Enrolled

Committee Substitute

for

Senate Bill 376

BY SENATORS TRUMP, PALUMBO, GAUNCH, WILLIAMS,
BEACH, YOST, MILLER AND MAYNARD, original sponsors

[Passed March 10, 2016; in effect 90 days from passage]
WEST VIRGINIA LEGISLATURE

2016 REGULAR SESSION

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BY SENATORS TRUMP, PALUMBO, GAUNCH, WILLIAMS,
BEACH, YOST, MILLER AND MAYNARD, original sponsors

[Passed March 10, 2016; in effect 90 days from passage]
AN ACT to amend and reenact §30-18-10 of the Code of West Virginia, 1931, as amended, relating to background checks for applicants for private investigator and security guard licensure; requiring each applicant to submit to a state and national criminal history record check; requiring criminal history record check to be based on fingerprints submitted to West Virginia Secretary of State or its assigned agent for forwarding to Federal Bureau of Investigation; requiring applicant to meet all requirements necessary to accomplish criminal history record check; providing that results of criminal history record check may not be released to or by a private entity except under certain circumstances; providing criminal history record check and related records are not public records; directing applicant to ensure that criminal history record check is completed as soon as possible after date of original application for registration; and providing that applicant pay actual costs of fingerprinting and criminal history record check.

Be it enacted by the Legislature of West Virginia:

That §30-18-10 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 18. PRIVATE INVESTIGATIVE AND SECURITY SERVICES.

§30-18-10. Authority of Secretary of State.

(a) When the Secretary of State is satisfied as to the good character, competency and integrity of an applicant, of all employees or individuals conducting the private investigation business or security guard services under a firm license and, if the applicant is a firm, of each member, officer or partner, he or she shall issue and deliver to the applicant a certificate of license. Each license issued shall be for a period of one year and is revocable at all times for cause shown pursuant to subsection (b) of this section or any rules promulgated pursuant thereto.

(b) The Secretary of State may propose for promulgation in accordance with the provisions of chapter twenty-nine-a of this code legislative rules necessary for the administration and enforcement of this article and for the issuance, suspension and revocation of licenses issued
under the provisions of this article. The Secretary of State shall afford any applicant an opportunity
to be heard in person or by counsel when a determination is made to deny, revoke or suspend an
applicant's license or application for license, including a renewal of a license. The applicant has
fifteen days from the date of receiving written notice of the Secretary of State's adverse
determination to request a hearing on the matter of denial, suspension or revocation. The action
of the Secretary of State in granting, renewing, or in refusing to grant or to renew, a license is
subject to review by the circuit court of Kanawha County or other court of competent jurisdiction.

(c) At any hearing before the Secretary of State to challenge an adverse determination by
the Secretary of State on the matter of a denial, suspension or revocation of a license, if the
adverse determination is based upon a conviction for a crime which would bar licensure under
the provisions of this article, the hearing shall be an identity hearing only and the sole issue which
may be contested is whether the person whose application is denied or whose license is
suspended or revoked is the same person convicted of the crime.

(d) The Secretary of State shall require each applicant to submit to a state and national
criminal history record check, as set forth in this subsection:

(1) The criminal history record check shall be based on fingerprints submitted to the West
Virginia State Police or its assigned agent for forwarding to the Federal Bureau of Investigation.

(2) The applicant shall meet all requirements necessary to accomplish the state and
national criminal history record check, including:

(A) Submitting fingerprints for the purposes set forth in this section; and

(B) Authorizing the Secretary of State, the West Virginia State Police and the Federal
Bureau of Investigation to use all records submitted and produced for the purpose of screening
the applicant for a license.
(3) The results of the state and national criminal history record check may not be released to or by a private entity except:

(A) To the individual who is the subject of the criminal history record check;

(B) With the written authorization of the individual who is the subject of the criminal history record check; or

(C) Pursuant to a court order.

(4) The criminal history record check and related records are not public records for the purposes of chapter twenty-nine-b of this code.

(5) The applicant shall ensure that the criminal history record check is completed as soon as possible after the date of the original application for registration.

(6) The applicant shall pay the actual costs of the fingerprinting and criminal history record check.
Enr. CS for SB 376

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Member, Senate Committee  

Chairman, Senate Committee  

Chairman, House Committee  

Originated in the Senate.

In effect 90 days from passage.

Clerk of the Senate  

Clerk of the House of Delegates  

President of the Senate  

Speaker of the House of Delegates  

The within ... approved this the 23rd Day of March, 2016.  

Governor