

## CHAPTER 80A

### PRIVATE INVESTIGATIVE AGENCIES AND SECURITY AGENTS

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#### **80A.1 Definitions.**

As used in this chapter unless the context otherwise requires:

1. "Bail enforcement agent" means a person engaged in the bail enforcement business, including licensees and persons engaged in the bail enforcement business whose principal place of business is in a state other than Iowa.
2. "Bail enforcement business" means the business of taking or attempting to take into custody the principal on a bail bond issued or a deposit filed in relation to a criminal proceeding to assure the presence of the defendant at trial, but does not include such actions that are undertaken by a peace officer or a law enforcement officer in the course of the officer's official duties.
3. "Chief law enforcement officer" means the county sheriff, chief of police, or other chief law enforcement officer in the local governmental unit where a defendant is located.
4. "Commissioner" means the commissioner of public safety.
5. "Defendant" means the principal on a bail bond issued or deposit filed in relation to a criminal proceeding in order to assure the presence of the defendant at trial.
6. "Department" means the department of public safety.
7. "Licensee" means a person licensed under this chapter.
8. "Person" means an individual, partnership, corporation, or other business entity.
9. "Private investigative agency" means a person engaged in a private investigation business.

10. "Private investigation business" means the business of making, for hire or reward, an investigation for the purpose of obtaining information on any of the following matters:

- a. Crime or wrongs done or threatened.
- b. The habits, conduct, movements, whereabouts, associations, transactions, reputations, or character of a person.
- c. The credibility of witnesses or other persons.
- d. The location or recovery of lost or stolen property.
- e. The cause, origin, or responsibility for fires, accidents, or injuries to property.
- f. The truth or falsity of a statement or representation.
- g. Detection of deception.
- h. The business of securing evidence to be used before authorized investigating committees, boards of award or arbitration, or in the trial of civil or criminal cases.

11. "Private security agency" means a person engaged in a private security business.

12. "Private security business" means a business of furnishing, for hire or reward, guards, watch personnel, armored car personnel, patrol personnel, or other persons to protect persons or property, to prevent the unlawful taking of goods and merchandise, or to prevent the misappropriation or concealment of goods, merchandise, money, securities, or other valuable documents or papers, and includes an individual who for hire patrols, watches, or guards a residential, industrial, or business property or district.

13. "Uniform" means a manner of dress of a particular style and distinctive appearance as distinguished from ordinary clothing customarily used and worn by the general public.

84 Acts, ch 1235, § 1; 98 Acts, ch 1149, § 1

#### **80A.2 Persons exempt.**

This chapter does not apply to the following:

1. An officer or employee of the United States, of a state, or a political subdivision of the United States or of a state while the officer or employee is engaged in the performance of official duties.
2. A peace officer engaged in the private security business or the private investigation business with the knowledge and consent of the chief executive officer of the peace officer's law enforcement agency.
3. A person employed full or part-time by one employer in connection with the affairs of the employer.
4. An attorney licensed to practice in Iowa, while performing duties as an attorney.
5. A person engaged exclusively in the business of obtaining and furnishing information regarding the financial rating or standing and credit of persons.
6. A person exclusively employed in making investigations and adjustments for insurance companies.
7. A person who is the legal owner of personal property which has been sold under a security agreement or a conditional sales agreement, or a secured party under the terms of a security interest while the person is performing acts relating to the repossession of the property.
8. A person engaged in the process of verifying the credentials of physicians and allied health professionals applying for hospital staff privileges.
9. A person engaged in the business of transporting prisoners under a contract with the Iowa department of corrections or a county sheriff, a similar agency from another state, or the federal government.

84 Acts, ch 1135, § 1; 84 Acts, ch 1235, § 2; 92 Acts, ch 1183, § 1; 98 Acts, ch 1131, § 1

#### **80A.3 License required.**

1. A person shall not operate a bail enforcement business, private investigation business, or private security business, or otherwise employ persons in the operation of such a business located within this state unless the person is licensed by the commissioner in accordance with this chapter.

2. A license issued under this chapter expires two years from the date issued.

84 Acts, ch 1235, § 3; 98 Acts, ch 1149, § 2

### **80A.3A Notification of and registration with local law enforcement.**

1. A bail enforcement agent employed by a licensee shall not take or attempt to take into custody the principal on a bail bond without notifying the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present. The bail enforcement agent shall disclose the location where the defendant is believed to be and the bail enforcement agent's intended actions.

2. A person or employee of a person who operates a bail enforcement business in a state other than Iowa and who enters Iowa in pursuit of a defendant who has violated the conditions of a bail bond issued in a state other than Iowa or has otherwise violated conditions of bail imposed by a court in a state other than Iowa shall not take or attempt to take the defendant into custody without first registering with the chief law enforcement officer of the local governmental subdivision where the defendant is believed to be present.

a. Registration shall require presentation of the following documents:

(1) A license to operate a bail enforcement business in the state of origin, if the state licenses such businesses. Otherwise, the person or employee shall present other documentation relating to the location of the principal place of business of the bail enforcement business.

(2) The bail bond, order from the local prosecuting authority in the state of origin, or other documents relating to the authority of the person under the laws of the state of origin to pursue the defendant.

(3) A copy of any bond for liability for actions of the person or employee.

b. A bail enforcement agent who registers with the chief law enforcement officer of the local governmental subdivision in accordance with this section and complies with requirements, other than licensure, for acts by a bail enforcement agent within this state, including the limitations imposed by sections 811.8 and 811.12, shall not be subject to civil liability in this state other than as prescribed in this chapter, notwithstanding any other provision under the Code or common law.

98 Acts, ch 1149, §3

### **80A.4 License requirements.**

1. Applications for a license or license renewal shall be submitted to the commissioner in the form the commissioner prescribes. A license or license renewal shall not be issued unless the applicant:

- a. Is eighteen years of age or older.
- b. Is not a peace officer.
- c. Has never been convicted of a felony or aggravated misdemeanor.
- d. Is not addicted to the use of alcohol or a controlled substance.
- e. Does not have a history of repeated acts of violence.
- f. Is of good moral character and has not been judged guilty of a crime involving moral turpitude.
- g. Has not been convicted of a crime described in section 708.3, 708.4, 708.5, 708.6, 708.8, or 708.9.
- h. Has not been convicted of illegally using, carrying or possessing a dangerous weapon.
- i. Has not been convicted of fraud.
- j. Provides fingerprints to the department.
- k. Complies with other qualifications and requirements the commissioner adopts by rule.

2. If the applicant is a corporation, the requirements of subsection 1 apply to the president and to each officer, commissioner or employee who is actively involved in the licensed business in Iowa. If the applicant is a partnership or association, the requirements of subsection 1 apply to each partner or association member.

3. Each employee of an applicant or licensee shall possess the same qualifications required by subsection 1 for a licensee.

4. The fingerprints required by subsection 1 may be submitted by the department to the federal bureau of investigation through the state criminal history repository for the purpose of a national criminal history check.

84 Acts, ch 1235, § 4; 85 Acts, ch 56, §1; 2002 Acts, ch 1044, §1, 11; 2003 Acts, ch 108, §25

Subsection 4 amended

### **80A.5 Licensee fee.**

1. An applicant for a license or license renewal shall deposit with each application the fee for the license and if necessary the fees associated with processing the fingerprints.

2. If the application is approved, the deposited amount shall be applied on the license fee. If the application is disapproved, the deposited amount excluding the fees associated with the processing of the fingerprints shall be refunded to the applicant.

3. The fee for a two-year license for a bail enforcement business, a private investigative agency, or a private security agency is one hundred dollars.

84 Acts, ch 1235, § 5; 98 Acts, ch 1149, § 4; 2002 Acts, ch 1044, §2, 11

#### **80A.6 Display of license.**

A licensee shall conspicuously display the license in the principal place of business of the agency or business.

84 Acts, ch 1235, § 6; 98 Acts, ch 1149, § 5

#### **80A.7 Identification cards.**

1. The department shall issue to each licensee and to each employee of the licensee an identification card in a form approved by the commissioner. The application for a permanent identification card shall include a temporary identification card valid for fourteen days from the date of receipt of the application by the applicant.

2. The fee for each application for an identification card is ten dollars.

3. It is unlawful for an agency licensed under this chapter to employ a person to act in the bail enforcement business, private investigation business, or private security business unless the person has in the person's immediate possession an identification card issued under this section.

4. The licensee is responsible for the use of identification cards by the licensee's employees and shall return an employee's card to the department upon termination of the employee's service. Identification cards remain the property of the department.

5. An application for an identification card shall include the submission of fingerprints of the person seeking the identification card, which fingerprints may be submitted to the federal bureau of investigation through the state criminal history repository for the purpose of a national criminal history check. Fees associated with the processing of fingerprints shall be assessed to the employing licensee.

84 Acts, ch 1235, § 7; 85 Acts, ch 56, §2; 89 Acts, ch 112, §1; 98 Acts, ch 1149, § 6; 2002 Acts, ch 1044, §3, 4, 11; 2003 Acts, ch 108, §26

Subsection 5 amended

#### **80A.8 Duplicate license.**

A duplicate license shall be issued by the commissioner upon the payment of a fee in the amount of five dollars and upon receiving for filing, in the form prescribed, a statement under oath that the original license has been lost or destroyed and that, if the original license is recovered, the original or the duplicate will be returned immediately to the director for cancellation.

84 Acts, ch 1235, § 8

#### **80A.9 Badges -- uniforms.**

1. A licensee or an employee of a licensee shall not use a badge in connection with the activities of the licensee's business unless the badge has been prescribed or approved by the commissioner.

2. A licensee or an employee of a licensee shall not use an identification card other than the card issued by the department or make a statement with the intent to give the impression that the licensee or employee is a peace officer.

3. A uniform worn by a licensee or employee of a licensee shall conform with rules adopted by the commissioner.

4. A bail enforcement agent other than a licensee shall not do any of the following:

a. Use a badge or identification card other than one which is in accordance with the laws of the state of origin.

b. Wear a uniform or make a statement that gives the impression that the agent is a peace officer.

84 Acts, ch 1235, § 9; 98 Acts, ch 1149, § 7

**80A.10 Licensee's bond.**

1. A license shall not be issued unless the applicant files with the department a surety bond, in a minimum amount as follows:

a. Five thousand dollars in the case of an agency licensed to conduct only a bail enforcement business, private security business, or a private investigation business.

b. Ten thousand dollars in the case of an agency licensed to conduct more than one type of business licensed under this chapter.

2. The bond shall be issued by a surety company authorized to do business in this state and shall be conditioned on the faithful, lawful, and honest conduct of the applicant and those employed by the applicant in carrying on the business licensed.

3. The bond shall provide that a person injured by a breach of the conditions of the bond may bring an action on the bond to recover legal damages suffered by reason of the breach. However, the aggregate liability of the surety for all damages shall not exceed the amount of the bond.

4. Bonds issued and filed with the department shall remain in force and effect until the surety has terminated future liability by a written thirty days' notice to the department.

84 Acts, ch 1235, § 10; 85 Acts, ch 56, §3; 98 Acts, ch 1149, § 8

**80A.10A Licensee's proof of financial responsibility.**

Notwithstanding the minimum bond amount that must be filed in accordance with section 80A.10, a license shall not be issued unless the applicant furnishes proof acceptable to the commissioner of the applicant's ability to respond in damages for liability on account of accidents or wrongdoings occurring subsequent to the effective date of the proof, arising out of the ownership and operation of a private security business, private investigation business, or bail enforcement business.

85 Acts, ch 56, §5; 98 Acts, ch 1149, § 9

**80A.11 Written report.**

The licensee shall furnish, upon the client's request, a written report describing all the work performed by the licensee for that client.

84 Acts, ch 1235, § 11

**80A.12 Refusal, suspension or revocation.**

The commissioner may refuse to issue, or may suspend or revoke a license issued, for any of the following reasons:

1. Fraud in applying for or obtaining a license.

2. Violation of any of the provisions of this chapter.

3. If a licensee or employee of a licensee has been adjudged guilty of a crime involving moral turpitude, a felony, or an aggravated misdemeanor.

4. If a licensee willfully divulges to an unauthorized person information obtained by the licensee in the course of the licensed business.

5. Upon the disqualification or insolvency of the surety on the licensee's bond, unless the licensee files a new bond with sufficient surety within fifteen days of the receipt of notice from the commissioner.

6. If the applicant for a license or licensee or employee of a licensee fails to meet or retain any of the other qualifications provided in section 80A.4.

7. If the applicant for a license or licensee knowingly makes a false statement or knowingly conceals a material fact or otherwise commits perjury in an original application or a renewal application.

8. Willful failure or refusal to render to a client services contracted for and for which compensation has been paid or tendered in accordance with the contract.

84 Acts, ch 1235, § 12; 85 Acts, ch 56, § 4; 85 Acts, ch 67, §9

**80A.13 Campus weapon requirements.**

An individual employed by a college or university, or by a private security business holding a contract with a college or university, who performs private security duties on a college or university campus and who carries a weapon while performing these duties shall meet all of the following requirements:

1. File with the sheriff of the county in which the campus is located evidence that the individual has successfully completed an approved firearms training program under section 724.9. This requirement does not apply to armored car personnel.

2. Possess a permit to carry weapons issued by the sheriff of the county in which the campus is located under sections 724.6 through 724.11. This requirement does not apply to armored car personnel.

3. File with the sheriff of the county in which the campus is located a sworn affidavit from the employer outlining the nature of the duties to be performed and justification of the need to go armed.

84 Acts, ch 1235, § 13; 85 Acts, ch 56, §7

#### **80A.14 Deposit of fees.**

Fees received by the commissioner shall be paid to the treasurer of state and deposited in the operating account of the department to offset the cost of administering this chapter. Any unspent balance as of June 30 of each year shall revert to the general fund as provided by section 8.33.

84 Acts, ch 1235, § 14

#### **80A.15 Rules.**

The commissioner may adopt administrative rules pursuant to chapter 17A to carry out this chapter.

84 Acts, ch 1235, § 15

#### **80A.16 Penalties.**

1. A person who violates any of the provisions of this chapter where no other penalty is provided is guilty of a simple misdemeanor.

2. A person who does any of the following is guilty of a fraudulent practice:

a. Makes a false statement or representation in an application or statement filed with the commissioner, as required by this chapter.

b. Falsely states, represents, or fails to disclose as required by this chapter, that the person has been or is a private investigator, private security agent, or bail enforcement agent.

c. Falsely advertises that the person is a licensed private investigator, private security agent, or bail enforcement agent.

3. A person who is subject to the licensing requirements of this chapter and who engages in a private investigation or private security business as defined in this chapter, without possessing a current valid license as provided by this chapter, is guilty of a serious misdemeanor.

4. A person who is subject to the licensing requirements of this chapter for a bail enforcement business or bail enforcement agent, and who operates a bail enforcement business or who acts as a bail enforcement agent for a bail enforcement business, without possessing a current valid license, is guilty of a class "D" felony.

84 Acts, ch 1235, § 16; 98 Acts, ch 1149, § 10

#### **80A.16A Civil liability of bail enforcement agents.**

1. A person other than a defendant who is injured in person or property by the actions of a bail enforcement agent in taking or attempting to take a defendant into custody may bring a civil action for damages against such agent and the bail enforcement business for breach of any applicable standard of care.

2. Notwithstanding the limitation of liability of any surety for the actions of a bail enforcement agent or bail enforcement business, the court shall enter a judgment against a bail enforcement agent or bail enforcement business determined to have breached the applicable standard of care. The judgment shall include an award of treble damages, and recovery of costs and reasonable attorney fees.

98 Acts, ch 1149, §11

#### **80A.17 Confidential records.**

1. All complaint files, investigation files, other investigation reports, and other investigative information in the possession of the department or its employees or agents which relate to licensee discipline are privileged and confidential except that they are subject to discovery, subpoena, or other means of legal compulsion for their release to a person other than the licensee, and are admissible in evidence in a judicial or administrative proceeding other than a proceeding involving licensee discipline. In addition, investigative information in the possession of the department's employees or agents which relates to licensee discipline may be disclosed to the appropriate licensing authority in another state, the District of Columbia, or a territory or country in which the licensee is licensed or has applied for a license. If the investigative information in the possession of the department indicates a crime has been committed, the information shall be reported to the proper law enforcement agency. A final written decision and finding of fact of the department in a disciplinary proceeding is a public record.

Pursuant to section 17A.19, subsection 6, the department, upon an appeal by the licensee of the decision by the department shall transmit the entire record of the contested case to the reviewing court.

Notwithstanding section 17A.19, subsection 6, if a waiver of privilege has been involuntary and evidence has been received at a disciplinary hearing, the court shall order withheld the identity of the individual whose privilege was waived.

2. Lists of employees of a licensed agency and their personal histories shall be held as confidential. However, the lists of the names of the licensed agencies, their owners, corporate officers and directors shall be held as public records. The commissioner may confirm that a specific individual is an employee of a licensed agency upon request and may make lists of licensed agencies' employees available to law enforcement agencies.

85 Acts, ch 56, §6

#### **80A.18 Reciprocity -- fee.**

A person who holds a valid license to act as a private investigator or as a private security officer issued by a proper authority of another state, based on requirements and qualifications similar to the requirements of this chapter, may be issued a temporary permit to so act in this state, if the person's licensing jurisdiction extends by reciprocity similar privileges to a person licensed to act as a private investigator or private security officer licensed by this state. Any reciprocal agreement approved by the commissioner shall provide that any misconduct in the state issuing the temporary permit will be dealt with in the licensing jurisdiction as though the violation occurred in that jurisdiction.

The commissioner shall adopt by rule a fee for the issuance of a temporary permit under this section. The fee shall be based on the cost of administering this section but shall not exceed one hundred dollars per year.

88 Acts, ch 1056, §1