

By Representative Flanagan

1                                   A bill to be entitled  
2           An act relating to private investigative,  
3           private security, and repossession services;  
4           amending s. 493.6101, F.S.; redefining the term  
5           "private investigation" and defining the term  
6           "felony"; amending s. 493.6102, F.S.; revising  
7           language with respect to inapplicability of ch.  
8           493, F.S., to certain local, state, and federal  
9           officers; providing for inapplicability of the  
10          chapter to certain persons and firms conducting  
11          genealogical research; amending s. 493.6105,  
12          F.S.; revising firearms training requirements  
13          for applicants for a Class "G" license;  
14          amending s. 493.6108, F.S.; authorizing  
15          physicians licensed under similar law of other  
16          states to certify the physical fitness of Class  
17          "G" applicants; authorizing rather than  
18          requiring the department to deny a Class "G"  
19          license to certain persons; amending s.  
20          493.6115, F.S.; revising a provision relating  
21          to the firearms certain licensees may carry;  
22          providing that certain licensees may carry a 9  
23          millimeter semiautomatic pistol while  
24          performing security-related services; providing  
25          training criteria for Class "G" applicants;  
26          amending s. 493.6118, F.S.; revising language  
27          with respect to grounds for disciplinary action  
28          relating to criminal convictions; amending s.  
29          493.6121, F.S.; providing for compliance with  
30          certain subpoenas; amending s. 493.6201, F.S.;  
31          providing that certain licensees may perform

1 bodyguard services; amending s. 493.6301, F.S.;  
2 providing that certain licensees may be  
3 designated as managers of certain agencies or  
4 branch offices; amending s. 493.6305, F.S.;  
5 requiring return of uniforms and certain other  
6 equipment by licensees upon resignation or  
7 termination; amending s. 493.6404, F.S.;  
8 providing that United States Postal Service  
9 proof of mailing is sufficient for notification  
10 to debtors of the intent to dispose of their  
11 property; providing an effective date.

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13 Be It Enacted by the Legislature of the State of Florida:

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15 Section 1. Subsection (17) of section 493.6101,  
16 Florida Statutes, 1996 Supplement, is amended, and subsection  
17 (23) is added to said section, to read:

18 493.6101 Definitions.--

19 (17) "Private investigation" means ~~bodyguard services~~  
20 ~~or~~ the investigation by a person or persons for the purpose of  
21 obtaining information with reference to any of the following  
22 matters:

23 (a) Crime or wrongs done or threatened against the  
24 United States or any state or territory of the United States,  
25 when operating under express written authority of the  
26 governmental official responsible for authorizing such  
27 investigation.

28 (b) The identity, habits, conduct, movements,  
29 whereabouts, affiliations, associations, transactions,  
30 reputation, or character of any society, person, or group of  
31 persons.

1 (c) The credibility of witnesses or other persons.

2 (d) The whereabouts of missing persons, owners of  
3 abandoned property or escheated property, or heirs to estates.

4 (e) The location or recovery of lost or stolen  
5 property.

6 (f) The causes and origin of, or responsibility for,  
7 fires, libels, slanders, losses, accidents, damage, or  
8 injuries to real or personal property.

9 (g) The business of securing evidence to be used  
10 before investigating committees or boards of award or  
11 arbitration or in the trial of civil or criminal cases and the  
12 preparation therefor.

13 (23) "Felony" means a criminal offense that is  
14 punishable under the laws of this state, or that would be  
15 punishable if committed in this state, by death or  
16 imprisonment in the state penitentiary; a crime in any other  
17 state or a crime against the United States which is designated  
18 as a felony; or an offense in any other state, territory, or  
19 country punishable by imprisonment for a term exceeding 1  
20 year.

21 Section 2. Subsection (1) of section 493.6102, Florida  
22 Statutes, 1996 Supplement, is amended, and subsection (14) is  
23 added to said section, to read:

24 493.6102 Inapplicability of parts I through IV of this  
25 chapter.--This chapter shall not apply to:

26 (1) Any individual who is an "officer" as defined in  
27 s. 943.10(14) or is a law enforcement officer of the United  
28 States Government, while such local, state, or federal officer  
29 is engaged in his official duties or when performing off-duty  
30 security activities, not including repossession services,  
31 approved by his superiors.

1           (14) Any person or firm that solely and exclusively  
2 conducts genealogical research, or otherwise traces lineage or  
3 ancestry, by primarily utilizing public records and historical  
4 information and databases.

5           Section 3. Subsection (6) of section 493.6105, Florida  
6 Statutes, is amended to read:

7           493.6105 Initial application for license.--

8           (6) In addition to the requirements outlined in  
9 subsection (3), an applicant for a Class "G" license shall  
10 satisfy minimum training criteria for firearms established by  
11 rule of the department, which training criteria shall include,  
12 but is not limited to, 28 ~~24~~ hours of range and classroom  
13 training taught and administered by a Class "K" licensee  
14 ~~firearms instructor who has been licensed by the department;~~  
15 however, no more than 8 hours of such training shall consist  
16 of range training. ~~The department shall, effective October 1,~~  
17 ~~1992, increase the minimum number of hours of firearms~~  
18 ~~training required for Class "G" licensure by 4 hours, and~~  
19 ~~shall subsequently increase the training requirement by 4~~  
20 ~~hours every 2 years, up to a maximum requirement of 48 hours.~~  
21 If the applicant can show proof that he is an active law  
22 enforcement officer currently certified under the Criminal  
23 Justice Standards and Training Commission or has completed the  
24 training required for that certification within the last 12  
25 months, or if the applicant submits one of the certificates  
26 specified in paragraph (7)(a), the department may waive the  
27 foregoing firearms training requirement ~~referenced above.~~

28           Section 4. Subsections (2) and (3) of section  
29 493.6108, Florida Statutes, 1996 Supplement, are amended to  
30 read:

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1           493.6108 Investigation of applicants by Department of  
2 State.--

3           (2) In addition to subsection (1), the department  
4 shall make an investigation of the general physical fitness of  
5 the Class "G" applicant to bear a weapon or firearm.  
6 Determination of physical fitness shall be certified by a  
7 physician currently licensed pursuant to chapter 458, ~~or~~  
8 chapter 459, or any similar law of another state or authorized  
9 to act as a licensed physician by a federal agency or  
10 department. Such certification shall be submitted on a form  
11 provided by the department.

12           (3) The department shall also investigate the mental  
13 history and current mental and emotional fitness of any Class  
14 "G" applicant, and may ~~shall~~ deny a Class "G" license to  
15 anyone who has a history of mental illness or drug or alcohol  
16 abuse.

17           Section 5. Subsections (6) and (8) of section  
18 493.6115, Florida Statutes, are amended to read:

19           493.6115 Weapons and firearms.--

20           (6) Unless otherwise approved by the department, the  
21 only firearm a Class "CC," Class "D," Class "M," or Class "MB"  
22 licensee who has been issued a Class "G" license may carry is  
23 a .38 or .357 caliber revolver with factory .38 caliber  
24 ammunition only. In addition to any other firearm approved by  
25 the department, a Class "C" or ~~and~~ Class "MA" licensee who has  
26 been issued a Class "G" license may carry a .38 caliber  
27 revolver; or a .380 caliber or 9 millimeter semiautomatic  
28 pistol; or a .357 caliber revolver with .38 caliber ammunition  
29 only. A Class "C" licensee who also holds a Class "D"  
30 license, and who has been issued a Class "G" license, may  
31 carry a 9 millimeter semiautomatic pistol while performing

1 security-related services. No licensee may carry more than  
2 two firearms upon his person when performing his duties. A  
3 licensee may only carry a firearm of the specific type and  
4 caliber with which he is qualified pursuant to the firearms  
5 training referenced in subsection (8) or s. 493.6113(3)(b).

6 (8) A Class "G" applicant licensee must satisfy the  
7 minimum training criteria as set forth in s. 493.6105(6) and  
8 as established by rule of the department, ~~which criteria must~~  
9 ~~include, but need not be limited to, 28 hours of range and~~  
10 ~~classroom training taught and administered by a Class "K"~~  
11 ~~licensee; however, no more than 8 hours of such training shall~~  
12 ~~consist of range training. If the applicant can show proof~~  
13 ~~that he is an active law enforcement officer currently~~  
14 ~~certified under the Criminal Justice Standards and Training~~  
15 ~~Commission, or if the applicant submits one of the~~  
16 ~~certifications specified under s. 493.6105(7)(a), the~~  
17 ~~department may waive the foregoing firearms training~~  
18 ~~requirements.~~

19 Section 6. Paragraph (c) of subsection (1) and  
20 subsection (4) of section 493.6118, Florida Statutes, are  
21 amended to read:

22 493.6118 Grounds for disciplinary action.--

23 (1) The following constitute grounds for which  
24 disciplinary action specified in subsection (2) may be taken  
25 by the department against any licensee, agency, or applicant  
26 regulated by this chapter, or any unlicensed person engaged in  
27 activities regulated under this chapter.

28 (c) Being found guilty of or entering a plea of guilty  
29 or nolo contendere to, regardless of adjudication, or being  
30 convicted ~~Conviction~~ of a crime that directly relates to the  
31 business for which the license is held or sought, ~~regardless~~

1 ~~of whether imposition of sentence was suspended. A conviction~~  
2 ~~based on a plea of nolo contendere shall create~~ creates a  
3 rebuttable presumption of guilt to the underlying criminal  
4 charges, and the department shall allow the individual being  
5 disciplined or denied an application for a license to present  
6 any mitigating ~~evidence relevant to the reason for, and the~~  
7 circumstances surrounding, his plea.

8 (4) Notwithstanding the provisions of paragraph (1)(c)  
9 and subsection (2):

10 (a) If the applicant or licensee has been convicted of  
11 a felony ~~in any state or of a crime against the United States~~  
12 ~~which is designated as a felony, or convicted of an offense in~~  
13 ~~any other state, territory, or country punishable by~~  
14 ~~imprisonment for a term exceeding 1 year,~~ the department shall  
15 deny the application or revoke the license unless and until  
16 civil rights have been restored by the State of Florida or by  
17 a state acceptable to Florida and a period of 10 years has  
18 expired since final release from supervision.

19 (b) ~~Additionally,~~ A Class "G" applicant who has been  
20 ~~so~~ convicted of a felony shall also have had the specific  
21 right to possess, carry, or use a firearm restored by the  
22 State of Florida.

23 (c) If the applicant or licensee has been found guilty  
24 of, entered a plea of guilty to, or entered a plea of nolo  
25 contendere to a felony and adjudication of guilt is withheld,  
26 the department shall deny the application or revoke the  
27 license until a period of 3 years has expired since final  
28 release from supervision.

29 (d) A ~~conviction based on a~~ plea of nolo contendere  
30 shall create a rebuttable presumption of guilt to the  
31 underlying criminal charges, and the department shall allow

1 the person being disciplined or denied an application for a  
2 license to present any mitigating ~~evidence relevant to the~~  
3 ~~reason for, and the~~ circumstances surrounding, his plea. ~~The~~  
4 ~~department shall deny the application of any applicant who is~~  
5 ~~currently serving a suspended sentence on a felony charge, or~~  
6 ~~is on probation on a felony charge.~~

7 (e) The grounds for discipline or denial cited in this  
8 subsection shall be applied to any disqualifying criminal  
9 history regardless of the date of commission of the underlying  
10 criminal charge. Such provisions ~~provision~~ shall be applied  
11 retroactively and prospectively.

12 Section 7. Subsection (4) of section 493.6121, Florida  
13 Statutes, 1996 Supplement, is amended to read:

14 493.6121 Enforcement; investigation.--

15 (4) In the exercise of its enforcement responsibility  
16 and in the conduct of any investigation authorized by this  
17 chapter, the department shall have the power to subpoena and  
18 bring before it any person in the state, require the  
19 production of any papers it deems necessary, administer oaths,  
20 and take depositions of any persons so subpoenaed. If any  
21 person fails or refuses to comply with a proper subpoena  
22 ~~Failure or refusal of any person properly subpoenaed to be~~  
23 examined or fails or refuses to answer any question about his  
24 qualifications or the business methods or business practices  
25 under investigation or refuses ~~to refuse~~ access to agency  
26 records in accordance with s. 493.6119, the circuit court of  
27 Leon County or of the county wherein such person resides may  
28 issue an order on the application of the department requiring  
29 such person to comply with the subpoena and to testify. Such  
30 failure or refusal shall also be grounds for revocation,  
31 suspension, or other disciplinary action. The testimony of

1 witnesses in any such proceeding shall be under oath before  
2 the department or its agents.

3 Section 8. Subsection (8) is added to section  
4 493.6201, Florida Statutes, to read:

5 493.6201 Classes of licenses.--

6 (8) A Class "C" or Class "CC" licensee may perform  
7 bodyguard services without obtaining a Class "D" license.

8 Section 9. Paragraph (a) of subsection (3) and  
9 subsection (5) of section 493.6301, Florida Statutes, 1996  
10 Supplement, are amended to read:

11 493.6301 Classes of licenses.--

12 (3) Any individual who performs the services of a  
13 manager for a:

14 (a) Class "B" security agency or Class "BB" branch  
15 office shall have a Class "MB" license. A Class "M" licensee,  
16 or a Class "D" licensee who has been so licensed for a minimum  
17 of 2 years, may be designated as the manager, in which case  
18 the Class "MB" license is not required.

19 (5) Any individual who performs the services of a  
20 security officer shall have a Class "D" license. However, a  
21 Class "C" licensee or a Class "CC" licensee may perform  
22 bodyguard services without a Class "D" license.

23 Section 10. Subsection (1) of section 493.6305,  
24 Florida Statutes, is amended to read:

25 493.6305 Uniforms, required wear; exceptions.--

26 (1) Class "D" licensees shall perform duties regulated  
27 under this chapter in a uniform which bears at least one patch  
28 or emblem visible at all times clearly identifying the  
29 employing agency. Upon resignation or termination of  
30 employment, a Class "D" licensee shall immediately return to  
31

1 the employer any uniform and any other equipment issued to him  
2 by the employer.

3 Section 11. Subsection (2) of section 493.6404,  
4 Florida Statutes, is amended to read:

5 493.6404 Property inventory; vehicle license  
6 identification numbers.--

7 (2) Within 5 working days after the date of a  
8 repossession, the Class "E" or Class "EE" licensee shall give  
9 written notification to the debtor of the whereabouts of  
10 personal effects or other property inventoried pursuant to  
11 this section. At least 45 days prior to disposing of such  
12 personal effects or other property, the Class "E" or Class  
13 "EE" licensee shall, by United States Postal Service proof of  
14 mailing or certified mail, notify the debtor of the intent to  
15 dispose of said property. Should the debtor, or his lawful  
16 designee, appear to retrieve the personal property, prior to  
17 the date on which the Class "E" or Class "EE" licensee is  
18 allowed to dispose of the property, the licensee shall  
19 surrender the personal property to that individual upon  
20 payment of any reasonably incurred expenses for inventory and  
21 storage. If personal property is not claimed within 45 days  
22 of the notice of intent to dispose, the licensee may dispose  
23 of the personal property at his discretion, except that  
24 illegal items or contraband shall be surrendered to a law  
25 enforcement agency, and the licensee shall retain a receipt or  
26 other proof of surrender as part of the inventory and disposal  
27 records he maintains.

28 Section 12. This act shall take effect October 1,  
29 1997.

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HOUSE SUMMARY

- Revises provisions of law relating to private investigative, private security, and repossession services to:
1. Redefine the term "private investigation" and define the term "felony."
  2. Revise provisions relating to the inapplicability of ch. 493, F.S., to provide that the chapter is applicable to certain repossession services and inapplicable to certain off-duty security activities; and add a provision to exempt from the chapter certain persons and firms conducting genealogical research.
  3. Revise firearms training requirements for applicants for a Class "G" license.
  4. Authorize physicians licensed under similar law of other states to certify the physical fitness of Class "G" applicants.
  5. Authorize rather than require the Department of State to deny a Class "G" license to anyone who has a history of mental illness or drug or alcohol abuse.
  6. Provide that specified licensees may carry certain firearms and that other described licensees may carry a 9 millimeter semiautomatic pistol while performing security-related services.
  7. Provide training criteria for Class "G" applicants.
  8. Revise language with respect to grounds for disciplinary action relating to criminal convictions, especially felonies.
  9. Provide for orders to enforce described subpoenas.
  10. Provide that certain licensees may perform bodyguard services.
  11. Provide that certain licensees may be designated as managers of certain agencies or branch offices.
  12. Require the return of uniforms and certain other equipment by licensees upon resignation or termination.
  13. Provide that United States Postal Service proof of mailing is sufficient for notification to debtors of the intent to dispose of their property.