

3 Senate Bill No. 757
4 As Amended

5 SENATE BILL NO. 757 - By: SHURDEN of the Senate and ROAN of the
6 House.

7 An Act relating to professions and occupations; amending 59
8 O.S. 2001, Sections 1750.2, 1750.3, 1750.3A and 1750.5,
9 which relate to the Oklahoma Security Guard and Private
10 Investigator Act; updating certain references; adding
11 definition; modifying powers and duties of the Council on
12 Law Enforcement Education and Training; providing exemption
13 for certain evaluation under certain circumstances;
14 providing for certain preclusive period; adding certain
15 license to be issued; requiring certain applicants to meet
16 certain qualifications; and providing an effective date.

17 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

18 SECTION 1. AMENDATORY 59 O.S. 2001, Section 1750.2, is
19 amended to read as follows:

20 Section 1750.2 As used in the Oklahoma Security Guard and
21 Private Investigator Act, ~~Section 1750.1 et seq. of this title:~~

22 1. "Client" means any person or legal entity having a contract
23 with a person or entity licensed pursuant to ~~Section 1750.1 et seq.~~
24 ~~of this title~~ the Oklahoma Security Guard and Private Investigator
25 Act, which contract authorizes services to be performed in return
26 for financial or other considerations;

27 2. "Council" means the Council on Law Enforcement Education and
28 Training;

1 3. "License" means authorization issued by the Council pursuant
2 to ~~this act~~ the Oklahoma Security Guard and Private Investigator Act
3 permitting the holder to perform the functions of a security guard,
4 armed security guard, private investigator, investigative agency, or
5 security agency;

6 4. "Private investigator" means a person who is self-employed,
7 or contracts with, or is employed by an investigative agency for the
8 purpose of conducting a private investigation and reporting the
9 results to the employer or client of the employer relating to:

- 10 a. potential or pending litigation, civil, or criminal,
11 b. divorce or other domestic investigations, ~~or~~
12 c. missing persons or missing property, or
13 d. other lawful investigations, but shall not include:

14 (1) a person authorized or employed by the United
15 States Government, any state government, or any
16 agency, department, or political subdivision
17 thereof while engaged in the performance of
18 official duties,

19 (2) a person or employee of a firm, corporation or
20 other legal entity engaged exclusively in a
21 profession licensed by any board, commission,
22 department or court of this state, or

1 (3) a bona fide, salaried, full-time employee of a
2 firm, corporation or other legal entity not in
3 the primary business of soliciting and providing
4 private investigations, who conducts
5 investigations that are exclusive to and
6 incidental to the primary business of said firm,
7 corporation or entity, and when the costs of such
8 investigations are not charged directly back to
9 the particular client or customer who directly
10 benefits from the investigation;

11 5. "Armed private investigator" means a private investigator
12 authorized to carry a firearm;

13 6. "Security agency" means a person, firm, corporation, or
14 other private legal entity in the business of security guard
15 services or armed security guards for hire;

16 ~~6.~~ 7. "Security guard" means an individual contracting with or
17 employed by a security agency, private business or person to prevent
18 trespass, theft, misappropriation, wrongful concealment of
19 merchandise, goods, money or other tangible items, or engaged as a
20 bodyguard or as a private watchman to protect persons or property,
21 but shall not include:

22 a. for individuals operating unarmed, any person employed
23 as a private watchman or security guard by one

1 employer only in connection with the affairs of such
2 employer where there exists an employer-employee
3 relationship,
4 b. a full-time certified peace officer of the United
5 States, this state, or any political subdivision of
6 either,
7 (1) while such peace officer is engaged in the
8 performance of his or her official duties within
9 the course and scope of his or her employment
10 with the United States, this state, or any
11 political subdivision of either, ~~or~~
12 (2) while such peace officer is engaged in the
13 performance of his or her duties as a railroad
14 police officer, or
15 (3) who receives compensation for private employment
16 on an individual or an individual independent
17 contractual basis as a patrolman, guard, or
18 watchman if such person is employed in an
19 employer-employee relationship or is employed on
20 an individual contractual basis,
21 c. any person whose terms of employment as a security
22 guard are governed by a collective bargaining
23 agreement on May 9, 1989, and

1 d. any person who is employed as a full-time security
2 guard by a financial institution on May 9, 1989;

3 ~~7.~~ 8. "Armed security guard" means a security guard authorized
4 to carry a firearm;

5 ~~8.~~ 9. "Investigative agency" means a self-employed private
6 investigator, a firm, a corporation, or other private legal entity
7 in the business of soliciting the business of private investigation
8 and/or providing private investigations and investigators;

9 ~~9.~~ 10. "Special event" means a public activity in the form of
10 an athletic contest, charity event, exposition or similar event that
11 occurs only on an annual or noncontinuing basis; and

12 ~~10.~~ 11. "Special event license" means a temporary license
13 issued pursuant to ~~Section 1750.1 et seq. of this title~~ the Oklahoma
14 Security Guard and Private Investigator Act which restricts the
15 license holder to employment as a security guard only for the
16 duration of a particular event.

17 SECTION 2. AMENDATORY 59 O.S. 2001, Section 1750.3, is
18 amended to read as follows:

19 Section 1750.3 A. The director of the Council on Law
20 Enforcement Education and Training, and any staff member designated
21 by the director, shall have all the powers and authority of peace
22 officers of this state for the purposes of enforcing the provisions
23 of ~~Section 1750.1 et seq. of this title~~ the Oklahoma Security Guard

1 and Private Investigator Act, and all other duties which are or may
2 be conferred upon the Council by ~~Section 1750.1 et seq. of this~~
3 ~~title~~ the Oklahoma Security Guard and Private Investigator Act. The
4 powers and duties conferred on the director or any staff member
5 appointed by the director as a peace officer shall not limit the
6 powers and duties of other peace officers of this state or any
7 political subdivision thereof. The director, or any staff member
8 appointed by the director as a peace officer shall, upon request,
9 assist any federal, state, county, or municipal law enforcement
10 agency.

11 B. The Council on Law Enforcement Education and Training shall
12 have the following powers and duties:

13 1. To promulgate rules to carry out the purposes of ~~Section~~
14 ~~1750.1 et seq. of this title~~ the Oklahoma Security Guard and Private
15 Investigator Act;

16 2. To establish and enforce standards governing the training of
17 persons required to be licensed pursuant to ~~Section 1750.1 et seq.~~
18 ~~of this title~~ the Oklahoma Security Guard and Private Investigator
19 Act with respect to:

20 a. issuing, denying, or revoking certificates of approval
21 to security training schools, and programs
22 administered by the state, a county, a municipality, a
23 private corporation, or an individual,

- 1 b. certifying instructors at approved security training
2 schools,
3 c. establishing minimum requirements for security
4 training schools and periodically reviewing these
5 standards, and
6 d. providing for periodic inspection of all security
7 training schools or programs;

8 3. To establish minimum curriculum requirements for training as
9 the Council may require for security guards, armed security guards,
10 and private investigators. Training requirements for unarmed
11 security guards shall not exceed forty (40) hours of instruction;

12 4. To establish minimum requirements for a mandatory continuing
13 education program for all licensed private investigators and
14 security guards which shall include, but not be limited to:

- 15 a. establishing a designated minimum number of clock
16 hours of required attendance, not to exceed eight (8)
17 clock hours yearly, at accredited educational
18 functions,
19 b. establishing the penalties to be imposed upon a
20 licensee for failure to comply with the continuing
21 education requirements,
22 c. establishing a nonpaid advisory board of licensed
23 private investigators to assist the Council in

1 8. To investigate alleged violations of ~~Section 1750.1 et seq.~~
2 ~~of this title~~ the Oklahoma Security Guard and Private Investigator
3 Act or rules relating thereto and to deny, suspend, or revoke
4 licenses and identification cards if necessary, or to issue notices
5 of reprimand to licensees with or without probation under rules to
6 be prescribed by the Council;

7 9. To investigate alleged violations of the Oklahoma Security
8 Guard and Private Investigator Act by persons not licensed pursuant
9 to such act and to impose administrative sanctions pursuant to rules
10 or to seek an injunction pursuant to Section ~~2 of this act~~ 1750.2A
11 of this title;

12 10. To provide all forms for applications, identification
13 cards, and licenses required by ~~Section 1750.1 et seq. of this title~~
14 the Oklahoma Security Guard and Private Investigator Act;

15 11. To enter into reciprocal agreements with officials of other
16 states;

17 12. To immediately suspend a license if a licensee's actions
18 present a danger to the licensee or to the public; and

19 13. To require additional testing for continuation or
20 reinstatement of a license if a licensee exhibits an inability to
21 exercise reasonable judgment, skill, or safety.

22 SECTION 3. AMENDATORY 59 O.S. 2001, Section 1750.3A, is
23 amended to read as follows:

1 Section 1750.3A A. Each applicant for an armed security guard
2 license shall be administered any current standard form of the
3 Minnesota Multiphasic Personality Inventory (MMPI), or other
4 psychological evaluation instrument approved by the Council on Law
5 Enforcement Education and Training, which shall be administered
6 during the firearms training phase required by Section 1750.3 of
7 this title. The security training school administering such
8 instrument shall forward the response data to a psychologist
9 licensed by the State Board of Examiners of Psychologists for
10 evaluation. The licensed psychologist shall be of the applicant's
11 choice. Applicants with comparable training shall complete the
12 psychological test and evaluation requirements prior to licensing.
13 It shall be the responsibility of the applicant to bear the cost of
14 the psychological evaluation.

15 B. If the licensed psychologist is unable to certify the
16 applicant's psychological capability to exercise appropriate
17 judgment, restraint, and self-control, after evaluating the data,
18 the psychologist shall employ whatever other psychological measuring
19 instruments or techniques deemed necessary to form a professional
20 opinion. The use of any psychological measuring instruments or
21 techniques shall require a full and complete written explanation to
22 the Council on Law Enforcement Education and Training.

1 C. The psychologist shall forward a written psychological
2 evaluation, on a form prescribed by the Council, to the Council
3 within fifteen (15) days of the evaluation, even if the applicant is
4 found to be psychologically at risk. The Council may utilize the
5 results of the psychological evaluation for up to six (6) months
6 from the date of the evaluation after which the applicant shall be
7 reexamined. No person who has been found psychologically at risk in
8 the exercise of appropriate judgment, restraint, or self-control
9 shall reapply for certification until one (1) year from the date of
10 being found psychologically at risk.

11 D. 1. Active peace officers who have been certified by the
12 Council on Law Enforcement Education and Training shall be exempt
13 from the provisions of this section.

14 2. Retired peace officers who have been certified by the
15 Council on Law Enforcement Education and Training shall be exempt
16 from the provisions of this section for a period of one year from
17 retirement.

18 3. Retired peace officers who are not exempt from this section
19 and who have previously undergone treatment for a mental illness,
20 condition, or disorder which required medication or supervision, as
21 defined by paragraph 7 of Section 1290.10 of Title 21 of the
22 Oklahoma Statutes may apply for an armed security guard license only
23 after three (3) years from the last date of treatment or upon

1 presentation of a certified statement from a licensed physician
2 stating that the person is either no longer disabled by any mental
3 or psychiatric illness, condition, or disorder or that the person
4 has been stabilized on medication for ten (10) years or more.

5 SECTION 4. AMENDATORY 59 O.S. 2001, Section 1750.5, is
6 amended to read as follows:

7 Section 1750.5 A. Licenses authorized to be issued by the
8 Council on Law Enforcement Education and Training (CLEET) shall be
9 as follows:

- 10 1. Security Agency License;
- 11 2. Investigative Agency License;
- 12 3. Private Investigator License (unarmed);
- 13 4. Security Guard License (unarmed);
- 14 5. Armed Security Guard License; ~~and~~
- 15 6. Special Event License (unarmed); and
- 16 7. Armed Private Investigator License.

17 B. Any qualified applicant meeting the requirements for more
18 than one of the positions of private investigator, security guard,
19 or armed security guard may be issued a separate license for each
20 position for which qualified, or in the discretion of the Council, a
21 combination license provided the required license fees are paid.

22 C. A private investigator may carry a firearm, if the private
23 investigator also performs the functions of an armed security guard,

1 under the authority of the armed security guard license. If the
2 private investigator performs no functions of an armed security
3 guard, the Council may add an endorsement to the license of the
4 private investigator that states "Firearms Authorized", in lieu of
5 the armed security guard license, if the private investigator
6 completes the same training and testing requirements of the armed
7 security guard. The Council will charge the same fee for the
8 "Firearms Authorized" endorsement on the private investigators
9 license as the cost of the armed security guard license. Any person
10 issued a private investigator license with a firearms authorized
11 endorsement may carry a concealed firearm when on and off duty,
12 provided the person keeps the firearm concealed from view and is in
13 possession of a valid driver license and a valid private
14 investigator license with a firearms authorization endorsement.

15 D. Any identification card issued to a person meeting the
16 license requirements for an armed security guard shall be distinct
17 and shall explicitly state that the person is authorized to carry a
18 firearm pursuant to the provisions of ~~Section 1750.1 et seq. of this~~
19 ~~title~~ the Oklahoma Security Guard and Private Investigator Act.
20 Upon receipt of the license and identification card, the armed
21 security guard is authorized to carry a firearm in the performance
22 of his or her duties subject to the provisions of ~~Section 1750.1 et~~

1 ~~seq. of this title~~ the Oklahoma Security Guard and Private
2 Investigator Act and the rules promulgated by the Council.

3 E. The Council may issue a conditional license to a person
4 employed by a security or investigative agency as a trainee for a
5 security guard, armed security guard, or private investigator
6 position, when the person has submitted a properly completed
7 application, made under oath, subject to the following conditions:

8 1. A conditional license shall authorize employees to perform
9 the same functions that regular licensees perform, but subject to
10 supervision by the employing agency as the Council may prescribe;

11 2. The holder of a conditional license shall complete the
12 necessary training requirements within one hundred eighty (180) days
13 from the effective date of the conditional license, after which the
14 conditional license shall expire;

15 3. The holder of a conditional license as an armed security
16 guard shall not carry a firearm in the performance of duties until
17 after completing a course of firearms training as prescribed by the
18 Council, and having been issued a regular license by the Council;

19 4. A conditional license may be renewed at the discretion of
20 the Council, if necessary to allow an applicant to complete any
21 training required for a regular license; and

22 5. When the Council finds that a conditional license holder has
23 completed the required training and is otherwise qualified for a

1 license pursuant to the provisions of ~~Section 1750.1 et seq. of this~~
2 ~~title~~ the Oklahoma Security Guard and Private Investigator Act, the
3 Council shall issue a regular license.

4 F. A Security Agency License may be issued to an individual,
5 corporation, or other legal entity meeting the following
6 qualifications:

7 1. If the license is to be issued in the name of a legal entity
8 other than a natural person, the applicant must furnish proof that
9 the entity is legally recognized, such as the issuance of a
10 corporate charter; and

11 2. The executive officer, manager, or other person in charge of
12 supervising security guards in the performance of their duties shall
13 be a licensed security guard.

14 G. An Investigative Agency License may be issued to an
15 individual, corporation, or other legal entity meeting the following
16 qualifications:

17 1. If the license is to be issued in the name of a legal entity
18 other than a natural person, the applicant must furnish proof that
19 the entity is legally recognized, such as the issuance of a
20 corporate charter;

21 2. Any person, otherwise qualified, may own a private
22 investigation agency; and

1 3. A self-employed private investigator who employs no other
2 investigators shall also be licensed as an investigative agency, but
3 shall only be required to be insured or bonded as a self-employed
4 private investigator.

5 H. A Security Guard License, Armed Security Guard License,
6 Private Investigator License, Armed Private Investigator License, or
7 combination thereof may be issued to an applicant meeting the
8 following qualifications. The applicant shall:

9 1. Be a citizen of the United States or an alien legally
10 residing in the United States;

11 2. Be at least eighteen (18) years of age, except that an
12 applicant for an Armed Security Guard License shall be at least
13 twenty-one (21) years of age;

14 3. Have successfully completed training requirements for the
15 license applied for, as prescribed by the Council;

16 4. Be of good moral character;

17 5. Not have a record of a felony conviction;

18 6. Not have a record of conviction for larceny, theft, false
19 pretense, fraud, embezzlement, false personation of an officer, any
20 offense involving moral turpitude, any offense involving a minor as
21 a victim, any nonconsensual sex offense, any offense involving the
22 possession, use, distribution, or sale of a controlled dangerous

1 substance, any offense involving a firearm, or any other offense as
2 prescribed by the Council, as provided herein.

3 a. If any conviction which disqualifies an applicant
4 occurred more than five (5) years prior to the
5 application date and the Council is convinced the
6 offense constituted an isolated incident and the
7 applicant has been rehabilitated, the Council may, in
8 its discretion, waive the conviction disqualification
9 as provided for in this paragraph and issue an unarmed
10 security guard license or a private investigator's
11 license, but shall not issue an armed guard license,
12 to the applicant if the applicant is otherwise
13 qualified, unless the felony involved the use of a
14 firearm or was violent in nature.

15 b. If an Oklahoma State Bureau of Investigation records
16 check and a local records check reveal that there are
17 no felony convictions, criminal convictions involving
18 moral turpitude, or any other disqualifying
19 convictions as specified in the Oklahoma Security
20 Guard and Private Investigator Act, ~~Section 1750.1 et~~
21 ~~seq. of this title,~~ or prescribed by the Council, then
22 the Council may conditionally issue an armed security

1 guard license pending completion of the criminal
2 history and background check.

3 c. Under oath, the applicant shall certify that he or she
4 has no disqualifying convictions as specified in the
5 Oklahoma Security Guard and Private Investigator Act
6 or by the Council.

7 d. The applicant shall further meet all other
8 qualifications.

9 e. If upon completion of the required background
10 investigation it is discovered that a disqualifying
11 conviction exists, the Council shall immediately
12 revoke the armed guard license of the applicant;

13 7. Make a statement that the applicant is not currently
14 undergoing treatment for mental illness, condition, or disorder,
15 make a statement whether the applicant has ever been adjudicated
16 incompetent or committed to a mental institution, and make a
17 statement regarding any history of illegal drug use or alcohol
18 abuse. Upon presentation by the Council on Law Enforcement
19 Education and Training of the name, gender, date of birth, and
20 address of the applicant to the Department of Mental Health and
21 Substance Abuse Services, the Department of Mental Health and
22 Substance Abuse Services shall notify the Council within ten (10)
23 days whether the computerized records of the Department indicate the

1 applicant has ever been involuntarily committed to an Oklahoma state
2 mental institution. For purposes of this subsection, "currently
3 undergoing treatment for a mental illness, condition, or disorder"
4 means the person has been diagnosed by a licensed physician or
5 psychologist, as being afflicted with a substantial disorder of
6 thought, mood, perception, psychological orientation, or memory that
7 significantly impairs judgment, behavior, capacity to recognize
8 reality, or ability to meet the ordinary demands of life and such
9 condition continues to exist; and

10 8. Make a statement regarding misdemeanor domestic violence
11 charges.

12 I. A special event license may be issued to an employee of a
13 security agency who is hired on a temporary basis as an unarmed
14 security guard for a particular event. An application for a special
15 event license shall be made by the agency employing the applicant.
16 The agency shall certify to the Council that the applicant meets the
17 qualifications for security guards, pursuant to subsection H of this
18 section.

19 J. 1. All persons and agencies shall obtain and maintain
20 liability coverage in accordance with the following minimum
21 standards:

22 a. general liability insurance coverage for bodily
23 injury, personal injury, and property damage, with

1 endorsements for personal injury including false
2 arrest, libel, slander, and invasion of privacy, or
3 b. a surety bond that allows persons to recover for
4 actionable injuries, loss, or damage as a result of
5 the willful, or wrongful acts or omissions of the
6 principal and protects this state, its agents,
7 officers and employees from judgments against the
8 principal or insured licensee, and is further
9 conditioned upon the faithful and honest conduct of
10 the principal's business.

11 2. Liability coverages and bonds outlined in this section shall
12 be in the minimum amounts of One Hundred Thousand Dollars
13 (\$100,000.00) for agencies, Ten Thousand Dollars (\$10,000.00) for
14 armed security guards and private investigators with the firearms
15 authorization, or combination armed license; and Five Thousand
16 Dollars (\$5,000.00) for unarmed security guards and self-employed
17 unarmed private investigators who employ no other investigators.

18 3. Security agencies and investigative agencies shall ensure
19 that all employees of these agencies have met the minimum liability
20 coverages as prescribed in this section.

21 4. Insurance policies and bonds issued pursuant to this section
22 shall not be modified or canceled unless ten (10) days' prior
23 written notice is given to the Council. All persons and agencies

1 insured or bonded pursuant to this section shall be insured or
2 bonded by an insurance carrier or a surety company licensed in the
3 state in which the insurance or bond was purchased, or in this
4 state.

5 5. In lieu of the requirements of this subsection, the Council
6 may accept a written statement from a corporation which is
7 registered with the Oklahoma Secretary of State attesting that the
8 corporation self-insures the general operation of business for the
9 types of liability set out in paragraphs 1 and 2 of this subsection.

10 K. Upon written notice, any license may be placed on inactive
11 status.

12 L. Similar or duplicate agency names will not be issued. Each
13 agency name must be distinguishably different.

14 SECTION 5. This act shall become effective November 1, 2005.

15 COMMITTEE REPORT BY: COMMITTEE ON PUBLIC SAFETY AND HOMELAND
16 SECURITY, dated 2-21-05 - DO PASS, As Amended and Coauthored.