

**First Regular Session
Sixty-ninth General Assembly
STATE OF COLORADO**

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 13-0909.01 Christy Chase x2008

SENATE BILL 13-259

SENATE SPONSORSHIP

Newell,

HOUSE SPONSORSHIP

Melton,

Senate Committees

Judiciary

Appropriations

House Committees

A BILL FOR AN ACT

101 **CONCERNING THE REGULATION OF PRIVATE INVESTIGATORS BY THE**
102 **DEPARTMENT OF REGULATORY AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/billsummaries>.)

Under the current "Private Investigators Voluntary Licensure Act" (act), a private investigator, at his or her option, may apply for a license from the division of professions and occupations (division) in the department of regulatory agencies and, upon satisfaction of the criteria for licensure, the director of the division is to issue a license to the private

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.

Capital letters indicate new material to be added to existing statute.

Dashes through the words indicate deletions from existing statute.

investigator. Only a person who obtains a license from the division may refer to himself or herself as a licensed private investigator, but no private investigator is required to be licensed by the division.

As of March 1, 2014, the bill converts the voluntary licensure program to a mandatory licensure program under which all persons conducting private investigations in this state must obtain a license from the division. **Section 5** of the bill modifies the experience criteria for licensure to eliminate the requirement that the prior experience be obtained within the prior 5 years.

Under **section 6**, a person who does not satisfy the experience requirements for licensure may register with the division as a private investigator apprentice and may engage in private investigation activities under the indirect supervision of a licensed private investigator.

Section 6 also requires the director to appoint an advisory committee, consisting of 3 licensed private investigators, one representative from law enforcement, and one public member, to make recommendations to the director concerning private investigators and the practice of private investigations.

In addition to the exemptions in current law, which are relocated to a new section in the act, section 6 excludes the following persons from the requirements of the act:

- ! A person serving process in accordance with rules of civil procedure;
- ! A person providing paralegal services under contract with an attorney; and
- ! A person recovering a fugitive.

Under section 6, licensees and registered apprentices are required to post a surety bond in an amount determined by the director by rule and, under **section 7**, are subject to discipline for failing to maintain the surety bond. Additionally under section 7, a licensee is subject to discipline for failing to properly supervise a private investigator apprentice or, for licensees and registered apprentices, failing to meet generally accepted standards of private investigations practice.

Sections 9 and 11 extend the sunset date for the "Private Investigators Licensure Act" and the functions of the director under the act from September 1, 2016, to September 1, 2021. The advisory committee is also subject to sunset review and repeal on September 1, 2021.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** In Colorado Revised Statutes, **amend** 12-58.5-101

3 as follows:

1 **12-58.5-101. Short title.** This article shall be known and may be
2 cited as the "Private Investigators ~~Voluntary~~ Licensure REGISTRATION
3 Act".

4 **SECTION 2.** In Colorado Revised Statutes, **amend** 12-58.5-102
5 as follows:

6 **12-58.5-102. Legislative declaration.** The general assembly
7 hereby finds that in order to protect the citizens of the state, ~~and allow~~
8 ~~private investigators access to public records,~~ it is important to create a
9 licensure REGISTRATION program to ~~allow-qualified~~ REQUIRE private
10 investigators ~~at their option,~~ to obtain a state-issued license REGISTRATION
11 to conduct private investigations IN THIS STATE.

12 **SECTION 3.** In Colorado Revised Statutes, 12-58.5-103, **amend**
13 (1), (5) (f), and (6) (a); ~~repeal~~ (4); and add (5.5) and (7) as follows:

14 **12-58.5-103. Definitions.** As used in this article, unless the
15 context otherwise requires:

16 (1) "Applicant" means a ~~private investigator~~ PERSON who applies
17 for an initial or renewal license PRIVATE INVESTIGATOR _____
18 REGISTRATION pursuant to this article.

19 (4) "Licensed private investigator" means a private investigator
20 licensed by the director pursuant to this article.

21 (5) "Private investigation" means an investigation for the purpose
22 of obtaining information pertaining to:

23 (f) The ~~causes and origin~~ AND CAUSE of, or responsibility for, a
24 fire, libel, slander, a loss, an accident, damage, or an injury to a person or
25 to real or personal property;

26 (5.5) "PRIVATE INVESTIGATIONS AGENCY" OR "AGENCY" MEANS
27 A BUSINESS WHOSE PURPOSE IS TO CONDUCT PRIVATE INVESTIGATIONS

1 AND THAT EMPLOYS PRIVATE INVESTIGATORS. THE TERM DOES NOT
2 INCLUDE A PERSON OR BUSINESS THAT CONTRACTS WITH PRIVATE
3 INVESTIGATORS OR WITH PERSONS EXEMPTED FROM THIS ARTICLE
4 PURSUANT TO SECTION 12-58.5-104.5.

5 (6) (a) "Private investigator" OR "PRIVATE DETECTIVE" means a
6 NATURAL person who, for consideration, engages in business or accepts
7 employment to conduct private investigations.

8 (7) "REGISTERED PRIVATE INVESTIGATOR" OR "REGISTRANT"
9 MEANS A NATURAL PERSON REGISTERED WITH THE DIVISION PURSUANT TO
10 SECTION 12-58.5-105.

11 **SECTION 4.** In Colorado Revised Statutes, **amend** 12-58.5-104
12 as follows:

13 **12-58.5-104. Registration - title protection - penalty.**

14 (1) (a) By ~~July 1, 2012~~ MARCH 1, 2014, a private investigator conducting
15 private investigations in this state who meets the requirements of section
16 12-58.5-105 ~~may~~ SHALL obtain a license, as applicable, REGISTRATION
17 from the director. Only a private investigator who obtains a license
18 REGISTRATION pursuant to section 12-58.5-105 ~~shall~~ MAY hold himself or
19 herself out as, or use the title of, a "licensed REGISTERED private
20 investigator", "PRIVATE INVESTIGATOR", "REGISTERED PRIVATE
21 DETECTIVE", OR "PRIVATE DETECTIVE". THE DIRECTOR SHALL TREAT ANY
22 APPLICATION FOR A VOLUNTARY PRIVATE INVESTIGATOR LICENSE PENDING
23 AS OF MARCH 1, 2014, AS AN APPLICATION FOR THE REGISTRATION
24 REQUIRED BY THIS SECTION, WHICH APPLICATION IS SUBJECT TO THE
25 REQUIREMENTS OF SECTION 12-58.5-105 AND AS ESTABLISHED BY THE
26 DIRECTOR PURSUANT TO SAID SECTION.

27 (b) ~~Nothing in this article requires a private investigator engaging~~

1 in private investigations in this state to obtain a license under this article,
2 but a private investigator who is not so licensed shall not refer to himself
3 or herself as a "licensed private investigator". == ==

4 (2) == Any person who CONDUCTS PRIVATE INVESTIGATIONS OR
5 OPERATES A PRIVATE INVESTIGATIONS AGENCY IN THIS STATE OR WHO
6 holds himself or herself out as or uses the title "PRIVATE INVESTIGATOR",
7 "PRIVATE DETECTIVE", "REGISTERED PRIVATE DETECTIVE", OR "licensed
8 REGISTERED private investigator" without an active license REGISTRATION
9 issued under this article commits a class 2 misdemeanor and shall be
10 punished as provided in section 18-1.3-501, C.R.S., for the first offense,
11 and, for the second or any subsequent offense, commits a class 1
12 misdemeanor and shall be punished as provided in section 18-1.3-501,
13 C.R.S.

14 **SECTION 5. In Colorado Revised Statutes, amend 12-58.5-105**
15 as follows:

16 **12-58.5-105. Private investigator license registration -**
17 **qualifications - fees - renewal.** (1) Upon application in the form and
18 manner determined by the director, payment of the required fee,
19 submission of business registration documentation as required by
20 subsection (3) of this section, and satisfaction of the requirements of
21 subsection (2) of this section, the director shall issue an initial or renewal
22 license REGISTRATION to an applicant who provides evidence satisfactory
23 to the director that he or she:

24 (a) Is at least twenty-one years of age;

25 (b) Is lawfully present in the United States; AND

26 (c) (f) Has at least four thousand hours of verifiable, applicable
27 experience, as determined by the director within the five years

1 immediately preceding the date of application; or
2 (H) Has at least two thousand hours of verifiable, applicable
3 experience, as determined by the director, within the five years
4 immediately preceding the date of application plus an amount of
5 postsecondary education determined by the director; and
6 (d) Has knowledge and understanding of the statutes and rules
7 affecting the ethics and activities of licensed REGISTERED private
8 investigators in this state, AS EVIDENCED BY PASSAGE OF A JURISPRUDENCE
9 EXAMINATION DEVELOPED AND APPROVED BY THE DIVISION.
10 (2) In addition to the requirements of subsection (1) of this
11 section, each license REGISTRATION applicant shall have his or her
12 fingerprints taken by a local law enforcement agency for the purpose of
13 obtaining a fingerprint-based criminal history record check. The applicant
14 is required to submit payment by certified check or money order for the
15 fingerprints and for the actual costs of the record check at the time the
16 fingerprints are submitted to the Colorado bureau of investigation. Upon
17 receipt of fingerprints and receipt of the payment for costs, the Colorado
18 bureau of investigation shall conduct a state and national
19 fingerprint-based criminal history record check utilizing records of the
20 Colorado bureau of investigation and the federal bureau of investigation
21 and shall forward the results of the criminal history record check to the
22 director.
23 (3) If an applicant IS AN AGENCY THAT has registered as a business
24 entity with the secretary of state, at the time of application for a license
25 REGISTRATION the applicant shall provide documentation to the director
26 that the applicant's business registration is current and in good standing
27 with the secretary of state.

1 (4) An applicant for ~~license~~ REGISTRATION UNDER THIS SECTION
2 shall pay ~~license~~ REGISTRATION, renewal, and reinstatement fees
3 established by the director pursuant to section 24-34-105, C.R.S. ~~All~~
4 ~~licenses shall be renewed or reinstated pursuant to~~ A REGISTRANT MUST
5 RENEW HIS OR HER REGISTRATION IN ACCORDANCE WITH a schedule
6 established by the director ~~and~~ pursuant to section 24-34-102 (8), C.R.S.
7 If a ~~person~~ REGISTRANT fails to renew his or her ~~license~~ REGISTRATION
8 pursuant to the schedule established by the director, the ~~license~~
9 REGISTRATION expires, and the ~~person~~ shall not hold himself or herself
10 out as a licensed REGISTERED private investigator OR CONDUCT
11 PRIVATE INVESTIGATIONS IN THE STATE until he or she pays the
12 appropriate fees to reinstate the ~~license~~ REGISTRATION AND THE DIRECTOR
13 REINSTATES THE REGISTRATION. A PERSON WHOSE REGISTRATION EXPIRES
14 IS SUBJECT TO THE PENALTIES PROVIDED IN THIS ARTICLE AND SECTION
15 24-34-102 (8), C.R.S.

16 **SECTION 6.** In Colorado Revised Statutes, **add**
17 12-58.5-106.7; and **add with amended and relocated provisions**
18 12-58.5-104.5 as follows:

19 **12-58.5-104.5. Exemptions. [Formerly 12-58.5-103 (6) (b)]**

20 (1) ~~"Private investigator" does not include~~ THIS ARTICLE DOES NOT APPLY
21 TO:

22 ~~(H)~~ (a) A collection agency OR CONSUMER REPORTING AGENCY, as
23 defined in section 12-14-103 (2) AND (4.5), RESPECTIVELY;

24 ~~(H)~~ (b) A person conducting an investigation on the person's own
25 behalf, or an employee conducting an investigation on behalf of the
26 employer;

27 ~~(HH)~~ (c) An ATTORNEY LICENSED TO PRACTICE LAW IN THIS STATE.

1 AN employee or independent contractor of A LICENSED ATTORNEY, OR A
2 PERSON UNDER CONTRACT TO PERFORM PARALEGAL SERVICES FOR an A
3 LICENSED attorney; licensed to practice law in this state;

4 ~~(IV)~~ (d) A certified peace officer of a law enforcement agency
5 operating in his or her official capacity;

6 ~~(V)~~ ~~A consumer reporting agency, as defined in section~~
7 ~~12-14-103;~~

8 ~~(VI)~~ (e) A certified public accountant certified or authorized to
9 provide accounting services in the state pursuant to article 2 of this title,
10 and AN EMPLOYEE OF A CERTIFIED PUBLIC ACCOUNTANT, OR any
11 employee or affiliate of an accounting firm registered pursuant to section
12 12-2-117;

13 ~~(VII)~~ (f) An investigator employed OR CONTRACTED by a public
14 or governmental agency;

15 ~~(VIII)~~ (g) A journalist or genealogist; ~~or~~

16 ~~(IX)~~ (h) A person serving process WITHIN THE STATE, PERFORMING
17 HIS OR HER DUTIES IN COMPLIANCE WITH THE COLORADO OR FEDERAL
18 RULES OF CIVIL PROCEDURE OR IN ACCORDANCE WITH APPLICABLE
19 FOREIGN STATE COURT RULES OR LAWS PERTAINING TO SERVICE OF
20 FOREIGN PROCESS WITHIN THIS STATE, WHICH INCLUDES INQUIRIES
21 RELATED TO AFFECTING PROPER SERVICE OF PROCESS AND RESULTING
22 SUPPORTING PROOFS, DECLARATIONS, AFFIDAVITS OF SERVICE, OR
23 DECLARATIONS OR AFFIDAVITS OF DUE DILIGENCE TO SUPPORT
24 ALTERNATIVE METHODS OF SERVICE OF PROCESS; ==

25 (i) A PERSON ATTEMPTING TO RECOVER A FUGITIVE WHEN THAT
26 PERSON IS A BAIL BONDING AGENT OR CASH-BONDING AGENT QUALIFIED
27 TO WRITE BAIL BONDS PURSUANT TO ARTICLE 23 OF TITLE 10, C.R.S., OR

1 IS ACTING PURSUANT TO A CONTRACT WITH OR AT THE REQUEST OF A BAIL
2 BONDING AGENT OR CASH-BONDING AGENT WHO IS SO QUALIFIED;

3 (j) AN OWNER, EMPLOYEE, OR INDEPENDENT CONTRACTOR OF AN
4 AGENCY CONDUCTING AN INVESTIGATION TO DETERMINE THE ORIGIN AND
5 CAUSE OF A FIRE OR EXPLOSION; OR

6 (k) AN OWNER, EMPLOYEE, OR INDEPENDENT CONTRACTOR OF AN
7 AGENCY CONDUCTING AN INVESTIGATION FOR CAUSE ANALYSIS OR
8 FAILURE ANALYSIS WHERE THE INVESTIGATION IS CONDUCTED BY AN
9 ENGINEER LICENSED PURSUANT TO PART 1 OF ARTICLE 25 OF THIS TITLE
10 ACTING WITHIN HIS OR HER AREA OF EXPERTISE WITHIN THE SCOPE OF THE
11 PRACTICE OF ENGINEERING.

12 == == ==

13 **12-58.5-106.7. Surety bond required - rules.** A REGISTERED
14 PRIVATE INVESTIGATOR == == SHALL NOT ENGAGE IN PRIVATE
15 INVESTIGATION ACTIVITIES UNLESS THE REGISTERED PRIVATE
16 INVESTIGATOR == POSTS AND MAINTAINS, OR IS COVERED BY, A SURETY
17 BOND IN AN AMOUNT DETERMINED BY THE DIRECTOR BY RULE.

18 **SECTION 7.** In Colorado Revised Statutes, 12-58.5-107, **amend**
19 (1) introductory portion, (1) (b), (1) (d), (2), (4), (6) (b) (III), (10) (a), (11)
20 (a), (11) (c) (III), (15) and (16); and **add** (1) (e), and (1) (f) == as
21 follows:

22 **12-58.5-107. Disciplinary actions - grounds for discipline -**
23 **rules.** (1) The director may deny, suspend, OR revoke ~~or~~ A ==
24 REGISTRATION, place AN APPLICANT OR REGISTRANT on probation, ~~a~~
25 ~~private investigator's license~~ OR ISSUE A LETTER OF ADMONITION TO AN
26 APPLICANT OR REGISTRANT if the applicant OR REGISTRANT:

27 (b) Fails to meet the requirements of section 12-58.5-105 == or

1 uses fraud, misrepresentation, or deceit in applying for or attempting to
2 apply for a license REGISTRATION;

3 (d) Has been subject to discipline related to the practice of private
4 investigations in another jurisdiction. Evidence of disciplinary action in
5 another jurisdiction is prima facie evidence for denial of a license
6 REGISTRATION or other disciplinary action if the violation would be
7 grounds for disciplinary action in this state.

8 (e) COMMITS AN ACT OR OMISSION THAT FAILS TO MEET
9 GENERALLY ACCEPTED STANDARDS OF THE PRACTICE OF PRIVATE
10 INVESTIGATIONS; OR

11 (f) FAILS TO COMPLY WITH SURETY BOND REQUIREMENTS AS
12 SPECIFIED IN SECTION 12-58.5-106.7.

13 ==

14 (2) The director may adopt rules establishing fines that he or she
15 may impose on a licensee REGISTRANT, which rules must include a
16 graduated fine structure, with a maximum allowable fine of not more than
17 three thousand dollars per violation. The director shall transmit any fines
18 he or she collects from a licensee REGISTRANT to the state treasurer for
19 deposit in the general fund.

20 (4) (a) The director may commence a proceeding to discipline a
21 licensee REGISTRANT when the director has reasonable grounds to believe
22 that the licensee REGISTRANT has committed an act enumerated in this
23 section.

24 (b) In any proceeding held under this section, the director may
25 accept as evidence of grounds for disciplinary action any disciplinary
26 action taken against a licensee REGISTRANT in another jurisdiction if the
27 violation that prompted the disciplinary action in the other jurisdiction

1 would be grounds for disciplinary action under this article.

2 (6) (b) (III) Upon failure of any witness or licensee REGISTRANT
3 to comply with a subpoena or process, the district court of the county in
4 which the subpoenaed person or licensee REGISTRANT resides or conducts
5 business, upon application by the director with notice to the subpoenaed
6 person or licensee REGISTRANT, may issue to the person or licensee
7 REGISTRANT an order requiring the person or licensee REGISTRANT to
8 appear before the director; to produce the relevant papers, books, records,
9 documentary evidence, or materials if so ordered; or to give evidence
10 touching the matter under investigation or in question. If the person or
11 licensee REGISTRANT fails to obey the order of the court, the court may
12 hold the person or licensee REGISTRANT in contempt of court.

13 (10) (a) If it appears to the director, based upon credible evidence
14 as presented in a written complaint, that a licensee REGISTRANT is acting
15 in a manner that is an imminent threat to the health and safety of the
16 public, or a person is CONDUCTING PRIVATE INVESTIGATIONS OR holding
17 himself or herself out as or is using the title "~~licensed~~ "private
18 investigator" OR "PRIVATE DETECTIVE" _____ without having obtained a
19 license REGISTRATION, _____ the director may issue an order to cease and
20 desist the activity. The director shall set forth in the order the statutes and
21 rules alleged to have been violated, the facts alleged to have constituted
22 the violation, and the requirement that all unlawful acts or unregistered
23 _____ practices immediately cease.

24 (11) (a) If it appears to the director, based upon credible evidence
25 as presented in a written complaint, that a person has violated any other
26 portion of this article, in addition to any specific powers granted pursuant
27 to this article, the director may issue to the person an order to show cause

1 as to why the director should not issue a final order directing the person
2 to cease and desist from the unlawful act or unregistered practice.

3 (c) (III) If the director reasonably finds that the person against
4 whom the order to show cause was issued is acting or has acted without
5 the required registration, or has or is about to engage in acts or
6 practices constituting violations of this article, the director may issue a
7 final cease-and-desist order directing the person to cease and desist from
8 further unlawful acts or UNREGISTERED practices.

9 (15) (a) When a complaint or investigation discloses an instance
10 of misconduct that, in the opinion of the director, does not warrant formal
11 action by the director but that should not be dismissed as being without
12 merit, THE DIRECTOR MAY ISSUE AND SEND THE REGISTRANT a letter of
13 admonition. ~~may be issued and sent, by certified mail, to the licensed~~
14 ~~private investigator.~~

15 (b) When the director sends a letter of admonition to a licensed
16 REGISTERED private investigator, the director shall advise the ~~private~~
17 ~~investigator~~ REGISTRANT that he or she has the right to request in
18 writing, within twenty days after receipt of the letter, that formal
19 disciplinary proceedings be initiated to adjudicate the propriety of the
20 conduct upon which the letter of admonition is based.

21 (c) If the licensed REGISTERED private investigator timely
22 requests adjudication, the director shall vacate the letter of admonition
23 and process the matter by means of formal disciplinary proceedings.

24 (16) When a complaint or investigation discloses an instance of
25 conduct that does not warrant formal action by the director and, in the
26 opinion of the director, the complaint should be dismissed, but the
27 director has noticed indications of possible errant conduct by the licensed

1 REGISTERED private investigator that could lead to serious consequences
2 if not corrected, the director may send the ~~licensed private investigator~~
3 REGISTRANT a confidential letter of concern.

4 **SECTION 8.** In Colorado Revised Statutes, **amend** 12-58.5-108
5 as follows:

6 **12-58.5-108. Revocation.** A person whose license REGISTRATION
7 is revoked is ineligible to apply for a license REGISTRATION under this
8 article for at least two years after the date of revocation of the license
9 REGISTRATION. The director shall treat a subsequent application for
10 licensure OR REGISTRATION from a person whose license REGISTRATION
11 was revoked as an application for a new license REGISTRATION under this
12 article.

13 **SECTION 9.** In Colorado Revised Statutes, **amend** 12-58.5-110
14 as follows:

15 **12-58.5-110. Repeal of article - review of functions.** This article
16 is repealed, effective September 1, 2016 2021. Prior to its THE repeal, THE
17 DEPARTMENT OF REGULATORY AGENCIES SHALL REVIEW the powers,
18 duties, and functions of the director regarding the licensure REGISTRATION
19 of private investigators as specified in UNDER this article shall be
20 reviewed as provided in section 24-34-104, C.R.S.

21 **SECTION 10. Repeal of relocated provision in this act.** In
22 Colorado Revised Statutes, **repeal** 12-58.5-103 (6) (b).

23 **SECTION 11.** In Colorado Revised Statutes, 24-34-104, **amend**
24 (47.5) introductory portion; **repeal** (47.5) (i); and **add** (52.5) (c) as
25 follows:

26 **24-34-104. General assembly review of regulatory agencies**
27 **and functions for termination, continuation, or reestablishment.**

1 (47.5) The following agencies, functions, or both, ~~shall~~ terminate on
2 September 1, 2016:

3 (i) ~~The voluntary licensing of private investigators by the director~~
4 ~~of the division of professions and occupations in accordance with article~~
5 ~~58.5 of title 12, C.R.S.~~

6 (52.5) The following agencies, functions, or both, terminate on
7 September 1, 2021:

8 (c) THE REGISTERING OF PRIVATE INVESTIGATORS == BY THE
9 DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN
10 ACCORDANCE WITH ARTICLE 58.5 OF TITLE 12, C.R.S.

11 ==

12 **SECTION 12. Act subject to petition - effective date -**
13 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
14 the expiration of the ninety-day period after final adjournment of the
15 general assembly (August 7, 2013, if adjournment sine die is on May 8,
16 2013); except that, if a referendum petition is filed pursuant to section 1
17 (3) of article V of the state constitution against this act or an item, section,
18 or part of this act within such period, then the act, item, section, or part
19 will not take effect unless approved by the people at the general election
20 to be held in November 2014 and, in such case, will take effect on the
21 date of the official declaration of the vote thereon by the governor.

22 (2) This act applies to applications for a private investigator
23 registration submitted on or after March 1, 2014.