

Fifty-ninth  
Legislative Assembly  
of North Dakota

## ENGROSSED HOUSE BILL NO. 1165

Introduced by

Government and Veterans Affairs Committee

(At the request of the Private Investigative and Security Board)

1 A BILL for an Act to create and enact a new section to chapter 43-30 of the North Dakota  
2 Century Code, relating to exceptions to private investigative services licensing; to amend and  
3 reenact sections 43-30-01, 43-30-02, and 43-30-03 of the North Dakota Century Code, relating  
4 to licensing persons engaged in private investigative service or private security service; and to  
5 provide a penalty.

6 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

7 **SECTION 1. AMENDMENT.** Section 43-30-01 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **43-30-01. Definitions.** As used in this chapter, unless the context or subject matter  
10 otherwise requires:

- 11 1. "Board" means the private investigative and security board.
- 12 2. "Employee" means an employee under a contract of employment as defined in  
13 chapter 34-01, and not an independent contractor as defined by the "common law"  
14 test.
- 15 3. "License" includes a registration issued by the board.
- 16 ~~3.~~ 4. "Licensee" includes an individual who is registered by the board.
- 17 ~~4.~~ 5. "Private investigative service" means ~~obtaining or furnishing information with~~  
18 ~~reference to any act or individual, for a fee, reward, or other consideration,~~  
19 undertaking any of the following acts for the purpose of obtaining information for  
20 others:
  - 21 a. Investigating the identity, habits, conduct, movements, whereabouts,  
22 transactions, reputation, or character of any person or organization;
  - 23 b. Investigating the credibility of persons;

- 1           c. Investigating the location or recovery of lost or stolen property, missing  
2                   persons, owners of abandoned property or escheated property, or heirs to  
3                   estates;
- 4           d. Investigating the origin of and responsibility for libels, losses, accidents, or  
5                   damage or injuries to persons or property;
- 6           e. Investigating the affiliation, connection, or relationship of any person, firm, or  
7                   corporation with any organization, society, or association, or with any official,  
8                   representative, or member thereof;
- 9           f. Investigating the conduct, honesty, efficiency, loyalty, or activities of  
10                  employees, persons seeking employment, agents, or contractors and  
11                  subcontractors;
- 12           g. Investigating or obtaining evidence to be used before any authorized  
13                  investigating committee, board of award, board of arbitration, administrative  
14                  body, or officer or in preparation for trial of civil or criminal cases; or
- 15           h. Investigating the identity or location of persons suspected of crimes or  
16                  wrongdoing.
- 17   5- 6. "Private security service" means furnishing for hire security officers or other  
18           persons to ~~protect~~;
- 19           a. Protect persons or property, ~~or to prevent the~~;
- 20           b. Prevent or detect theft or the unlawful taking of goods, wares, ~~and or~~  
21                  merchandise, or to prevent the misappropriation or concealment of goods,  
22                  wares, merchandise, money, bonds, stocks, choses in action, notes, or other  
23                  valuable documents or papers, ~~or the business of performing the service of~~  
24                  ~~such security officer or other person for any of these purposes;~~
- 25           c. Control, regulate, or direct the flow of or movements of the public, whether by  
26                  vehicle or otherwise, to assure protection of private property;
- 27           d. Prevent or detect intrusion, unauthorized entry or activity, vandalism, or  
28                  trespass on private property;
- 29           e. Perform the service of a security officer or other person for any of these  
30                  purposes; or

1           f. Transport money or negotiable securities to or from a financial institution or  
2           between business locations on a regular or daily basis, except for mail  
3           delivery.

4           **SECTION 2. AMENDMENT.** Section 43-30-02 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6           **43-30-02. Exemptions.** This chapter does not apply to:

- 7           1. Any investigator or officer directly employed by or under any direct contract with  
8           the federal government, state, or any county or city thereof, appointed, elected, or  
9           contracted with, by due authority of law, while engaged in the performance of  
10          official duties. Subcontractors of agencies directly contracted with these entities  
11          are not exempted.
- 12          2. Any state's attorney.
- 13          3. Any attorneys or counselors at law in the regular practice of their profession and  
14          any paralegal or legal assistant employed by an attorney or law firm when the  
15          attorney or law firm retains complete responsibility for the work product of the  
16          paralegal or legal assistant.
- 17          4. Any person ~~whose sole investigative business is the furnishing of information as to~~  
18          ~~the business and financial standing and credit of persons~~ engaged exclusively in  
19          obtaining and furnishing information as to the financial standing, rating, and credit  
20          responsibility of persons or as to the personal habits and financial responsibilities  
21          of applicants for insurance, indemnity bonds, or commercial credit.
- 22          5. A collection agency or finance company licensed to do business under the laws of  
23          this state, or an employee of one of those companies, while acting within the scope  
24          of employment when making an investigation incidental to the business of the  
25          agency, including an investigation as to location of a debtor and of the debtor's  
26          assets or property, provided the client has a financial interest in or a lien upon the  
27          assets or property of the debtor.
- 28          ~~6.~~ 6. Any person making any investigation of any matter in which that person or the  
29          person by whom that person is solely employed is interested or involved.
- 30          ~~6.~~ 6. ~~Any person making any investigation for any person engaged in the business of~~  
31          ~~transporting persons or property in interstate commerce.~~

- 1           7. ~~Any adjuster or investigator representing an insurance company.~~  
2           8. 7. A person whose sole investigative business is obtaining or furnishing information  
3           about acts or individuals from public records, other than those investigating the  
4           location or recovery of abandoned or escheated property, owners of abandoned or  
5           escheated property, or heirs to estates.  
6           8. An expert who specializes in a specific, limited area of practice, including  
7           automotive accident reconstructions, fire cause and origin inspections, technical  
8           surveillance counter measures, handwriting analysis, auditor, accountant or  
9           accounting clerk performing audits or accounting functions, or other areas of  
10          practice covered by other licensure in the state, and other areas determined by the  
11          board, that fall within the individual's scope of employment, incidental to the  
12          investigative profession.  
13          9. Persons reporting for any media, including news reporters or news investigators.  
14          10. A person providing mystery or secret shopping services, or providing a similar  
15          service, used for evaluating customer service, products, services, pricing,  
16          locations, or consumer issues so long as the evaluation is not for purposes of  
17          litigation or discovering violations of law.

18           **SECTION 3.** A new section to chapter 43-30 of the North Dakota Century Code is  
19 created and enacted as follows:

20           **Fair housing law compliance - Exception - Penalty.** This chapter does not apply to a  
21 person testing for fair housing law compliance who is employed by or volunteers with an  
22 organization recognized for this purpose under federal or state law and who meets the  
23 requirements, except for actual registration, of a registered private investigator established by  
24 the board. These requirements include a state and nationwide criminal history background  
25 check conducted by the bureau of criminal investigation and the federal bureau of investigation.  
26 The results of the state and nationwide criminal history background check must be on file with  
27 the organization. The board, at its request, may review the criminal history background check  
28 and other information related to any person conducting the compliance test. Any person who  
29 knowingly violates the requirements for an exception under this section is guilty of a class B  
30 misdemeanor.

1           **SECTION 4. AMENDMENT.** Section 43-30-03 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **43-30-03. Private investigative and security board.** The governor shall appoint a  
4 private investigative and security board. The board must consist of not less than five nor more  
5 than eleven members appointed for staggered four-year terms. Appointees to the board must  
6 be knowledgeable in private investigative or private security matters. A majority of the  
7 members of the board must be actively engaged in the private investigative or security  
8 profession, with at least one member actively engaged in law enforcement. Members of the  
9 board may not receive any compensation for their service on the board, but they are entitled to  
10 be reimbursed for their expenses incurred in performing their duties in the amounts provided by  
11 law for state employees.