

A Bill for an Act Relating to Licensing of Private Detectives and Guards.

Be It Enacted by the Legislature of the State of Hawaii:

SECTION 1. Section 463-1, Hawaii Revised Statutes, is amended to read as follows:

"§463-1 Definitions. As used in this chapter:

"Board" means the board of private detectives and guards described in section 463-2.

"Detective", "private detective", or "investigator" means a licensed person qualified to obtain information and evidence not readily or publicly accessible.

"Detective [or guard] agency" or "private detective agency" means a licensed firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association engaged in the private detective [or guard] business.

"Guard" means a licensed uniformed or nonuniformed person responsible for the safekeeping [by the licensed person's presence,] of a client's properties and persons within contractually prescribed boundaries, and for observation and reporting relative to such safekeeping.

"Guard agency" means a licensed firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association engaged in the guard business.

"Principal detective" means a licensed detective designated as the detective agency's primary licensee who is fully responsible for the direct management and control of the agency.

"Principal guard" means a licensed guard designated as the guard agency's primary licensee who is fully responsible for the direct management and control of the agency."

SECTION 2. Section 463-5, Hawaii Revised Statutes, is amended to read as follows:

"§463-5 Private detectives[, guards,] and detective agencies; license required. (a) No [person] individual shall engage in the business of private detective [or guard], represent oneself to be, hold oneself out as, list oneself, or advertise as a private detective [or guard] or as furnishing detective or investigating services [or guard services] without first obtaining a license as a private detective [or guard] from the board [upon payment of] and paying the application and license fees [and no].

(b) No firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association shall engage in the business of private detective [or guard], represent itself to be, hold itself out as, list itself, or advertise as a private detective [or guard] agency or bureau or as furnishing detective[, or investigating[, or guard] services without first obtaining a license as a private detective [or guard] agency from the board [upon payment of] and paying the application and license fees. A detective agency shall have a principal detective who shall be a resident of the State."

SECTION 3. Section 463-6, Hawaii Revised Statutes, is amended to read as follows:

“§463-6 Private [detective;] detectives and detective agencies; qualifications for license. (a) The board may grant a private detective license to any suitable [person,] individual, or a detective agency license to any suitable firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal detective of a firm, joint venture, sole proprietorship that hires resident employees, corporation, [shall be a resident of the State,] partnership, or association, shall [be]:

- (1) Be not less than eighteen years of age[, shall have];
- (2) Have had a high school education or its equivalent[, and shall have];
- (3) Have had experience reasonably equivalent to at least four years of full-time investigational work[. The applicant shall disclose whether the applicant has received treatment for];
- (4) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person's performance in the profession; and
- (5) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, [provided such sentence has not] unless the conviction has been annulled or expunged by court order. [Any licensee]

(b) A detective agency may employ as many agents, operatives, and assistants in an investigative capacity and as necessary for the conduct of business[.]; provided [such licensee, or] that the principal detective [if a corporation is the employer,] shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the [licensee's] detective agency's business. [Employees] The principal detective shall be responsible for the direct management and control of those employees. These employees shall not be required to have private detective licenses, and shall [have]:

- (1) Have had an eighth grade education or its equivalent[. The employee shall disclose whether the employee has received treatment for];
- (2) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person's performance in the profession;
- (3) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, [provided there has not been any order annulling or expunging the sentence.] unless the conviction has been annulled or expunged by court order; and
- (4) Be registered with the board upon employment with the agency.

The employer, with the written authorization of the employee, may conduct a criminal history records check of all new employees directly through the Hawaii criminal justice data center upon certification to the board that the signature on the authorization is authentic and that the employee is employed in [a guard or] an investigative capacity.”

SECTION 4. Section 463-7, Hawaii Revised Statutes, is amended to read as follows:

“§463-7 [Guard] Guard and guard agencies; license required. (a) No [person, firm, partnership, corporation, or association] individual shall engage in the business of guard for the purpose of protecting persons or property or to

prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent oneself to be, or hold oneself out as such without first obtaining a license as guard [or guard agency] from the board [of detectives and guards upon payment of the fees set forth in section 463-5.] and paying the application and license fees.

(b) No firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association shall engage in the business of guard for the purpose of protecting persons or property or to prevent theft or unlawful taking of goods, wares, merchandise, money, bonds, documents, or other articles of value for hire or reward or represent itself to be, hold itself out as, list itself, or advertise as a guard agency without first obtaining a license as a guard agency from the board and paying the application and license fees. A guard agency shall have a principal guard who shall be a resident of the State."

SECTION 5. Section 463-8, Hawaii Revised Statutes, is amended to read as follows:

"§463-8 [Guard:] Guards and guard agencies: qualifications for license. (a) The board may grant a guard license to any suitable individual, or a guard agency license to any suitable [person,] firm, joint venture, sole proprietorship that hires resident employees, corporation, partnership, or association making written application therefor. The applicant, if an individual, or the principal guard [in the case] of a firm, joint venture, sole proprietorship that hires resident employees, corporation, [shall be a resident of the State,] partnership, or association, shall [be]:

- (1) Be not less than eighteen years of age[, shall have];
- (2) Have had a high school education or its equivalent[, and shall have];
- (3) Have had experience reasonably equivalent to at least four years of full-time guard work[. The applicant shall disclose whether the applicant had received treatment for];
- (4) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person's performance in the profession; and
- (5) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the applicant to engage in the profession, [provided such sentence has not] unless the conviction has been annulled or expunged by court order. [Any licensee]

(b) A guard agency may employ as many agents, operatives, and assistants in a guard capacity and as necessary for the conduct of business[.]; provided [such licensee, or] that the principal guard [if the employer is a corporation,] shall be held responsible for the acts of those employees while they are acting within the scope and purpose of the [licensee's] guard agency's business. [Employees] The principal guard shall be responsible for the direct management and control of those employees. These employees shall not be required to have guard licenses, and shall [have]:

- (1) Have had an eighth grade education or its equivalent[. The employee shall disclose whether the employee has received treatment for];
- (2) Not be presently suffering from any psychiatric or psychological disorder[, or whether such treatment has ever been recommended, and shall not] which is directly related and detrimental to a person's performance in the profession;

- (3) Not have been convicted in any jurisdiction of a crime which reflects unfavorably on the fitness of the employee to engage in the profession, [provided there has not been any order annulling or expunging the sentence.] unless the conviction has been annulled or expunged by court order; and

- (4) Be registered with the board upon employment with the agency.

The employer, with the written authorization of the employee, may conduct a criminal history records check of all new employees directly through the Hawaii criminal justice data center upon certification to the board that the signature on the authorization is authentic and that the employee is employed in a guard [or investigative] capacity.”

SECTION 6. Section 463-10, Hawaii Revised Statutes, is amended to read as follows:

“§463-10 Licenses and renewal of licenses; establishment of fees by rule. The license shall state the name and address of the principal office or place of business of the licensee, the name under which the licensed business is to be conducted, and the name of the principal detective or principal guard, if the licensee is a [corporation.] detective agency or guard agency.

The holder of a license issued by the board [of detectives and guards] who continues in active practice shall biennially renew the license and pay the renewal fee not later than June 30 of each even-numbered year.

The holder of an expired license may have the license restored within one year of the date of expiration upon due application therefor and payment of the delinquent fees and a penalty fee.”

SECTION 7. Section 463-12, Hawaii Revised Statutes, is amended to read as follows:

“§463-12 Bond. Each licensee[, individual or corporate,] shall give to the board [of detectives and guards] a bond in the sum of not less than \$5,000 executed by the applicant as principal and by a surety company authorized to do business in the State as surety. The bond shall be in such form as the board may prescribe, conditioned upon the honest conduct of the business of the licensee, and the right of any person injured by the wilful, malicious, or wrongful act of the licensee to bring in the person’s own name an action on the bond.”

SECTION 8. Statutory material to be repealed is bracketed. New statutory material is underscored.

SECTION 9. This Act shall take effect upon its approval.

(Approved June 8, 1994.)