STATE OF OKLAHOMA

1st Session of the 55th Legislature (2015)

SENATE BILL 143 By: Paddack

AS INTRODUCED

An Act relating to licensing; amending Section 4, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1350.3), which relates to the Bail Enforcement and Licensing Act; prohibiting certain persons from licenses; amending Section 12, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1350.11), which relates to Bail Enforcement and Licensing Act; requiring certain notification to the Council of Law Enforcement Education and Training; amending 59 O.S. 2011, Section 1750.5, as last amended by Section 11, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1750.5), which relates to the Oklahoma Security Guard and Private Investigator Act; prohibiting certain persons from licenses; amending 59 O.S. 2011, Section 1750.7, which relates to the Oklahoma Security Guard and Private Investigator Act; requiring certain notification to the Council of Law Enforcement Education and Training; and providing an effective date.

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

SECTION 1. AMENDATORY Section 4, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1350.3), is amended to read as follows:

Section 1350.3. A. To prevent a conflict of interest or the appearance of any conflict of interest, and in addition to the

qualifications for a bail enforcer pursuant to Section 10 of this act, a person whose employment prohibits such person from being licensed as a bail bondsman as provided in subsection A of Section 1315 of Title 59 of the Oklahoma Statutes shall be prohibited from being licensed as a bail enforcer pursuant to the Bail Enforcement and Licensing Act. In addition, a district attorney, or any employee of an office of a district attorney, or any employee of the Department of Corrections shall be prohibited from being licensed as a bail enforcer or bail recovery agency while employed in such capacity.

B. Nothing in the Bail Enforcement and Licensing Act shall be construed to prohibit a bail bondsman, private investigator or security guard licensed in this state from being dual-licensed pursuant to the Bail Enforcement and Licensing Act.

C. No license shall be issued under the following circumstances:

1. The applicant has a felony charge or a misdemeanor charge involving moral turpitude or domestic violence pending in any court in this state, another state, in tribal court, or pursuant to the United States Code. The preclusive period shall be until the final determination of the matter;

2. The applicant is subject to the provisions of a deferred sentence or a deferred prosecution in this state or another state or pursuant to federal authority for the commission of a felony offense

or a misdemeanor offense involving moral turpitude or domestic violence. The preclusive period shall be three (3) years and shall begin upon the final determination of the matter.

SECTION 2. AMENDATORY Section 12, Chapter 407, O.S.L. 2013 (59 O.S. Supp. 2014, Section 1350.11), is amended to read as follows:

Section 1350.11. A. A bail enforcer license or armed bail enforcer license shall be subject to denial, suspension, or revocation and/or disciplinary action or administrative fine by the Council on Law Enforcement Education and Training subject to the Administrative Procedures Act for, but not limited to, the following reasons by clear and convincing evidence:

1. Any erroneous or false statement in an application for a license submitted pursuant to the Bail Enforcement and Licensing Act or rules promulgated pursuant thereto;

2. Failure to successfully complete any prescribed phase or course of training as required by the Council;

3. Violation of any provision of the Bail Enforcement and Licensing Act or any rule promulgated pursuant thereto;

4. A conviction for assault or battery, aggravated assault or battery, larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or

sale of a controlled dangerous substance, any offense of driving while intoxicated or driving under the influence of intoxicating substance, any offense involving a firearm, or any other offense as proscribed by the Council;

5. Use of beverages containing alcohol while armed with a firearm;

6. Knowingly impersonating a law enforcement officer;

7. Improper use of force pursuant to the Bail Enforcement and Licensing Act;

8. Failure to carry and possess proper license, identification or documents required by the Bail Enforcement and Licensing Act or any rules promulgated pursuant thereto;

9. Improper apparel or vehicle pursuant to the Bail Enforcement and Licensing Act;

10. Improper carry, display or use of a firearm, weapon or noxious substance;

11. Unlawful entry into a dwelling house, structure, property or vehicle or improper detention of any person;

12. Employing, authorizing, or permitting an unlicensed person to perform or engage in services as a bail enforcer; or

13. Permitting a person to perform or engage in services as a bail enforcer knowing the person has committed any offense prohibited by the Bail Enforcement and Licensing Act.

B. Upon the effective date of suspension or revocation of any license pursuant to the Bail Enforcement and Licensing Act, the licensee shall have the duty to surrender the license and any identification card issued pursuant thereto to the Council.

C. A duty is hereby imposed upon the district attorney who, on behalf of the State of Oklahoma, prosecutes a person holding a bail enforcer license for a felony, a crime involving moral turpitude or a crime of domestic violence in which a plea of guilty, nolo contendere, an "Alford" plea or any plea other than a not guilty plea or other finding of guilt is entered by, against or on behalf of a licensed bail enforcer, to report such plea, agreement or other finding of guilt to the Council of Law Enforcement Education and Training within ten (10) days of such plea agreement or the finding of guilt.

SECTION 3. AMENDATORY 59 O.S. 2011, Section 1750.5, as last amended by Section 11, Chapter 373, O.S.L. 2014 (59 O.S. Supp. 2014, Section 1750.5), is amended to read as follows:

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

1. Security Agency License;

2. Investigative Agency License;

3. Private Investigator License (unarmed);

4. Security Guard License (unarmed);

5. Armed Security Guard License;

6. Special Event License (unarmed);

7. Armed Private Investigator License;

8. Bail Enforcer License; and

9. Armed Bail Enforcer License.

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

C. 1. A private investigator may carry a firearm, if the private investigator also performs the functions of an armed security guard, under the authority of the armed security guard license.

2. If the private investigator performs no functions of an armed security guard, the Council may issue an armed private investigator license. If a person has been issued an armed private investigator license, the Council may issue an armed bail enforcer license if the applicant is otherwise eligible and qualified. The applicant for an armed private investigator license must complete Phase I, III and IV training and pass the psychological examination and state test; provided however, active certified peace officers and retired certified peace officers shall be exempt from the

psychological examination as provided in Section 1750.3A of this title, and active certified peace officers of any state, county or municipal law enforcement agency in this state shall be exempt from the Phase I, III and IV training and state test for an armed private investigator. The Council will charge the same fee for the armed private investigators license as the cost of the armed security guard license; provided however, an active certified peace officer who is an applicant for an armed private investigator or armed security guard license shall be charged only twenty percent (20%) of the required fee.

3. Any person issued an armed private investigator license may carry a concealed or unconcealed firearm when on and off duty, provided the person is in possession of a valid driver license and a valid armed private investigator license.

4. Any person issued an armed bail enforcer license may carry a concealed approved pistol, or may open-carry an approved pistol with a visible bail enforcer badge affixed to the holster or belt immediately next to the firearm while wearing clearly marked apparel designating the person as a "Bail Enforcer" or "Bail Enforcement" when actively engaged in the recovery of a defendant, subject to all rules for use and conduct of firearms promulgated by the Council. An armed bail enforcer shall be permitted to carry a concealed pistol when not actively engaged in the recovery of a defendant provided the bail enforcer badge authorized or issued by CLEET and a

state-issued driver license or identification card are in the possession of the person while carrying the firearm.

D. Any identification card or badge issued to a person meeting the license requirements for an armed security guard, an armed private investigator or armed bail enforcer shall be distinct and shall explicitly state that the person is authorized to carry a firearm pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act or the Bail Enforcement and Licensing Act. Upon receipt of the license and identification card, the armed security guard, armed private investigator or armed bail enforcer is authorized to carry a firearm subject to the respective provisions of the Oklahoma Security Guard and Private Investigator Act or the Bail Enforcement and Licensing Act and the rules promulgated by the Council.

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

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

2. The holder of a conditional license shall complete the necessary training requirements within one hundred eighty (180) days

from the effective date of the conditional license, after which the conditional license shall expire;

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

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

5. When the Council finds that a conditional license holder has completed the required training and is otherwise qualified for a license pursuant to the provisions of the Oklahoma Security Guard and Private Investigator Act, the Council shall issue a regular license; and

6. The Council shall be prohibited from issuing a conditional license to a bail enforcer under the Bail Enforcement and Licensing Act.

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

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

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

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

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

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

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

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

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

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

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

4. Be of good moral character;

5. Not have a record of a felony conviction;

6. Not have a record of conviction for larceny, theft, false pretense, fraud, embezzlement, false personation of an officer, any offense involving moral turpitude, any offense involving a minor as a victim, any nonconsensual sex offense, any offense involving the possession, use, distribution, or sale of a controlled dangerous substance, any offense involving a firearm, or any other offense as prescribed by the Council, as provided herein.

a. If any conviction which disqualifies an applicant occurred more than five (5) years prior to the application date and the Council is convinced the offense constituted an isolated incident and the applicant has been rehabilitated, the Council may, in its discretion, waive the conviction disqualification as provided for in this paragraph and issue an unarmed security guard license or a private investigator license, but shall not issue an armed guard license to

the applicant if the felony involved the use of a firearm or was violent in nature.

b. If an Oklahoma State Bureau of Investigation records check and a local records check reveal that there are no felony convictions, criminal convictions involving moral turpitude, or any other disqualifying convictions as specified in the Oklahoma Security Guard and Private Investigator Act or prescribed by the Council, then the Council may conditionally issue an armed security guard license pending completion of the criminal history and background check.

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

d. The applicant shall further meet all other qualifications.

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

7. Make a statement that the applicant is not currently undergoing treatment for a mental illness, condition, or disorder, make a statement whether the applicant has ever been adjudicated

incompetent or committed to a mental institution, and make a statement regarding any history of illegal drug use or alcohol abuse. Upon presentation by the Council on Law Enforcement Education and Training of the name, gender, date of birth, and address of the applicant to the Department of Mental Health and Substance Abuse Services, the Department of Mental Health and Substance Abuse Services shall notify the Council within ten (10) days whether the computerized records of the Department indicate the applicant has ever been involuntarily committed to an Oklahoma state mental institution. For purposes of this subsection, "currently undergoing treatment for a mental illness, condition, or disorder" means the person has been diagnosed by a licensed physician or psychologist as being afflicted with a substantial disorder of thought, mood, perception, psychological orientation, or memory that significantly impairs judgment, behavior, capacity to recognize reality, or ability to meet the ordinary demands of life and such condition continues to exist; and

8. Make a statement regarding misdemeanor domestic violence charges.

I. A special event license may be issued to an employee of a security agency who is hired on a temporary basis as an unarmed security guard for a particular event. An application for a special event license shall be made by the agency employing the applicant. The agency shall certify to the Council that the applicant meets the

qualifications for security guards, pursuant to subsection H of this section.

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

a. general liability insurance coverage for bodily injury, personal injury, and property damage, with endorsements for personal injury including false arrest, libel, slander, and invasion of privacy, or

b. a surety bond that allows persons to recover for actionable injuries, loss, or damage as a result of the willful, or wrongful acts or omissions of the principal and protects this state, its agents, officers and employees from judgments against the principal or insured licensee, and is further conditioned upon the faithful and honest conduct of the principal's business.

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

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

4. Insurance policies and bonds issued pursuant to this section shall not be modified or canceled unless ten (10) days' prior written notice is given to the Council. All persons and agencies insured or bonded pursuant to this section shall be insured or bonded by an insurance carrier or a surety company licensed in the state in which the insurance or bond was purchased, or in this state.

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

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

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

<u>M. No license shall be issued under the following circumstances:</u>

<u>1. The applicant has a felony charge or a misdemeanor charge involving moral turpitude or domestic violence pending in any court in this state, another state, in tribal court, or pursuant to the</u>

United States Code. The preclusive period shall be until the final determination of the matter.

2. The applicant is subject to the provisions of a deferred sentence or deferred prosecution in this state or another state or pursuant to federal authority for the commission of a felony offense or a misdemeanor offense involving moral turpitude or domestic violence. The preclusive period shall be three (3) years and shall begin upon the final determination of the matter.

SECTION 4. AMENDATORY 59 O.S. 2011, Section 1750.7, is amended to read as follows:

Section 1750.7. A. A Security Guard License, Armed Security Guard License, Private Investigator License, and any conditional license shall be subject to denial, suspension, or revocation and/or disciplinary penalty or fine by the Council on Law Enforcement Education and Training subject to the Administrative Procedures Act for, but not limited to, the following reasons by clear and convincing evidence:

1. Any erroneous or false statement in an application for a license submitted pursuant to Section 1750.1 et seq. of this title;

2. Failure to successfully complete any prescribed course of training as required by the Council;

3. Violation of a provision of the Oklahoma Security Guard and Private Investigator Act or a rule promulgated pursuant to the act;

4. A ~~conviction~~ verdict of guilt or entry of a plea of guilty, or nolo contendere, an "Alford" plea or any other plea other than a not guilty plea for larceny, theft, embezzlement, false pretense, fraud, an offense involving moral turpitude, any nonconsensual sex offense, any offense involving a minor as a victim, any offense involving the possession, use, distribution or sale of a controlled dangerous substance, any offense involving a firearm, or any felony;

5. Use of beverages containing alcohol while armed with a firearm;

6. Knowingly impersonating a law enforcement officer; ~~or~~

7. Failure to obtain or maintain liability insurance coverage or a surety bond pursuant to subsection J of Section 1750.5 of this title~~.~~; or

8. Entry of a final order of protection in which the licensee is the respondent/defendant.

B. A Security Agency License or Investigative Agency License shall be subject to denial, suspension, or revocation and/or disciplinary penalty or fine by the Council subject to the Administrative Procedures Act for, but not limited to, the following reasons by clear and convincing evidence:

1. A false statement in a license application;

2. Violation of any provision of the Oklahoma Security Guard and Private Investigator Act or a rule adopted pursuant thereto;

3. Employing, authorizing, or permitting an unlicensed, uninsured or unbonded person to perform a security guard, armed security guard or private investigator function; or

4. Permitting a person to perform a security guard, armed security guard or private investigator function, knowing the person has committed any offense enumerated in subsection A of this section.

C. Upon the effective date of suspension or revocation of any license, the licensee shall have the duty to surrender the license and any identification card issued pursuant thereto to the Council.

D. A duty is hereby imposed upon the district attorney who, on behalf of the State of Oklahoma, prosecutes a person holding a private security guard or private investigator license for a felony, a crime involving moral turpitude or a crime of domestic violence in which a plea of guilty, nolo contendere, an "Alford" plea or any plea other than a not guilty plea or other finding of guilt is entered by, against or on behalf of a licensed private security guard or private investigator, to report such a plea, agreement or other finding of guilt to the Council on Law Enforcement Education and Training within ten (10) days of such plea agreement or the finding of guilt.

SECTION 5. This act shall become effective November 1, 2015.

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