

In addition to requiring a license fee, the Act requires an applicant to post a bond. Previously, the amount of the bond was \$5,000 if the applicant was a person, or \$10,000 if a firm, partnership, or corporation. Under the bill, the amount of the bond is \$10,000 for all applicants. The bill permits an applicant, in lieu of posting a bond, to furnish an insurance policy 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 bill prohibits the DCIS from refunding an application fee unless a mistake, inadvertence, or error in collection is shown. Previously, a fee also could be refunded if the applicant was ineligible for a license due to failure to meet the requirements of the Act.

The bill requires the DCIS to investigate the applicant's qualifications for licensure upon receiving the application, application processing fee, and license fee.

DCIS

The bill transferred to the DCIS responsibility for issuing licenses and regulating licensees. Previously, the Act had contained references to the Secretary of State and the Department of State Police (which had been performing the licensure and regulatory responsibilities).

The bill authorizes the DCIS to promulgate rules to implement the Act.

Qualifications

The Act prescribes requirements that an individual applicant, or the sole or principal license holder of a business entity, must meet in order to receive a license to conduct business as a private detective or private investigator. The bill deleted requirements that the person be "of good moral character" and a resident of this State.

Under the Act, an applicant must, for at least three years, 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 qualifies under this requirement. Also,

experience as a police officer qualifies only if it was as a certified police officer. In addition, an acceptable degree under the bill must be a baccalaureate degree in the field of police administration or criminal justice. (Previously, the Act referred only to a degree in police administration.)

Unemployable Persons

Previously, the Act prohibited a licensee from employing anyone who had been convicted of a felony "or high misdemeanor or any crime involving moral turpitude". The bill provides, instead, that a licensee may not employ a person who has been convicted of a felony, or convicted within the preceding eight years of a misdemeanor involving any of the following:

- Dishonesty or fraud.
- Unauthorized divulging or selling of information or evidence.
- Impersonation of a law enforcement officer or employee of the United States, this State, or a political subdivision of this State.
- Illegally using, carrying, or possessing a dangerous weapon.
- Two or more alcohol-related offenses.
- Controlled substances under the Public Health Code.
- An assault.

The bill also prohibits a licensee from knowingly employing any person who does not meet the requirements of the Act.

Fingerprinting

Previously, the Act required a licensee to cause fingerprints to be taken of all prospective employees and processed by the local law enforcement agency. The bill, instead, requires a licensee to cause fingerprints to be taken of all prospective employees and submitted to the Department and the Federal Bureau of Investigation for processing and approval. The prints may be taken by a law enforcement agency or any other person determined by the DCIS to be qualified to take fingerprints. The licensee must submit a fingerprint processing fee to the Department in accordance with Section 3 of Public Act 120 of 1935, as well as any costs imposed by the FBI. (Public Act 120 prescribes a method for fingerprinting residents of the State. Section 3 allows the Department of State Police to charge a fee for taking and processing fingerprints and completing a criminal record check for employment- and licensing-related purposes.

Previously, the maximum fee was \$15, although Executive Order 9 of 2001 raised the fee to \$30 for FY 2001-02. Public Act 463 of 2002 also increased the fee to \$30 until October 1, 2004.)

Criminal Penalties

The Act prohibits a person from engaging in the business of private detective or investigator for compensation, or advertising as a detective or detective agency, without a license. The Act also prohibits an unlicensed person from engaging in the business of furnishing, for compensation, information as to someone's personal character or as to the kind or character of a business entity, or owning, conducting, or maintaining a bureau or agency for these purposes, except in regard to the financial rating of people or businesses.

Previously, a violation of these prohibitions was a misdemeanor punishable by imprisonment for up to 90 days and/or a fine of up to \$1,000. Under the bill, a violation is a felony punishable by up to four years' imprisonment and/or a maximum fine of \$5,000.

The Act also makes it a misdemeanor for a licensee, manager, or employee of a licensee to violate the Act. The bill increased the maximum fine from \$100 to \$500, and retained the 90-day maximum term of imprisonment.

Other Provisions

Under the bill, if a person is regulated as a private investigator or detective in another state that has reciprocity with Michigan, the person may engage in activities regulated under the Act without a license for a limited time, in order to continue an ongoing investigation originating in the other state.

The bill requires a notice and an opportunity for a hearing when a suspension, revocation, or other action against a licensee is taken.

The bill deleted a provision under which Department agents had all the powers of a peace officer with respect to violations of the Act.

Under the bill, a license is not required for professional engineers acting within the scope of their professional practice and not performing investigative activities.

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FISCAL IMPACT

Senate Bill 929

According to the Department of State Police, the bill will generate approximately \$75,000 to \$100,000 annually in license fee revenue, which will be used by the Department of Consumer and Industry Services to regulate the private detective industry in the State.

Appropriations for FY 2002-03 include 6.0 FTEs and \$450,000 in license revenue from the private security industry to support a security regulatory office.

Senate Bill 992

The bill will have an indeterminate impact on State and local governments.

Since engaging in business as a private detective or investigator without a license was a misdemeanor under prior law, there are no statewide data to indicate how many offenders a year were convicted of the crime. Offenders were subject to up to 90 days' incarceration or probation, and local units incurred the costs. Changing this offense to a Class F felony will make the minimum sentencing range 0-3 months to 17-30 months. If an offender's longest allowable minimum sentence does not exceed 18 months, he or she will be sentenced to probation or incarceration in a local facility. Local units still will be responsible for the cost of incarceration, which varies by county from \$27 to \$65 per day, while the State will become responsible for the costs of \$4.38 per day for felony probation. If an offender receives a maximum minimum sentence of more than 18 months, he or she will be eligible for imprisonment in a State facility. The State will incur the cost of felony probation as well as that of incarceration, at an average annual cost of \$25,000.

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.