

# Enrolled Senate Bill 169

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CHAPTER .....

AN ACT

Relating to investigators; amending ORS 703.415, 703.425, 703.430, 703.435, 703.445, 703.447, 703.450, 703.465, 703.473 and 703.480.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1.** ORS 703.480 is amended to read:

**703.480. (1) The Board on Public Safety Standards and Training shall, in collaboration with the Private Security Policy Committee:**

**(a) Establish reasonable minimum standards of physical, emotional, intellectual and moral fitness for investigators.**

**(b) Prescribe fees relating to the application for and the issuance, renewal and inactivation of investigators' licenses, and for the issuance of identification cards. Each fee may not exceed the cost of administering the program of the Department of Public Safety Standards and Training for which the fee was established. The board shall prescribe penalties for late renewal of licenses.**

**(c) Adopt a test of investigator competency.**

**(d) Establish rules of professional conduct to be followed by investigators.**

**(e) Adopt rules specifying those crimes and violations for which a conviction requires the denial, suspension or revocation of licensure as an investigator.**

**(2) The department [of Public Safety Standards and Training] shall:**

*[(1) Adopt rules necessary for the administration of ORS 703.401 to 703.490, in accordance with ORS 183.325 to 183.410.]*

**[(2)] (a) Investigate alleged violations of ORS 703.401 to 703.490 and of any rules adopted by the board or department. Notwithstanding ORS 703.473 (3), when the department conducts an investigation under this [subsection, the department shall destroy] paragraph, all information about the alleged violation and the investigation is confidential and is not subject to disclosure under ORS 192.410 to 192.505 if the department determines that the allegation is false.**

**(b) Collect fees as prescribed by the board.**

*[(3) In collaboration with the Private Security Policy Committee, prescribe and collect fees for application, licensing, renewal of licenses, issuance of identification cards and penalties for late renewal of licenses. Fees established may not exceed the cost of administering the program of the department for which the fee was established.]*

*[(4) In collaboration with the Private Security Policy Committee, adopt and administer a test of professional investigator competency.]*

*[(5) In collaboration with the Private Security Policy Committee, formulate a code of professional ethics to be followed by investigators.]*

*[(6) (c) Establish a website on the Internet that lists each investigator with the investigator's license number, business address and business telephone number.*

*[(7) (d) Provide professional development opportunity information to investigators.*

**(3) The board shall adopt rules necessary to carry out the board's duties and powers under ORS 703.401 to 703.490.**

**(4) The department shall adopt rules necessary to carry out the department's duties and powers under ORS 703.401 to 703.490.**

**(5) For efficiency, board and department rules adopted under this section may be adopted jointly with the approval of the board and the department.**

**SECTION 2.** ORS 703.415 is amended to read:

703.415. In order to obtain a private investigator's license, a person:

(1) Must be at least 18 years of age;

(2) Must be eligible to work in the United States;

(3) Must not have committed any act that constitutes grounds for denial of a **private investigator's** license *[under ORS 703.465]*;

(4) Must have obtained a passing score on the test of *[professional]* investigator competency **adopted by the Board on Public Safety Standards and Training** and administered *[or approved]* by the Department of Public Safety Standards and Training;

(5) Must submit to *[fingerprint]* **fingerprinting and** criminal records checks as prescribed by the *[department]* **board** by rule;

(6) Must have a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the department may prescribe by rule in the sum of at least \$5,000, or errors and omissions insurance in the sum of at least \$5,000; and

(7) Must have at least 1,500 hours of experience in investigatory work, have completed a related course of study approved by the department or have a combination of work experience and education approved by the department.

**SECTION 3.** ORS 703.425 is amended to read:

703.425. (1) An application for a private investigator's license or a provisional investigator's license must be in writing on a form prescribed by the Department of Public Safety Standards and Training, stating the applicant's:

(a) Legal name;

(b) Birthdate;

(c) Citizenship;

(d) Physical description;

(e) Current residence;

(f) Residence for the preceding 10 years;

(g) Current employment;

(h) Employment for the preceding 10 years;

(i) Experience qualifications;

(j) Education;

(k) Business address, which may be a post office box; and

(L) Any other information required by the department.

(2) The application must be accompanied by:

(a) The application fee as prescribed by the *[department]* **Board on Public Safety Standards and Training** by rule;

(b) Recent photographs of the applicant as prescribed by the *[department]* **board** by rule to be used for an identification card and for the files of the department;

(c) Complete sets of the applicant's fingerprints as prescribed by the *[department]* **board** by rule;

(d) Three professional references, none of which may be from a person who is related to the applicant by blood or marriage;

(e) Proof of a corporate surety bond, an irrevocable letter of credit issued by an insured institution as defined in ORS 706.008 or such other security as the department may prescribe by rule in the sum of at least \$5,000, or errors and omissions insurance in the sum of at least \$5,000; and

(f) Proof of a passing score on the test of [professional] investigator competency **adopted by the board** and administered [or approved] by the department.

(3) All applicants must disclose any acts [or crimes] constituting grounds for denial of [a] **an investigator's** license [under ORS 703.465] and must notify the department [when] **if** the applicant is charged with a criminal offense. The department shall conduct a special review of any applicant making a disclosure under this subsection.

(4) The Department of Public Safety Standards and Training shall forward a complete set of an applicant's fingerprints to the Department of State Police and shall request that the Department of State Police conduct criminal records checks as provided in ORS 181.534. Notwithstanding ORS 181.534 (5) and (6), the Department of State Police shall maintain in its files the fingerprint cards used to conduct the state criminal records check.

(5) Employees of or partners in a firm who are covered by the firm's errors and omissions insurance meet the requirements of subsection (2)(e) of this section as long as the coverage is at least \$5,000 per investigator.

**SECTION 4.** ORS 703.430 is amended to read:

703.430. (1) The Department of Public Safety Standards and Training shall issue:

(a) A private investigator's license if the applicant has satisfied the requirements of ORS 703.415 and 703.425 and is in compliance with the rules of the **Board on Public Safety Standards and Training and the** department.

(b) A provisional investigator's license if the applicant has satisfied the requirements of ORS 703.415 (1) to (6) and 703.425 and is in compliance with the rules of the **board and** department. A person who has a provisional investigator's license may not employ or supervise other investigators.

(2) The department may issue:

(a) A temporary investigator's license to a person licensed as an investigator by another jurisdiction. The [department] **board** shall adopt rules to carry out this paragraph including, but not limited to, rules establishing requirements, procedures and fees for issuing a temporary investigator's license and the scope and duration of the license.

(b) An interim investigator's license to a person who:

(A) Has applied for a private investigator's license or a provisional investigator's license and whose application has not been granted or denied;

(B) Works only for a private investigator licensed under this section, an attorney or another employer who has requested that the person be issued an interim investigator's license;

(C) Has never been convicted of, pleaded guilty or no contest to or forfeited security for a crime; and

(D) Meets all requirements established by the [department] **board** by rule including, but not limited to, rules establishing requirements, procedures and fees for issuing an interim investigator's license and the scope and duration of the license.

(3) A license issued under subsection (1) of this section expires two years following the date of issuance or on the assigned renewal date.

**SECTION 5.** ORS 703.435 is amended to read:

703.435. (1) When issuing a license under ORS 703.430, the Department of Public Safety Standards and Training shall also issue an identification card of a size, design and content as may be determined by the department by rule.

(2) An investigator shall carry at all times, while engaged in the practice of investigating, the identification card issued under this section.

(3) In the event of loss or destruction of a license issued under ORS 703.430 or an identification card issued under this section, the investigator may apply to the department for a replacement. The

application must state the circumstances of the loss or destruction. The investigator shall provide recent photographs of the investigator and a replacement application fee as prescribed by the [department] **Board on Public Safety Standards and Training** by rule.

**SECTION 6.** ORS 703.445 is amended to read:

703.445. (1) An investigator who desires to continue to practice in this state must apply for renewal and pay the renewal fee as prescribed by rule of the [Department of] **Board on Public Safety Standards and Training** to the Department of Public Safety Standards and Training on or before the renewal date of the license. Any person who fails to pay the renewal fee by the renewal date may, within the following 30 days, pay the renewal fee plus a penalty in an amount to be prescribed by [department] **board** rule, not to exceed twice the amount of the renewal fee. Any person who fails to pay the renewal fee, with accrued penalties, for a period of 30 days after the renewal date forfeits the right to work as an investigator in this state and may be reinstated only upon compliance with the initial application procedures.

(2) Prior to renewing a license, the Department of Public Safety Standards and Training may request that the Department of State Police conduct criminal records checks as provided in ORS 181.534. Any act that is grounds for denying an initial application for a license is grounds for refusing to renew a license.

(3) An investigator may request the Department of Public Safety Standards and Training to place the investigator on inactive status at any time during the licensing period. Upon payment of the inactive license fee as prescribed by rule of the [department] **board**, the department shall place the investigator on inactive status. An investigator on inactive status may not work as an investigator.

**SECTION 7.** ORS 703.447 is amended to read:

703.447. (1)(a) An investigator issued a private investigator's license must complete at least 32 hours of continuing education every two years.

(b) An investigator issued a provisional investigator's license must complete at least 40 hours of continuing education every two years.

(2) An investigator may carry no more than 15 hours of continuing education from one licensing period to the next.

(3) When an investigator applies for renewal of a license under ORS 703.445, the investigator must provide proof of having completed the required continuing education.

(4) As used in this section, "continuing education" means any educational endeavor that reasonably could be considered beneficial to the work of the investigator. Continuing education may be obtained:

(a) Through participation in conferences or educational courses offered by trade schools or colleges, whether as an attendee or a presenter;

(b) Through independent studies;

(c) By publishing articles related to the field of investigation; and

(d) As otherwise provided by the [Department of] **Board on Public Safety Standards and Training** by rule.

**SECTION 8.** ORS 703.450 is amended to read:

703.450. A licensed investigator:

(1) May not knowingly make any false report to an employer or client.

(2) May not commit fraud or deceit toward a client or employer.

(3) May not knowingly violate a court order or injunction in the course of business as an investigator.

(4) May not commit an act that reflects adversely on the investigator's honesty, integrity, trustworthiness or fitness to engage in business as an investigator.

(5) May not act unprofessionally while acting as an investigator.

(6) May not use unlicensed persons to conduct investigative activities.

(7) Is responsible for the professional, ethical and legal conduct of the investigator's employees or other persons working under the investigator's supervision.

(8) Shall inform each client that the client has a right to receive a written contract. The contract shall clearly state the task to be performed and the rate of payment.

(9) Shall inform each client that the client is entitled to receive both of the following reports concerning services rendered:

(a) An oral report that is timely and adequate; and

(b) A written report furnished by the investigator within seven days after written request is received from the client.

(10) Shall keep separate and distinct case files for each client and case. Case files must include all written agreements with the client, the date investigative activities began, copies of all correspondence and written reports generated and an accurate accounting of all time spent, activities conducted and expenses incurred by the investigator during the course of the case.

(11) Shall maintain a record of the term of employment of each employee or contractor.

(12) Shall maintain all records and files referred to in this section for not less than seven years.

(13) Shall maintain required security or insurance.

(14) Shall post the license of the investigator in a conspicuous place in the investigator's principal place of business.

(15) Unless performing services for a law enforcement or other governmental agency, may not attempt to give an impression that the investigator is connected in any way with a law enforcement or other governmental agency by any statement or activity, including using a title, wearing a uniform, using a badge or insignia or using an identification card or by any failure to make a statement or act.

(16) Shall maintain the confidentiality of each client as required by rules of professional conduct established by the [Department of] **Board on Public Safety Standards and Training**.

(17) May not submit false information to the Department of **Public Safety Standards and Training**.

(18) May not impede a compliance investigation.

(19) Shall return to the department the license and identification card issued by the department to the investigator no later than 15 days after the expiration or revocation of the license.

**SECTION 9.** ORS 703.465 is amended to read:

703.465. (1) The Department of Public Safety Standards and Training may refuse to grant or renew a license, may suspend or revoke a license or may reprimand an investigator for any violation of ORS 703.405, 703.450 or 703.460 or of any rule adopted by the **Board on Public Safety Standards and Training** or the department.

(2) In determining whether to issue a denial, suspension, revocation or reprimand, the department shall consider the facts of the case as they relate to the person's fitness to practice as an investigator.

(3) As part of the disciplinary process, the department may provide an investigator with an opportunity to correct the deficiencies by allowing the investigator to complete a course of rehabilitation approved by the department.

(4) When the department denies or revokes a license, the applicant or licensee may not reapply for a license until three years have elapsed from the issuance of the final order of denial or revocation. A person who reapplies after a denial or revocation must prove by a preponderance of the evidence that the grounds for the denial or revocation no longer exist.

**SECTION 10.** ORS 703.473 is amended to read:

703.473. (1) An investigator's home address, home telephone number, personal electronic mail address, Social Security number, photograph and other personal identifying information are confidential and not subject to disclosure under ORS 192.410 to 192.505 unless written consent to disclose is given by the investigator.

(2) Except as provided by rules established by the [Department of] **Board on Public Safety Standards and Training**, investigator client files obtained by the Department of **Public Safety Standards and Training** are confidential and not subject to disclosure under ORS 192.410 to 192.505.

(3) Information obtained by the department as part of an investigation of a licensee or applicant, including complaints concerning the licensee or applicant, is confidential and not subject to disclosure under ORS 192.410 to 192.505 until the department dismisses the case or issues a proposed order.

Passed by Senate April 4, 2007

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Secretary of Senate

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President of Senate

Passed by House May 22, 2007

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Speaker of House

Received by Governor:

.....M,....., 2007

Approved:

.....M,....., 2007

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Governor

Filed in Office of Secretary of State:

.....M,....., 2007

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Secretary of State