

NORTH CAROLINA GENERAL ASSEMBLY  
1973 SESSION

CHAPTER 528  
HOUSE BILL 1020

AN ACT FOR THE PRIVATE PROTECTIVE SERVICES.

The General Assembly of North Carolina enacts:

**Section 1.** The General Statutes of North Carolina are hereby amended by adding a new Chapter to be designated "Chapter 74B" and to read as follows:

"Chapter 74B.

"Private Protective Services Act.

"§ 74B-1. **Policy.** — A Private Protective Services Board is hereby created to administer the licensing and set educational and training requirements for those persons providing private protective services as set out in this Chapter.

"§ 74B-2. **License required** — No private person, firm or corporation shall engage in the private protective business within this State without having first obtained a license as provided in this Chapter.

An individual in possession of a valid private detective business license or private detective trainee permit issued prior to July 1, 1973, shall not be subject to forfeiture of such license, by virtue of this Chapter. Such license shall, however, remain subject to suspension, denial, or revocation in the same manner in which all other licenses issued pursuant to the Private Protective Services Act are subject to suspension, denial or revocation. A trainee permit may be issued to an applicant in the discretion of the Board in lieu of a license provided he works under the direct supervision of a licensee.

"§ 74B-3. **Definitions.** — (a) 'Private Protective Services' means and includes, but shall not be limited to, the following:

- (1) 'Armored car personnel' is any person who transports or offers to transport from one place or point to another place or point, currency, jewels, stocks, bonds, paintings, or other valuables with a high degree of security and certainty of delivery, on a private contractual basis and not as a full-time employee;
- (2) 'Central station alarm service' means any person who installs and/or services and/or responds to alarm signal devices or other electrical, mechanical, or electronic devices used to prevent or detect burglary, theft, or other losses, and who does so for consideration on a private contractual basis and not as a full-time employee;
- (3) 'Counterintelligence service' means any person who engages in business to discover, locate, or disengage, by either mechanical or electronic means, any eavesdropping equipment surreptitiously placed, and who does so for consideration on a private contractual basis and not as a full-time employee;
- (4) 'Courier' is any person who transports or offers to transport from one place or point to another place or point documents, papers, maps, stocks, bonds, checks, or other small items of value that require expeditious service, on a private contractual basis and not as a full-time employee;
- (5) 'Detection of deception examiner' is any person who uses any device or instrument, regardless of its name or design, for the purpose of detection of

- deception. Provided, however, that such instrument that he may use is deemed by the administrator to be a reliable test of truthfulness;
- (6) 'Guard and patrol' means any person in business as or accepting employment as a private patrol or guard service for consideration on a private contractual basis and not as a full-time employee;
  - (7) 'Guard dog service' means any person in the business of contracting with another person, firm, or corporation to place, lease, rent, or sell a trained dog for the purpose of protecting property, and who does so for consideration on a private contractual basis and not as a full-time employee;
  - (8) 'Private detective or private investigator' is any person who engages in the business of or accepts employment to furnish, agrees to make, or makes an investigation for the purpose of obtaining information with reference to:
    - a. Crime or wrongs done or threatened against the United States, or any state or territory of the United States;
    - b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;
    - c. The location, disposition, or recovery of lost or stolen property;
    - d. The cause or responsibility for fires, libels, losses, accidents, damages, or injuries to persons or to property; or
    - e. Securing evidence to be used before any court, board, officer, or investigation committee.
  - (9) 'Retail shopping service' means any individual, partnership, firm, or corporation engaged solely in providing services to retail merchants as to determining the honesty, integrity, performance, efficiency, and congeniality of any employee(s) of the retail business on a private contractual basis and not as a full-time employee.
- (b) 'Private protective services' shall not mean:
- (1) Insurance adjusters legally employed as such and who engage in no other investigative activities unconnected with adjustment or claims against an insurance company;
  - (2) An officer or employee of the United States, this State, or any political subdivision of either, while such officer or employee is engaged in the performance of his official duties within the course and scope of his employment with the United States, this State, or any political subdivision of either;
  - (3) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons;
  - (4) An attorney at law licensed to practice in North Carolina and who is engaged primarily in such practice, and his agent, provided said agent is performing duties only in connection with his master's practice of law; or
  - (5) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgage;
  - (6) A person engaged in the business of a consumer reporting agency, as defined by the Federal Fair Trade Reporting Act.
  - (7) Company police as defined in G.S. 74A.
  - (8) Railroad police as defined in G.S. 74A.

**"§ 74B-4. Private Protective Services Board established: members, terms, vacancies. —**

(a) The Private Protective Services Board is hereby established and hereinafter called 'the Board' in the Department of Justice. The Board shall consist of five members who shall be the

Director of the North Carolina State Bureau of Investigation, Chairman; one person who shall be selected by the Attorney General of North Carolina, and who shall not be a licensee under this Chapter, and shall serve a term of two years; one person appointed by the Governor to serve a term of four years, and who shall not be a licensee under this Chapter; two persons who shall be selected by the President pro tem of the Senate and the Speaker of the House, respectively, who are licensees under this Chapter.

The Chairman of the Board shall be the Director of the North Carolina State Bureau of Investigation. The Attorney General of North Carolina shall select someone who is not a licensee under this Chapter, to serve a term of two years beginning July 1, 1973. The Governor of North Carolina shall appoint one member who shall not be a licensee under this Chapter in North Carolina, to serve a term of four years beginning July 1, 1973. The President pro tem of the North Carolina Senate shall select someone who is a licensee under this Chapter to serve a term of two years beginning July 1, 1973. The Speaker of the North Carolina House of Representatives shall select someone who is a licensee under this Chapter to serve a term of four years beginning July 1, 1973.

(b) After the terms of the initial members of the Board or their successors to serve unexpired terms have expired, all members of the Board shall serve for a term of four years except the Director of the State Bureau of Investigation.

(c) Vacancies in the Board occurring for any reason shall be filled by the authority making the original appointment of the person causing the vacancy.

(d) All members of the Board, before assuming the duties of their office, shall take an oath for the faithful performance of their duties.

**"§ 74B-5. Compensation.** — Members of the Board who are State officers or employees shall receive no compensation for serving on the Board, but shall be reimbursed for their expenses in accordance with G.S. 138-6. Members of the Board who are full-time salaried public officers or employees other than State officers or employees shall receive no compensation for serving on the Board, but shall be reimbursed for their expenses in accordance with G.S. 138-5(b). All other members of the Board shall receive compensation and reimbursement in accordance with G.S. 138-5.

**"§ 74B-6. Vice-Chairman; meetings.** — (a) The Board shall select a vice-chairman and such other officers and committee chairmen from among its members, as it deems desirable, at the first regular meeting of the Board after its creation and at the first regular meeting after July 1 of each year thereafter.

(b) The Board shall meet at the call of the chairman or a majority of the members of the Board at such time, date, and location as may be decided upon by a majority of the Board.

**"§ 74B-7. Powers.** — (1) In addition to the powers conferred upon the Board elsewhere in this Chapter, the Board shall have the power to:

(a) Promulgate rules and regulations for the administration of this Chapter including the authority to require the submission of reports and information by licensees under this Chapter.

(b) Establish minimum education, experience and training standards for licensees under this Chapter.

(c) Make such evaluations as may be necessary to determine if licensees under this Chapter are complying with the provisions of this Chapter.

(d) Adopt and amend bylaws, consistent with law, for its internal management and control.

(e) Approve individual applicants to be licensed or registered according to this Chapter.

(f) Deny, suspend, or permanently revoke any license issued or to be issued under this Chapter to any applicant or licensee who fails to satisfy the requirements of this Chapter and/or the rules and regulations established by a majority of the Board; provided, however, the denial, suspension, or permanent revocation of such license be in accordance with Chapter 150 of the General Statutes of North Carolina.

(g) Issue subpoenas to compel the attendance of witnesses and the production of pertinent books, accounts, records, and documents. The General Court of Justice, Superior Court Division, shall have the power to impose punishment as for contempt for acts occurring before the Private Protective Services Board which would constitute direct or indirect contempt if the acts occurred in an action pending in superior court.

(h) The chairman of the Board or his representative designated to be a trial examiner, may conduct any hearing called by the Board for the purpose of approval, denial, suspension or revocation of a license under this Chapter, and may administer oaths and require testimony or evidence to be given under oath.

**"§ 74B-8. The position of administrator created.** — The position of administrator of the Private Protective Services is hereby created within the bureau. The director shall appoint a person, with the approval of the Attorney General, to fill this full-time position. His duties shall be to administer the directives contained herein and to actively police the private protective services industry to assure compliance with the law in all aspects.

**"§ 74B-9. Investigative powers.** — The Attorney General for the State of North Carolina shall have the power to investigate or cause to be investigated any complaints, allegations, or suspicions of wrongdoings involving individuals licensed, or to be licensed under this Chapter.

**"§ 74B-10. Applications for Private Protective Services.** — (a) Any person desiring to carry on a business in this State of a kind defined in this Chapter as a Private Protective Service, shall make a verified application in writing to the Board therefor.

(b) The application shall include:

- (1) The full name and business address of the applicant;
- (2) The name under which the applicant intends to do business;
- (3) A statement as to the general nature of the business in which the applicant intends to engage;
- (4) If an applicant is a person other than an individual, the full name and address and verified signatures of each of its partners, officers and directors and its business manager, if any;
- (5) The names of not less than three unrelated and disinterested persons, as references of whom inquiry can be made as to the character, standing and reputation of the persons making the application. At least one of such persons must be a judge or solicitor of a court of record in the county of applicant's last-known residence and one such person must be a municipal chief of police or county sheriff in the county of the applicant's last-known residence; and
- (6) Such other information, evidence, statements or documents as may be required by the Board.

(c) Upon receipt of an application, the Board shall cause an investigation to be made in the course of which the applicant shall be required to show that he meets all the following requirements and qualifications hereby made prerequisites to the obtaining of a license:

- (1) That he is at least 18 years of age;
- (2) That he is a citizen of the United States;
- (3) That he is of good moral character and temperate habits;
- (4) That he has had at least three years' experience in private investigative work or as insurance adjuster, or in lieu thereof, at least two years' experience in an investigative capacity as a member of the Federal Bureau of Investigation, the State Bureau of Investigation, any municipal police department in this State or any county sheriff's department in this State, or comply with such other qualifications as the Board may by regulation fix.
- (5) That he meets the training and experience requirements as established by the Board;

(d) Following investigation by the State Bureau of Investigation, the Board may require the applicant to demonstrate his qualifications by an oral and/or written examination.

(e) Upon a finding that the application is in proper form, that the investigation has shown the applicant to possess all the necessary qualifications and requirements, and that the applicant has successfully completed any examination required by the Board, the Administrator shall submit to the Board his recommendation and approval of the issuance of a license and upon the final approval of the Board they shall issue to the applicant a license upon payment by the applicant of the license fee and the furnishing of the required surety bond, unless, following a hearing, the Board shall have found that the applicant has:

- (1) Committed some act which if committed by a licensee would be grounds for the suspension or revocation of a license under this Chapter;
- (2) Been convicted of a crime involving fraud;
- (3) A reputation for a bad moral character, intemperate habits, or a bad reputation for truth, honesty, and/or integrity;
- (4) Been convicted of a felony or some other crime involving moral turpitude or involving the illegal use, carrying or possession of a dangerous weapon;
- (5) Been refused a license under this Chapter or has had a license revoked;
- (6) Knowingly made any false statement in his application;
- (7) A reputation for willful negligence in payment of legally incurred debts.

**"§ 74B-11. Form of license; term; renewal; posting; not assignable.** — (a) The license when issued shall be in such form as may be determined by the Board and shall state:

- (1) The name of the licensee;
- (2) The name under which the licensee is to operate;
- (3) The number and date of the license.

(b) The license shall be issued for a term of two years and shall be renewable, unless the license shall have been previously revoked in accordance with the provisions of this Chapter. A trainee permit shall be issued for a term of one year and may be renewed yearly at the discretion of the Board. Following issuance, the license shall at all times be posted in a conspicuous place in the principal place of business of the licensee. A copy of the license shall at all times be posted in a conspicuous place at all branch offices of the licensee. A license issued under this Chapter is not assignable.

(c) The fee for a license shall be two hundred dollars (\$200.00). All fees collected pursuant to this section shall be expended, under the direction of the Board, for the purposes of defraying the expenses of administering this Chapter.

**"§ 74B-12. Bond required; form and approval; actions on bond; cancellation.** — (a) No license shall be issued under this Chapter unless the applicant files with the Board a surety bond executed by a surety company authorized to do business in this State or a cash bond in a sum of not less than five thousand dollars (\$5,000), conditioned upon the faithful and honest conduct of his business by such applicant. The bond shall be taken in the name of the people of the State of North Carolina and every person injured by willful, malicious or wrongful act of the principal thereof may bring an action on the bond in his or her name to recover damages suffered by reason of such willful, malicious or wrongful act; provided, however, that the aggregate liability of the surety for all breaches of the condition of the bond shall, in no event, exceed the sum of said bond. The surety on such bond shall have a right to cancel such bond upon giving 30 days' notice to the Board, provided, however, that such cancellation shall not affect any liability on the bond which accrued prior thereto. The bond shall be approved by the Board as to form, execution and sufficiency of the sureties thereon. Failure to maintain for the bond required by this section shall work an automatic forfeiture of the license provided for by this Chapter.

**"§ 74B-13. Registration of persons employed.** — (a) All persons licensed in accordance with this Chapter shall within 10 days of the beginning of employment of any employee, furnish the

Board with two sets of classifiable fingerprints on standard FBI applicant cards, one recent photograph of acceptable quality and statements of any criminal record obtained from the county sheriff, chief of police, and clerk of superior court in each county of employee's residence within the previous 24 months. Fingerprint cards and criminal record forms shall be furnished by the Board at the request of the licensee.

(b) If any person employed as a guard by any guard and patrol agency or any retail shopping service is considered by the Board to be unsuitable by virtue of past criminal convictions, upon notice to the agency by the Board, the agency shall immediately terminate said individual from employment.

**"§ 74B-14. Suspension or revocation of licenses; appeal.** — (a) The Board may, after hearing, suspend or permanently revoke a license issued under this Chapter if it is determined that the licensee or any officer, director, partner, manager, or employee thereof has:

- (1) Made any false statement or given any false information in connection with any application for a license or renewal or reinstatement of a license;
- (2) Violated any provision of this Chapter;
- (3) Violated any regulation promulgated by the Board pursuant to the authority contained in this Chapter;
- (4) Been convicted of a felony or any crime involving moral turpitude or any other crime involving the illegal use, carrying or possession of a dangerous weapon;
- (5) Impersonated or permitted or aided and abetted any other person to impersonate a law enforcement officer or employee of the United States or of this State or any political subdivision thereof;
- (6) Engaged in or permitted any employee to engage in the Private Protective Services business when not lawfully in possession of a valid license issued under the provisions of this Chapter;
- (7) Willfully failed or refused to render to a client service or a report as agreed between the parties and for which compensation has already been paid or tendered in accordance with the agreement of the parties;
- (8) Committed an unlawful breaking or entering, assault, battery or kidnapping;
- (9) Knowingly violated or advised, encouraged or assisted the violation of any court order or injunction in the course of business as a licensee;
- (10) Committed any other act which is a ground for denial of an application for license under this Chapter;
- (11) Undertaken to give legal advice or counsel or to in any way represent that he is representing any attorney or is appearing or will appear in any legal proceedings or to issue, deliver or utter any simulation of process of any nature which might lead a person or persons to believe that such simulation, written, printed or typed, may be a summons, warrant, writ or court process or any pleading in any court proceeding.

(b) The revocation or suspension of a license as provided in subsection (a) shall be in writing, signed by the Administrator, stating the grounds upon which revocation order is based, and the aggrieved person shall have the right to appeal from such an order as provided in Chapter 150 of the General Statutes except that the appeal shall be filed in Superior Court of Wake County.

**"§ 74B-15. Prohibited acts.** — (a) Any licensee or officer, director, partner or manager of a licensee may divulge to any law enforcement officer or solicitor or his representative any information he may require as to any criminal offense but he shall not divulge to any other person, except as he be required by law, any information acquired by him except at the direction of the employee or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager or employee of a licensee shall knowingly make any false report to this employer or client for whom information was being obtained.

(c) No licensee shall conduct a detective business under a fictitious name other than the name under which a license was obtained under the provisions of this Chapter.

(d) Every advertisement by a licensee soliciting or advertising for business shall contain his name and address as they appear in the records of the Board and in which name the license was issued.

(e) Every licensee shall file in writing with the Board the address of each of his branch offices, if any, within 10 days after the establishment, closing or changing of the location of any branch office. The operator or manager of any branch office shall be a licensed detective.

(f) It shall be unlawful for anyone not licensed and/or registered under this Chapter to advertise or profess to be a licensee; to advertise or profess to perform services for which a license is required; to perform, or aid and abet any other individual to perform, services for which a license or registration under this Chapter is required, when, in fact, the individual is not licensed and/or registered in accordance with this Chapter.

(g) Any individual who holds a private detective, guard and patrolman, and/or polygraph examiner's license, or any other individual licensed under this Chapter shall at no time be concurrently employed as or perform duties as a sworn law enforcement officer of the United States or this State or any of its political subdivisions.

**"§ 74B-16. Penal provision.** — Any person who violates any provision of this Chapter shall be guilty of a misdemeanor and shall upon conviction be fined or imprisoned or both in the discretion of the court."

**Sec. 2.** All laws inconsistent with this act are hereby repealed.

**Sec. 3.** This act shall become effective July 1, 1973.

In the General Assembly read three times and ratified, this the 16th day of May, 1973.