

Legislative Analysis



PRIVATE DETECTIVES: CONTINUING EDUCATION

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House Bill 5658 as passed by the House

Sponsor: Rep. Larry Julian

Committee: Regulatory Reform

First Analysis (8-31-04)

BRIEF SUMMARY: House Bill 5658 would amend the Private Detective License Act by adding a new section that would require a licensed private detective to successfully complete at least 18 clock hours of continuing education in order to renew a license.

FISCAL IMPACT: There would be no fiscal impact to local units of government. Estimates obtained from the Department of Labor and Economic Growth indicates that the passage of this bill could increase State of Michigan operation costs by approximately \$130,000. The costs of creating and maintaining a continuing education requirement for private detective licensure could result in the need for two additional staff persons, information technology development costs, office supplies, and equipment with the Bureau of Commercial Services.

THE APPARENT PROBLEM:

While the Private Detective License Act contains licensing qualifications for applicants, it does not address the issue of continuing education, which some people in the industry believe to be essential in regulating private detectives and private investigators. In order to keep up with technological advances and other industry changes, proponents believe that private detectives and private investigators should engage in approved continuing education courses to renew licenses.

THE CONTENT OF THE BILL:

House Bill 5658 would amend Public Act 474 of 2002, the Private Detective License Act, by adding a new Section 26a to require a licensed private detective to successfully complete at least 18 clock hours of continuing education in order to renew a license. Private detective licenses are issued for a three-year period.

Clock hours requirement: In the license cycle beginning in the calendar year 2004, clock hours may be earned at any time during the license cycle; however, beginning January 1, 2007, at least two hours of continuing education must be earned in each year of the license cycle. Each licensee could select courses in the area of expertise as long as the course was approved by the Department of Labor and Economic Growth and was at least two hours in duration. The department could make exceptions to the continuing education requirements if a licensee provided satisfactory evidence of good cause for noncompliance. Service as a lecturer or discussion leader in an approved course could

count toward the education requirement, but only for no more than six hours in each three-year license cycle.

Course topics: The department would be required to determine acceptable subject matter areas that would contribute to the professional competence of the individual. Such topics would include: accounting, management, computer science, communications arts law, ethics, accident investigation, background investigation, business taxes, criminal investigation, court testimony, employee theft, process service, personnel law, product liability, public records availability and access, report writing, substance abuse in the workplace, surveillance techniques, wage and hour law, worker's compensation law, and executive protection.

Qualifying courses: Beginning on the effective date of this bill and until otherwise determined by rule of the department, the existing courses offered by the Michigan Council of the Private Investigators, Incorporated, (or the council courses that supercede them) would be considered adequate to qualify as continuing education. Updated state council courses would require departmental approval. In addition, the department could approve courses or programs offered by national or state private investigation organizations, universities and colleges and any other provider or organization offering accounting, industrial, legal, or related education programs. Distance, intra- or inter-firm education could also be considered eligible to qualify as continuing education. The department would be required to seek advice from recognized industry association and educational institutions regarding course approval.

Continuing education: Continuing education courses would be required to include all of the following for department approval: a clear statement of the rationale, purpose, and goals of each course; a course administration description including a system for verifying satisfactory course completion, including a verified list of each licensee awarded credit, each licensee receiving a certificate, and the department's assigned course number; department-approved instructors, based upon training, background, education, and experience; a syllabus; and all course changes that affect the accuracy of the application for approval or accompanying documentation, including the detailed content outline.

Distance learning: Continuing education courses delivered through distance learning would have to be approved by the department before being offered to licensees and would have to contain all department-accepted course topics together with the approved continuing education courses criteria listed above.

Distance learning courses would be required to include: the individual modules of instruction on a computer or other interactive program; at least one learning objective (with the learning objective to ensure that if all the objectives are met, the content of the course is understood); a structured learning method to enable the student to attain each learning objective; a method of assessment of student performance; and a method of remediation so that a student could repeat the module until he or she understands the content material. *[Note: "Distance learning" means either of the following: 1) approved courses where the instructor and student may be apart and instruction takes place*

through some type of electronic medium, 2) approved courses where instruction is presented through interactive classrooms, computer conferencing, and interactive computer systems.]

Course verification: Each year a sponsor would be required to complete and submit, on a department-approved form, an application and documentation necessary to demonstrate that the courses meet the criteria established by the department.

The application would have to be submitted at least 60 days before the first date of instruction. An application would have to include all of the following: the course title; the date, time, and location of the tentative course offerings; the names, addresses and telephone numbers of the sponsoring entities; coordinators and the qualifications of the instructors; a detailed outline of the course offerings; a list of instructional materials; the method for verifying and monitoring attendance; a sample of the certificate of completion; and a sample of the announcements or brochures of course offerings and the student syllabus.

Certificate of completion: The sponsor would be required to submit to the department the names of the students who successfully completed a course within five calendar days after its completion. The sponsor would issue a certificate of completion that would have to include at least all of the following: the name of the course and the course sponsor; the name of the student; the number of clock hours completed by the student; the date of course completion; and a signed certificate of completion. [Note: "clock hours" means a period of no fewer than 50 minutes of actual classroom instruction, excluding outside assignments and reading. For distance learning, "clock hours" means the amount of material a student can process in 50 minutes of computerized instruction.]

MCL 338.846a

ARGUMENTS:

For:

Proponents of the bill say that on a daily basis, licensed private investigators throughout Michigan are involved in such services as surveillance operations, workplace violence prevention, criminal investigation, location of witnesses, and armed executive protection. Their customers include large and small corporations, the insurance and banking industries, law firms, government agencies, and private citizens. They work in an environment of changing laws and regulations that have a direct bearing on how they must conduct investigations. They also work in a profession that utilizes state-of-the-art technology that changes every day. Proponents believe that practicing licensed private investigators have an obligation to the citizens of the state to remain current on changing laws and technological advances. Failing to do so could put them and their clients in legal jeopardy. Moreover, representatives of private detectives say they are being relied on more heavily since 9/11 to provide support services for private industry and government with regards to Homeland Security. Currently, there are no continuing education requirements for these professionals in statute.

Against:

Critics say that most private detectives are former police officers who are already well versed in the requirements of the profession and that public protection would not be enhanced by mandatory continuing requirements. A report from the state of New York said that “*seat time in continuing education programs does not guarantee learning and it cannot be directly related to a demonstration of competence.*” A Colorado study reports that “*there is no research available in Colorado or anywhere in the nation that shows any correlation between linking continuing education with license renewal and the continued competence of any licensed group*”.

The California Department of Consumer Affairs recommended a number of years ago that their legislative body refrain from imposing continuing education requirements and instead develop competency assurance measures. Mandatory continuing education, as currently practiced, demands only that the licensee show that he or she has attended approved courses. In other words, sometimes the person only needs to sign in and out to receive a certificate of attendance at a course offering. This can result in “education” abuse, particularly in the case of educational offerings at popular resort destinations. Further, there is no requirement that the chosen courses be relevant to the licensee’s specific practice or needs or that the information presented has been understood. State regulators say there a few complaints made against private detectives, and most of those concerned unlicensed activity rather than complaints against licensees.

POSITIONS:

The Michigan Council of Private Investigators supports the bill. (5-25-04)

The Department of Labor and Economic Growth opposes the bill. (4-29-04)

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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.