensed under this act.

(e) "Professional engineer" means a person licensed under article 20 of the occupational code, 1980 PA 299, MCL 339.2001 to 339.2014, as a professional engineer.

Sec. 3. (1) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of private detective or investigator for hire, fee or reward, and shall not advertise his or her business to be that of detective or of a detective agency without first obtaining a license from the department.

(2) A person, firm, partnership, company, limited liability company, or corporation shall not engage in the business of furnishing or supplying, for hire and reward, information as to the personal character of any person or firm, or as to the character or kind of business and occupation of any person, firm, partnership, company, limited liability company, or corporation and shall not own, conduct, or maintain a bureau or agency for the purposes described in this subsection except as to the financial rating of persons, firms, partnerships, companies, limited liability companies, or corporations without having first obtained a license from the department.

(3) A person violating this section is guilty of a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$5,000.00, or both.

Sec. 4. This act does not apply to any of the following:

(a) A person employed exclusively and regularly by an employer in connection with the affairs of the employer only and there exists a bona fide employer-employee relationship for which the employee is reimbursed on a salary basis.

(b) An officer or employee of the United States, this state, or a political subdivision of this state while that officer or employee is engaged in the performance of his or her official duties.

(c) The business of obtaining and furnishing information as to the financial standing, rating, and credit responsibility of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state that is organized and maintained for the public good and not for private profit.

(e) An attorney at law in performing his or her duties as such attorney at law.

(f) A collection agency or finance company licensed to do business under the laws of this state or any employee of a collection agency or finance company while acting within the scope of his or her employment when making an investigation incidental to the business of the agency, including an investigation of the location of the debtor or his or her assets and property in which the client has an interest or upon which the client has a lien.

(g) An insurance adjuster who is employed on a salary basis by an insurance company or a person, firm, partnership, company, limited liability company, or corporation that acts for an insurance company solely in the capacity of claim adjuster. A person, firm, partnership, company, limited liability company, or corporation engaged in the business of public adjuster acting for claimants in securing adjustments of claims against insurance companies and who does not perform investigative services including, but not limited to, surveillance activities.

(h) A professional engineer acting within the scope of his or her licensed professional practice who does not perform investigative services, including, but not limited to, surveillance activities or other activities outside of the scope of his or her licensed professional practice.

Sec. 5. (1) The department, upon application and after making a determination that the applicant is qualified, shall issue the applicant a license to conduct business as a private detective or private investigator for a period of 3 years from date of issuance.

(2) Upon the issuance of a license under this act to conduct business as a private detective or private investigator, the applicant is not required to obtain any other license from any municipality or political subdivision of this state.

Sec. 6. (1) The department shall issue a license to conduct business as a private detective or private investigator if satisfied that the applicant is a person, or if a firm, partnership, company, limited liability company, or corporation, the sole or principal license holder is a person who meets all of the following qualifications:

(a) Is a citizen of the United States.

(b) Is not less than 25 years of age.

- (c) Has a high school education or its equivalent.
- (d) Has not been convicted of a felony, or a misdemeanor involving any of the following:
  - (i) Dishonesty or fraud.
  - (ii) Unauthorized divulging or selling of information or evidence.
  - (iii) Impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.
  - (iv) Illegally using, carrying, or possessing a dangerous weapon.
  - (v) Two or more alcohol related offenses.
  - (vi) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.
  - (vii) An assault.
- (e) Has not been dishonorably discharged from a branch of the United States military service.
- (f) For a period of not less than 3 years has been or is any of the following:
  - (i) Lawfully engaged in the private detective business on his or her own account in another state.
  - (ii) Lawfully engaged in the private detective business as an investigative employee of the holder of a certificate of authority to conduct a detective agency.
  - (iii) An investigator, detective, special agent, or certified police officer of a city, county, or state government or of the United States government.
  - (iv) A graduate with a baccalaureate degree in the field of police administration or criminal justice from an accredited university or college acceptable to the department.
- (g) Has posted with the department a bond provided for in this act.

(2) In the case of a person, firm, partnership, company, limited liability company, or corporation now doing or seeking to do business in this state, the resident manager shall comply with the qualifications of this section.

(3) A person regulated as a private detective or private investigator in another state having a reciprocal agreement with this state may engage in activities regulated by this act without being licensed for the limited purpose and for a limited amount of time as necessary to continue an ongoing investigation originating in that state. This act does not prevent a licensee from acting as a private detective or private investigator outside of this state to the extent allowed by that other state under the laws of that state.

Sec. 7. (1) The department shall prepare a standard uniform application. The applicant shall obtain notarized reference statements from at least 5 reputable citizens who swear that they have known the applicant and his or her qualifications for a period of at least 5 years and believe that the applicant is honest, of good character, and competent. The individual providing the reference shall not be related or connected to the person so certifying by blood or marriage.

(2) Upon receipt of the application, application processing fee, and license fee as described in section 9, the department shall investigate as to the applicant's qualifications for licensure.

(3) The application and investigation are not considered complete until the applicant has received the approval of the prosecuting attorney and the sheriff of the county within which the principal office of the applicant is to be located. If the office is to be located in a city, township, or village, the approval of the chief of police may be obtained instead of the sheriff.

Sec. 9. (1) The department, when satisfied of the competency and integrity of the applicant, or if the applicant is a firm, partnership, company, limited liability company, or corporation, of its individual members or officers, shall issue to the applicant a license upon the applicant's paying to the department an application processing fee of \$150.00 and an initial license fee of \$600.00. The applicant shall execute, deliver, and file with the department a bond in the sum of \$10,000.00, conditioned for the faithful and honest conduct of the business by the applicant, which bond shall be approved by the department. The license is valid for 3 years but is subject to suspension or revocation at all times by the department for cause shown. The bonds shall be taken in the name of the people of the state, and any person injured by the willful, malicious, and wrongful act of the principal may bring an action on the bond or insurance in his or her own name to recover damages suffered by reason of such willful, malicious, and wrongful act. In lieu of a bond, the applicant may furnish a policy of insurance issued by an insurer authorized to do business in this state naming the licensee and the state as co-insured in the amount of \$10,000.00 for property damages, \$100,000.00 for injury or death of 1 person, and \$200,000.00 for injuries to or deaths of more than 1 person arising out of the operation of the licensed activity. The license shall be in a form to be prescribed by the department and shall specify the full name of the applicant, the location of the principal office or place of business and the location of the bureau, agency, subagency, office or branch office for which the license is issued, the expiration date, and the name of the person filing the statement required by this act upon which the license is issued.

(2) A licensee desiring to open a branch office or subagency shall receive a license for that branch or subagency upon payment to the department of an additional fee of \$125.00 for each additional license. The additional license shall be posted in a conspicuous place in the branch office or subagency and expires on the date of the initial license.

(3) If the license is suspended or revoked for any cause, the department shall not refund the license or application processing fee or any part of the license or application processing fee.

(4) The changes regarding license and application fees contained in subsection (1) do not require a person, firm, partnership, company, limited liability company, or corporation holding a license under this act on the effective date of the amendatory act that added this subsection to pay the application processing and initial license fee imposed by the amendatory act that added this subsection. A person, firm, partnership, company, limited liability company, or corporation holding a license on the effective date of the amendatory act that added this subsection is only obligated to pay the renewal fee described in section 26(1).

Sec. 10. (1) The department may suspend or revoke a license issued under this act if the department determines that the licensee or licensee's manager, if an individual, or if the licensee is a person other than an individual, that an officer, director, partner, or its manager, has done any of the following:

(a) Made false statements or given false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated this act or any rule promulgated under this act.

(c) Been convicted of a felony or misdemeanor involving dishonesty or fraud, unauthorized divulging or selling of information or evidence.

(d) Been convicted of impersonation of a law enforcement officer or employee of the United States or a state, or a political subdivision of the United States or a state.

(e) Been convicted of illegally using, carrying, or possessing a dangerous weapon.

(2) Upon notification from the department of the suspension or revocation of the license, the licensee, within 24 hours, shall surrender to the department the license and his or her identification card. Failure to surrender the license in compliance with this subsection is a misdemeanor.

Sec. 11. The department shall not refund a license fee unless a showing is made of mistake, inadvertence, or error in the collection of the fee.

Sec. 12. Upon receipt of a license from the department, the licensee shall post it in a conspicuous place in his or her office.

Sec. 13. Any change in the name or location of the agency or of a branch office or subagency shall be reported to the department at least 30 days before the change becomes effective. Upon receipt of the notice of change of name or location, the department shall prepare and forward a license showing the change and the licensee shall return the old license within 3 business days after the change.

Sec. 14. (1) Upon issuing a license, the department shall also issue an identification card to the principal license holder or, if the agency is a partnership, to each partner or, if the license holder is a corporation or limited liability company, to each resident officer, manager, or member.

(2) The identification card issued under subsection (1) shall be in such form and contain such information as may be prescribed by the department and is recallable by the department for the same reasons as the license.

(3) The department shall only issue 1 identification card for each person entitled to receive it. The licensee is responsible for the maintenance, custody, and control of the identification card and shall not lease, loan, sell, or otherwise permit unauthorized persons or employees to use it. This subsection shall not be construed to prevent each agency from issuing its own identification cards, if approved as to form and content by the department, to their respective employees. The individual identification card shall not bear the seal of the state or the designation of private detective or private investigator, but the identification card may designate the employee as an investigator or operator and may state that the person is employed by a licensee of the department and the state of Michigan.

(4) Upon proper application and for sufficient reasons shown, the department may issue duplicates of the original license or identification card.

Sec. 16. (1) A person shall not possess or display a badge or shield that purports to indicate that the holder is a private detective.

(2) A licensee may request authorization to provide employee identification cards only upon the express authorization of the department as to format and content.

(3) A person shall not display any badge, shield, identification card, or license that might mislead the public into thinking that the holder is a licensed detective.

(4) A person who violates this section is guilty of a misdemeanor and any unauthorized badge, shield, identification card, or license shall be confiscated by any law enforcement officer of the state. Each day the violation continues shall constitute a separate offense.

Sec. 17. (1) A licensee may employ as many persons as considered necessary to assist in his or her work of detective and in the conduct of the business. At all times during the employment, the licensee shall be accountable for the good conduct in the business of each person so employed.

(2) A licensee shall keep adequate and complete records of all persons he or she employs, which records shall be made available to the department upon request and to police authorities if the police authorities offer legitimate proof for the request in connection with a specific need.

(3) If a licensee falsely states or represents that a person is or has been in his or her employ, the false statement or representation shall be sufficient cause for the suspension or revocation of the license. Any person falsely stating or representing that he or she is or has been a detective or employed by a detective agency is guilty of a misdemeanor.

(4) A licensee shall not knowingly employ any person who does not meet the requirements of this act.

(5) The licensee shall cause fingerprints to be taken of all prospective employees, which fingerprints shall be submitted to the department and the federal bureau of investigation for processing and approval.

(6) The fingerprints required to be taken under subsection (5) may be taken by a law enforcement agency or any other person determined by the department to be qualified to take fingerprints. The licensee shall submit a fingerprint processing fee to the department in accordance with section 3 of 1935 PA 120, MCL 28.273, as well as any costs imposed by the federal bureau of investigation.

Sec. 18. (1) A licensee shall not knowingly employ any person who has been convicted of a felony, or convicted of a misdemeanor within the preceding 8 years involving any of the following:

(a) Dishonesty or fraud.

(b) Unauthorized divulging or selling of information or evidence.

(c) Impersonation of a law enforcement officer or employee of the United States, this state, or a political subdivision of this state.

(d) Illegally using, carrying, or possessing a dangerous weapon.

(e) Two or more alcohol related offenses.

(f) Controlled substances under the public health code, 1978 PA 368, MCL 333.1101 to 333.25211.

(g) An assault.

(2) Any employee or operator who, upon demand, fails to surrender to the licensee his or her identification card and any other property issued to him or her for use in connection with his or her employer's business is guilty of a misdemeanor.

Sec. 20. (1) Any person who is or has been an employee of a licensee shall not divulge to anyone other than his or her employer or former employer, or as the employer shall direct, except as he or she may be required by law, any information acquired by him or her during his or her employment in respect to any of the work to which he or she shall have been assigned by the employer. Any employee violating the provisions of this section and any employee who willfully makes a false report to his or her employer in respect to any work is guilty of a misdemeanor.

(2) Any principal, manager, or employee of a licensee who willfully furnishes false information to clients, or who willfully sells, divulges, or otherwise discloses to other than clients, except as may be required by law, any information acquired during employment by the client is guilty of a misdemeanor and is subject to summary suspension of license and revocation of license upon satisfactory proof of the offense to the department. Any communications, oral or written, furnished by a professional or client to a licensee, or any information secured in connection with an assignment for a client, is considered privileged with the same authority and dignity as are other privileged communications recognized by the courts of this state.

(3) Suspension, revocation, or other action against a licensee shall be accompanied by notice and an opportunity for a hearing under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 21. The prosecuting attorney of the county in which any conviction for a violation of any provision of this act shall, within 10 days thereafter, make and file with the department a report showing the date of the conviction, the name of the person convicted, and the nature of the charge.

Sec. 22. (1) An advertisement by a licensee soliciting or advertising for business shall contain his or her name and address as they appear in the records of the department.

(2) A licensee shall, on notice from the department, discontinue any advertising or the use of any advertisement, seal, or card, that the department determines to be misleading to the public. Failure to comply with such an order is cause for suspension or revocation of the license.

(3) Unless licensed under this act, a person shall not advertise his or her business to be that of a private detective regardless of the name or title actually used.

Sec. 23. A licensee shall not use any designation or trade name which has not been first approved by the department and shall not use any designation or trade name that implies any association with any municipal, county, township, or state government or the federal government, or any agency thereof.

Sec. 24. (1) Each person, partnership, firm, company, limited liability company, or corporation licensed and operating under this act shall make a complete written record of the business transactions and reports made in connection with the operation of the agency.

(2) A detective or detective agency that receives or generates a written or electronic report shall keep the report on file in the office of the detective or agency for at least 2 years unless the file is returned to the client or agent.

Sec. 25. (1) For the purpose of investigating the character, competency, and integrity of the applicants, or for the purpose of investigating complaints made against the licensee, the director of the department may issue subpoenas and compel the attendance of witnesses. All subpoenas shall be issued under the hand of the director of the department and upon service the witness shall be tendered the fees to which he or she would be entitled to receive if subpoenaed in a court of law.

(2) A person duly subpoenaed who fails to obey the subpoena or, without cause, refuses to be examined or to answer any legal or pertinent questions as to the character, qualifications, or alleged misdeeds of the applicant or licensee is guilty of a misdemeanor.

(3) The testimony of such witnesses shall be under oath, which a designee of the director of the department may administer. Willful false swearing in any such proceeding is considered perjury.

Sec. 26. (1) A license granted under this act may be renewed upon application and the payment of a renewal fee of \$300.00 and filing of a renewal surety bond or liability insurance policy in the amount equivalent to that specified in section 9.

(2) A renewal license shall be dated as of the expiration date of the previously existing license. For the renewal of a license, the licensee shall submit an application in such form as prescribed by the department. Upon receipt of a completed application, payment of the renewal, and proof acceptable to the department of bond or insurance, the department shall renew a license. The department may defer the renewal if there are uninvestigated complaints then outstanding against the licensee or if there is a criminal complaint then pending against the licensee.

Sec. 27. (1) Upon the death of a licensee, the business of the decedent may be carried on for a period of 90 days by any of the following:

(a) In the case of an individual licensee, the surviving spouse, or if there is none, the personal representative of the estate of the decedent.

(b) In the case of a partner, the surviving partners.

(c) In case of an officer of a firm, company, association, limited liability company, or corporation, the officers.

(2) Within 10 days following the death of a licensee, the department shall be notified by a person described in subsection (1) in writing. The notification shall state the name of the person legally authorized to carry on the business of the deceased.

(3) Upon the authorization of the department, the business may be carried on for a further period of time when necessary to complete any investigation or assist in any litigation pending at the death of the decedent.

(4) This section does not authorize the solicitation or acceptance of any business after the death of the decedent except as otherwise provided by this act.

(5) This section shall not be construed to restrict the sale of a private detective business if the vendee qualifies for a license under the provisions of this act.

Sec. 28. (1) The department may employ such agents as are necessary to carry out and to enforce this act.

(2) The department may promulgate rules to enforce and administer this act pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

Sec. 31. A licensee, manager, or employee of a licensee who violates this act or a rule promulgated under this act is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or by a fine of not more than \$500.00, or both.

Enacting section 1. This amendatory act takes effect October 1, 2002.

This act is ordered to take immediate effect.

*Carol Morey Viventi*

Secretary of the Senate.

*Jay E. Randall*

Clerk of the House of Representatives.

Approved .....

.....  
Governor.