

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1353 Private Security Services  
**SPONSOR(S):** Business & Professions Subcommittee, Polsky  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 1834

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Business & Professions Subcommittee	13 Y, 0 N, As CS	Thompson	Anstead
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Commerce Committee			

### SUMMARY ANALYSIS

The Division of Licensing within the Department of Agriculture and Consumer Services (DACS) oversees Florida's private investigative, private security and recovery services industries. This includes licensing, enforcing compliance standards, and ensuring public protection from unethical and unlicensed activity. Currently, DACS offers 22 different types of private investigative, private security and recovery services licenses, and has issued a total of 183,415 licenses to qualified applicants.

The bill:

- Allows certain military firearm experience to replace Class "K" Firearms Instructor training;
- Requires the Florida Department of Law Enforcement (FDLE) to share results from the National Instant Criminal Background Check System (NICS) and Index with DACS to determine eligibility for a Class "G" Statewide Firearm license or a Class "K" Firearms Instructor license;
- Removes the requirement that DACS provide arrest information to industry businesses;
- During a state of emergency, allows DACS to waive certain experience requirements;
- Authorizes the issuance of certain license cards in digital format;
- Allows DACS to waive the firearms training option for Class "G" Statewide Firearm recertification if the licensee holds a valid Class "K" Firearms Instructor license;
- Gives DACS more flexibility when charging late fees for renewal applications;
- Allows issuance of a temporary Class "G" Statewide Firearm license if the applicant currently holds an individual or business private investigative or security officer license;
- Authorizes DACS to publish the industry newsletter and pamphlet online in lieu of paper format;
- Removes the requirement that applicants complete the full training and examination in order to reinstate their license after a license is invalid for more than one year;
- Authorizes training for initial Class "D" Security Officer licensure to be conducted online;
- Exempts Class "D" Security Officer licensees from the requirement that they be employed by a security agency if they are employed by, and provide security for a church, ecclesiastical or a denominational organization, or church cemetery; and
- Authorizes electronic verification, instead of verification under oath, for certain applications for licensure.

The bill will have an indeterminate fiscal impact on state government and the private sector. The bill is not expected to have a fiscal impact on local governments. See Fiscal Analysis.

The effective date of the bill is July 1, 2020.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Private Investigative, Private Security and Recovery Services**

The Division of Licensing (Division) within the Department of Agriculture and Consumer Services (DACS) oversees Florida's private investigative, private security and recovery services industries. The regulatory oversight of the private investigative, private security and recovery services industries includes licensing, enforcing compliance standards, and ensuring public protection from unethical business practices and unlicensed activity.<sup>1</sup>

Currently, the Division offers 22 different types of private investigative, private security and recovery services licenses. As of December 31, 2019, the Division had issued a total of 183,415 licenses to qualified applicants. The following chart provides a breakdown of the total number of each license type.<sup>2</sup>

License Type	License Title	Total
C	Private Investigators	7,195
CC	Private Investigator Interns	1,369
A	Private Investigative Agencies	2,790
AA	Private Investigative Agency Branch Offices	23
MA	Private Investigative Agency Managers	80
M	Private Investigative/Security Agency Managers	475
D	Security Officers	140,166
B	Security Agencies	1,770
BB	Security Agency Branch Offices	193
MB	Security Managers	1,414
AB	Security Agency/Private Investigative Agency Branch Offices	20
DS	Security Officer Schools	377
DI	Security Officer Instructors	1,678
G	Statewide Firearm Licenses	23,701
K	Firearms Instructors	638
E	Recovery Agents	799
EE	Recovery Agent Interns	351
R	Recovery Agencies	320
RR	Recovery Agency Branch Offices	40
MR	Recovery Agency Managers	2
RS	Recovery Agent Schools	5
RI	Recovery Agent Instructors	9
<b>Total Number of Licenses</b>		<b>183,415</b>

#### **Initial Application for Licensure for Private Investigative, Private Security and Recovery Services**

<sup>1</sup> The Florida Department of Agriculture and Consumer Services, *Division of Licensing*, <https://www.fdacs.gov/Divisions-Offices/Licensing> (last visited Jan. 26, 2020).

<sup>2</sup> The Florida Department of Agriculture and Consumer Services, *Division of Licensing Statistical Reports*, <https://www.fdacs.gov/Divisions-Offices/Licensing/Statistical-Reports> (last visited Jan. 27, 2020).

## Current Situation

To obtain any of the 22 license types under ch. 493, F.S., an applicant must complete and submit an application and meet certain requirements. Each individual, partner, or principal officer in a corporation, is required to file with DACS a complete application signed and verified by the individual “under oath” as provided in s. 92.525, F.S., which authorizes documents to be verified in the following three ways:

- Under oath or affirmation taken or administered before a judge, clerks or deputy clerk of court, or any notary public;
- Under oath or affirmation taken or administered by law enforcement officer, correctional officer, or traffic officer under electronic means or in the physical presence of the affiant; or
- Signing a written declaration.<sup>3</sup>

However, since the law specifies that applications must be verified “under oath,” the law does not allow for electronic verification of applications.

In order to be licensed as an armed security officer, a Class “D” Security Officer must obtain a Class “G” Statewide Firearm license. An applicant for a Class “G” Statewide Firearm license is required to submit an application, a background history check, a full set of fingerprints, and satisfy minimum training criteria for firearms established by DACS rule, including, but not limited to, 28 hours of range and classroom training taught and administered by a Class “K” Firearms Instructor, with no more than 8 hours consisting of range training.<sup>4</sup>

To become licensed as a Class “K” Firearms Instructor, an applicant is required to submit an application, a background history check, a full set of fingerprints, and provide one of the following certificates, which indicate a proficiency with firearms instruction:

- The Florida Criminal Justice Standards and Training Commission Instructor Certificate and written confirmation by the commission that the applicant possesses an active firearms certification;
- A valid National Rifle Association Private Security Firearm Instructor Certificate issued not more than three years before the submission of the applicant’s Class “K” application; or
- A valid firearms instructor certificate issued by a federal law enforcement agency issued not more than three years before the submission of the applicant’s Class “K” application.<sup>5</sup>

The application for a Class “D” Security Officer license must contain, at a minimum, the following information:

- The name and address of the school or training facility and, if the applicant is an individual, her or his name, address, and social security or alien registration number;
- The street address of the place at which the training is to be conducted; and
- A copy of the training curriculum and final examination to be administered.<sup>6</sup>

## Proposed Changes

The bill allows an applicant to verify their application electronically.

The bill requires Class “K” Firearms Instructors to submit proof of each Class “G” Statewide Firearm license student’s completion of firearm training to DACS electronically in a manner prescribed by DACS, instead of requiring the applicant to submit proof.

The bill allows DACS to waive the firearms training requirement for Class “G” Statewide Firearm initial license applicants who provide proof that they hold a valid Class “K” Firearms Instructor license.

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<sup>3</sup> S. 493.6105, F.S.

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> S. 493.6304, F.S.

The bill allows DACS to waive the firearms training requirement for initial Class “G” Statewide Firearm license applicants who provide proof of completion of annual firearms training in accordance with the requirements of the federal Law Enforcement Officers' Safety Act, 18 U.S.C. ss. 926B and 926C.

The bill authorizes former military firearms instructors to use their experience in the military as a training requirement when applying for a Class “K” Firearms Instructor license. Specifically, the bill allows applicants for a Class “K” Firearms Instructor license to submit a valid DD Form 214 issued by the United States Department of Defense not more than three years before the submission of the applicant's Class “K” application, indicating that the applicant has been honorably discharged and served in the military as a firearms instructor.

The bill requires security officer school, training facility, or instructor license applicants to provide a website in their application, if applicable.

## **Criminal Background Checks**

### Current Situation

Individual applicants for private investigative, private security and recovery services licensure must be of good moral character, not have a disqualifying criminal history or disqualifying history of mental illness, drug or alcohol abuse, and must be authorized to work in this country. Each applicant must disclose contact and background information, and submit to a state and federal background check. Individuals applying for a Class “G” Statewide Firearm or a Class “K” Firearms Instructor license, must not be prohibited from purchasing or possessing a firearm by state or federal law.<sup>7</sup>

The state background check program is administered by the Florida Department of Law Enforcement (FDLE) and is referred to as the Applicant Fingerprint Retention and Notification Program (AFRNP), which allows for retention of applicant fingerprints within FDLE’s Biometric Identification System.<sup>8</sup>

The Federal Bureau of Investigation (FBI) administers the federal program as part of its Next Generation Identification project, and retains fingerprints at the national level to provide a nation-wide database that DACS and participating state and local entities may use to identify fingerprints. In order for entities to participate in the federal program, fingerprints must be retained at the state level and subsequently enrolled through the state program into the FBI’s program.<sup>9</sup>

The National Instant Criminal Background Check System (NICS) is a national system that checks available records on persons who may be disqualified from receiving firearms, and includes active records in the NICS Indices by state. The FBI developed the system through a cooperative effort with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and local and state law enforcement agencies.<sup>10</sup>

The code of federal regulations (CFR) authorizes access to the NICS database for the purpose of “providing information to federal, state, tribal, or local criminal justice agencies in connection with the issuance of a firearm-related or explosives-related permit or license, including permits or licenses to possess, acquire, or transfer a firearm, or to carry a concealed firearm, or to import, manufacture, deal in, or purchase explosives.”<sup>11</sup>

Current state law does not authorize FDLE to share information from the NICS and Indices with DACS for purposes of determining eligibility of Class “G” Statewide Firearm or a Class “K” Firearms Instructor license applicants.

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<sup>7</sup> S. 493.6106, F.S.

<sup>8</sup> S. 493.6108, F.S.

<sup>9</sup> *Id.*

<sup>10</sup> The Federal Bureau of Investigation, *National Instant Criminal Background Check System (NICS)*, <https://www.fbi.gov/services/cjis/nics> (last visited Jan. 26, 2020).

<sup>11</sup> 28 C.F.R. § 25.6(j)(1).

## Proposed Changes

The bill authorizes FDLE to provide results from the “NICS and Index” to DACS to determine eligibility for a Class “G” Statewide Firearm license or a Class “K” Firearms Instructor license to the extent allowed under federal law.

## **Notice of Arrest**

### Current Situation

Private investigative, private security and recovery services licensees are required to notify their employer within three calendar days if they are arrested. If DACS receives information about an arrest within the state of a licensee for a crime that could potentially disqualify the person from holding such a license, DACS is required to provide the arrest information to the agency that employs the licensee.<sup>12</sup>

### Proposed Changes

The bill removes the requirement that DACS provide arrest information to an agency related to their employees. However, licensees will still be required to notify their employer within three calendar days of an arrest.

## **Reciprocity**

### Current Situation

DACS is authorized to adopt rules for:

- Entering into reciprocal agreements with other states or territories of the United States for the purpose of licensing persons who are currently licensed to perform similar services in the other states or territories; or
- Allowing a person who is licensed in another state or territory to perform similar services in this state, on a temporary and limited basis, without the need for licensure.<sup>13</sup>

The requirements in the other state or territory must be substantially similar to, or greater than, those established in Florida. The applicant is required to have “engaged in licensed activities for at least 1 year” in the other state or territory with no disciplinary action. The Commissioner of Agriculture or other appropriate authority of the other state or territory must agree to accept service of process for those licensees who are operating in this state on a temporary basis.<sup>14</sup>

### Proposed Changes

The bill authorizes DACS to waive the requirement for out-of-state applicants for reciprocal or temporary licensure to have “engaged in licensed activities for at least one year” in the other state or territory, during a declared state of emergency. This will make it easier to provide temporary private investigative, private security and recovery services during a state of emergency.

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<sup>12</sup> S. 493.6108, F.S.

<sup>13</sup> S. 493.6109, F.S.

<sup>14</sup> *Id.*

## Identification Cards

### Current Situation

Currently, DACS provides all private investigative, private security and recovery services licensees with license identification (ID) cards. The ID cards are required to:

- Be on a form prescribed by DACS; and
- Include the licensee's name, license number, expiration date of the license, and any other information DACS deems necessary.<sup>15</sup>

The following licensees must be in the possession of the related ID card while on duty:

- Class "C" Private Investigators;
- Class "CC" Private Investigator Interns;
- Class "D" Security Officers;
- Class "E" Recovery Agents;
- Class "EE" Recovery Agent Interns;
- Class "M" Private Investigative/Security Agent Managers;
- Class "MA" Private Investigative Managers;
- Class "MB" Security Managers;
- Class "MR" Recovery Agency Managers; and
- Class "G" Statewide Firearms Licenses.<sup>16</sup>

### Proposed Changes

The bill authorizes DACS to issue a single ID card indicating that the licensee holds multiple classes of licenses, or an electronic license in a digital format containing a quick-response barcode identifying the individual licensure class or classes.

The bill also authorizes licensees to carry a digital image of the ID card on his or her person in lieu of a physical ID card.

## Change of Employment

### Current Situation

Each private investigative, private security and recovery services agency is required to, upon the employment or termination of employment of a licensee, report such within 15 calendar days to DACS. For terminations, the reason for termination must be reported. The report must be submitted electronically in a manner prescribed by DACS.<sup>17</sup>

### Proposed Changes

The bill revises the requirement that private investigative, private security and recovery services agencies notify DACS of a change in employment or termination of a licensed employee. The bill requires notification only in the case of termination for a violation of the law governing the private investigative, private security and recovery services industry.

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<sup>15</sup> S. 493.6111(1), F.S.

<sup>16</sup> *Id.*

<sup>17</sup> S. 493.6112(2), F.S.

## Renewals

### Current Situation

Currently, an applicant for renewal of a Class “G” Statewide Firearm license is required to “submit proof that he or she has received” during each year of the license period:

- A minimum of four hours of firearms recertification training taught by a Class “K” Firearms Instructor licensee; and
- Has complied with such other health and training requirements that DACS must adopt by rule.<sup>18</sup>

Proof of completion of firearms recertification training must be submitted to DACS by the applicant upon completion of the training.<sup>19</sup>

DACS is authorized to waive the firearms training requirement if:

- The applicant provides proof of current certification as a law enforcement officer or correctional officer under the Criminal Justice Standards and Training Commission and has completed law enforcement firearms requalification training annually during the previous two years of the licensure period;
- The applicant provides proof of current certification as a federal law enforcement officer and has received law enforcement firearms training administered by a federal law enforcement agency annually during the previous two years of the licensure period; or
- The applicant submits a valid firearm certificate among those specified for Class “K” Firearms Instructor licenses in s. 493.6105(6)(a), F.S., and provides proof of having completed requalification training during the previous two years of the licensure period.<sup>20</sup>

Additionally, each Class “K” Firearm Instructor licensee is required to submit one of the firearm certificates specified under s. 493.6105(6), F.S., as proof that he or she remains certified to provide firearms instruction.<sup>21</sup>

Failure of a private investigative, private security and recovery services licensee to renew a license on or before its expiration requires the licensee to:

- Renew his or her license by fulfilling the applicable renewal requirements; and
- Pay a late fee equal to the amount of the license fee.<sup>22</sup>

### Proposed Changes

The bill requires Class “K” Firearms Instructors to submit proof of each student’s completion of firearm requalification training to DACS electronically in a manner prescribed by DACS, instead of requiring the applicant to submit such proof.

The bill allows DACS to waive the firearms training requirement for Class “G” Statewide Firearm license renewal applicants who provide proof that they hold a valid Class “K” Firearms Instructor license.

The bill allows DACS to waive the firearms training requirement for a Class “G” Statewide Firearm license renewal applicant who provides proof of completion of annual firearms training in accordance with the requirements of the federal Law Enforcement Officers’ Safety Act, 18 U.S.C. ss. 926B and 926C.

The bill includes an additional option that allows DACS to waive the firearms training requirement for Class “K” Firearms Instructor license renewal applicants who submit proof of having taught at least six

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<sup>18</sup> S. 493.6113(3)(b), F.S.

<sup>19</sup> *Id.*

<sup>20</sup> *Id.*

<sup>21</sup> S. 493.6113(3)(d), F.S.

<sup>22</sup> *Id.*

28-hour firearms instruction courses to Class "G" Statewide Firearm license applicants during the previous three-year licensure period.

The bill makes the automatic late fee for late filed private investigative, security, or recovery services license renewal applications discretionary, instead of mandatory.

## **Temporary Class "G" Statewide Firearm License**

### Current Situation

Currently, DACS is authorized to issue a temporary<sup>23</sup> Class "G" Statewide Firearm license, on a case-by-case basis, if:

- The agency or employer has certified that the applicant has been determined to be mentally and emotionally stable by either:
  - A validated written psychological test taken within the previous 12-month period;
  - An evaluation by a psychiatrist or psychologist licensed in this state or by the Federal Government made within the previous 12-month period; or
  - Presentation of a DD form 214, issued within the previous 12-month period, which establishes the absence of emotional or mental instability at the time of discharge from military service;
- DACS has reviewed the mental health and substance abuse data provided by FDLE, as authorized in s. 493.6108(3), F.S., and has determined the applicant is not prohibited from licensure based upon this data;
- The applicant has submitted a complete application for a Class "G" Statewide Firearm license, with a notation that she or he is seeking the license;
- The applicant has completed all Class "G" Statewide Firearm license minimum training requirements; and
- The applicant has received approval from DACS subsequent to its conduct of a criminal history record check as authorized in s. 493.6108(1), F.S.<sup>24</sup>

### Proposed Changes

The bill allows issuance of a temporary Class "G" Statewide Firearm license if the applicant currently holds one of the following licenses:

- Class "C" Private Investigators;
- Class "CC" Private Investigator Interns;
- Class "D" Security Officers;
- Class "M" Private Investigative/Security Agent Managers;
- Class "MA" Private Investigative Managers; and
- Class "MB" Security Managers

## **Industry Newsletter**

### Current Situation

Currently, DACS is authorized to periodically publish a newsletter to advise private investigative, private security and recovery services licensees of information that DACS or the Private Investigation, Recovery and Security Advisory Council <sup>25</sup> determines is of interest to the industry. The newsletter must:

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<sup>23</sup> S. 493.6115(15), F.S., provides that the temporary Class "G" license is valid until the Class "G" license is issued or denied. If the department denies the Class "G" license, any temporary Class "G" license issued to that individual is void, and the individual shall be removed from armed duties immediately.

<sup>24</sup> S. 493.6115(12), F.S.

<sup>25</sup> In accordance with s. 493.6104, F.S., DACS has established an advisory council known as the Private Investigation, Recovery and Security Advisory Council.

- Contain the name and locality of any licensed or unlicensed person or agency against which DACS has filed a final order relative to an administrative complaint, and the final disposition;
- Be published not less than two, or more than four, times annually; and
- Notice intervening changes to the regulatory situation.<sup>26</sup>

In addition, DACS is required to develop and make available to each Class “C” Private Investigator, Class “D” Security Officer, and Class “E” Recovery Agent licensee, and all interns, a pamphlet detailing in plain language the legal authority, rights, and obligations of each class of licensure. The pamphlet should present situations that the licensee may be expected to commonly encounter, and provide information on legal options, authority, limits to authority, and obligations.<sup>27</sup>

DACS is also required to supplement the pamphlet with citations to statutes and legal decisions, as well as a selected bibliography that would direct the licensee to certain materials, the study of which would enhance his or her professionalism. DACS must provide a single copy of the appropriate pamphlet, without charge, to each individual to whom a license is issued, but may charge for additional copies to recover publication costs. The pamphlet must be updated every two years as necessary to reflect rule or statutory changes, or court decisions.<sup>28</sup>

### Proposed Changes

The bill authorizes DACS, at its discretion, to publish all information related to the newsletter and pamphlet online in lieu of paper format.

### **Private Investigative Intern License Requirements**

#### Current Situation

Before submission of an application to DACS, the applicant for a Class “CC” Private Investigative Intern license must:

- Complete a minimum of 40 hours of professional training pertaining to general investigative techniques and the law governing private investigative, private security and recovery services, which course is offered by a state university or by a school, community college, college, or university under the purview of the Department of Education; and
- Pass an examination.<sup>29</sup>

The certificate evidencing satisfactory completion of the 40 hours of professional training must be submitted by the applicant with the application, and may be provided by face-to-face presentation, online technology, or a home study course in accordance with rules and procedures of the Department of Education. The administrator of the examination must verify the identity of each applicant taking the examination.<sup>30</sup>

Upon successful completion of the training, and passage of an examination, the school, community college, college, or university is required to issue a certificate of completion to the applicant on a form established by DACS rule.<sup>31</sup>

DACS is also required to establish by rule the general content of the professional training and the examination criteria.<sup>32</sup>

If the license of an applicant for relicensure is invalid for more than one year, the applicant must complete the full training and examination in order to reinstate their license.<sup>33</sup>

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<sup>26</sup> S. 493.6123, F.S.

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> S. 493.6203(6)(b), F.S.

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

An individual licensed on or before August 31, 2008, is not required to complete additional training hours in order to renew an active license beyond the total required hours. In addition, the timeframe for completion in effect at the time the licensee was licensed applies.<sup>34</sup>

### Proposed Changes

The bill requires applicants for a Class “CC” Private Investigative Intern license to complete the required training no more than three years before receipt of the application.

The bill requires the school, community college, college, or university, instead of the applicant, to submit proof of successful completion of the required training to DACS.

The bill removes the requirement that applicants complete the full training and examination in order to reinstate their license after a license is invalid for more than one year.

The bill also removes the exemption from having to complete additional training hours for private investigative intern renewal applicants with active licenses, who were licensed on or before August 31, 2008.

### **Private Security Services**

#### Current Situation

An initial applicant for a Class “D” Security Officer license is required to submit proof of successful completion of a minimum of 40 hours of professional training at a school or training facility licensed by DACS. DACS must establish by rule the general content and number of hours of each subject area to be taught. Upon reapplication for a license, an individual whose license has been expired for one year or more is considered an initial applicant and must comply with the initial applicant training requirements.<sup>35</sup>

Currently, the law requires that the only way a Class “D” Security Officer licensee can work as a licensed security officer is to own or be an employee of a Class “B” Security Agency or Branch Office. This does not include unarmed individuals pursuant to s. 493.6102(4), F.S., who possess a Class “D” Security Officer license solely for the purpose of holding a Class “G” Statewide Firearm license.

#### Proposed Changes

The bill requires Class “D” Security Officer license applicants to successfully complete the required training no more than three years before the date of receipt of the application. The bill also requires that, upon successful completion of the training, the schools or training facilities must submit results directly to DACS electronically in a manner prescribed by DACS rule, and provide a copy to the trainee.

The bill also authorizes the training of applicants for initial Class “D” Security Officer licensure to be conducted in-person or online, as provided by DACS rule. All approved online training must be conducted through a secure website of the school or training facility, provided that the applicant's identity, attendance, and successful completion of such training are verified.

The bill requires DACS to adopt by rule what portion of the 40 hours of training may be conducted online, the method of delivery and security protocols for online training, and any other rules necessary for the regulation of schools providing in-person or online training.

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<sup>33</sup> *Id.*

<sup>34</sup> S. 493.6203(6)(c), F.S.

<sup>35</sup> S. 493.6303(4), F.S.

The bill also removes the requirement that applicants complete the full training and examination in order to reinstate their license after a license is invalid for more than one year.

The bill exempts Class “D” Security Officer licensees from the requirement that they be employed by a Class “B” Security Agency or Branch Office if they are employed as a security officer by one of the following entities:

- A church;
- An ecclesiastical or a denominational organization that has an established physical place of worship in this state at which nonprofit religious services and activities are regularly conducted; or
- A church cemetery.

## **Recovery Agent and Recovery Agent Interns**

### Current Situation

Currently, an applicant for a Class “E” Recovery agent or a Class “EE” Recovery Agent Intern license is required to submit proof of successful completion of 40 hours of professional training at a school or training facility licensed by DACS. DACS is required to establish by rule the general content for the training.<sup>36</sup>

### Proposed Changes

The bill requires initial license applicants for Class “E” Recovery Agent or Class “EE” Recovery Agent Intern licenses to successfully complete the required training no more than three years before the date of receipt of the application. In addition, the bill requires that upon completion of the training, the schools or training facilities must submit the results directly to DACS electronically in a manner prescribed by rule, and provide a copy to the trainee.

## **B. SECTION DIRECTORY:**

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|------------|--|
| Section 1  | Amends s. 493.6105, F.S., relating to initial application for license.                     |
| Section 2  | Amends s. 493.6106, F.S., relating to license requirements; posting.                       |
| Section 3  | Amends s. 493.6108, F.S., relating to investigation of applicants by DACS.                 |
| Section 4  | Amends s. 493.6109, F.S., relating to reciprocity.   |
| Section 5  | Amends s. 493.6111, F.S., relating to license; contents; and identification cards.         |
| Section 6  | Amends s. 493.6112, F.S., relating to notification of change in employment or termination. |
| Section 7  | Amends s. 493.6113, F.S., relating to renewal applications for licensure.                  |
| Section 8  | Amends s. 493.6115, F.S., relating to weapons and firearms.                                |
| Section 9  | Amends s. 493.6123, F.S., relating to the industry newsletter and pamphlets.               |
| Section 10 | Amends s. 493.6203, F.S., relating to license requirements.                                |
| Section 11 | Amends s. 493.6301, F.S., relating to classes of licenses.                                 |
| Section 12 | Amends s. 493.6303, F.S., relating to license requirements.                                |

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<sup>36</sup> S. 493.6402(2), F.S.

- Section 13 Amends s. 493.6304, F.S., relating to security officer school or training facility.
- Section 14 Amends s. 493.6403, F.S., relating to license requirements.
- Section 15 Amends s. 493.6406, F.S., relating to recovery agent school or training facility.
- Section 16 Provides an effective date of July 1, 2020.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

Allowing relevant military background to count towards firearm training requirements of Class "K" firearms instructor license applicants may increase the application rate and related license fees received by DACS. It is unknown how many applicants will qualify. The fiscal impact is indeterminate.

#### 2. Expenditures:

Removing the requirement that DACS provide arrest information to industry businesses, and authorizing DACS to publish the industry newsletter and pamphlet online instead of in paper format, may reduce the cost to DACS for providing such materials. The fiscal impact is indeterminate.

Authorizing DACS to issue license cards in digital format for private investigative, security, or recovery services licenses may reduce the cost to DACS for creating physical license cards. It is unknown how many licensed employees will choose to use a digital license. The fiscal impact is indeterminate. There are currently 183,415 licensed individuals and businesses in the industry.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Removing the requirement for private investigative, security, or recovery service businesses to notify DACS of a termination of employment will reduce related costs to these businesses.

Increasing eligibility for the firearms training waiver for Class "G" Statewide Firearm license renewal applicants will streamline the license renewal process, and likely have a positive fiscal impact on these individuals.

Allowing Class "K" Firearms Instructor license renewals to submit proof of having taught at least six 28-hour firearms instruction courses to Class "G" Statewide Firearm applicants during the previous three-year licensure period will streamline the license renewal process and likely have a positive fiscal impact on these individuals.

Allowing DACS to use discretion when determining the late fee for private investigative, security, or recovery services license renewal applications will have a positive fiscal impact on the private sector.

Requiring the training entities to submit proof of the trainees' successful completion of the training to DACS will increase expenditures to the training entities. The bill applies this change to the following entities:

- Class "K" Firearms Instructors;
- Schools, community colleges, colleges, or universities; and
- Training facilities.

Allowing Class "D" Security Officer training to be conducted online will likely reduce expenditures to these individuals since they are currently required to provide training in person, and increase revenue to the businesses that provide online training.

Removing the requirement that out-of-state applicants for private investigative, private security and recovery services licensure must have "engaged in licensed activities for at least one year" in the other state or territory, during a declared state of emergency, will streamline the application process and make it easier to provide temporary private investigative, private security and recovery services during a state of emergency, thereby increasing related revenues to these businesses.

Authorizing Class "D" Security Officer licensees to be employed by, and provide armed security on the property of, a church, ecclesiastical or a denominational organization, or church cemetery will likely have an indeterminate positive fiscal impact on:

- Religious institutions to the extent that individual security officers will be less expensive to hire than a licensed security firm; and
- Individual security officers to the extent they are able to generate income that is in addition to the income earned by having to work through a licensed security firm.

The fiscal impact of each of these changes is indeterminate.

### D. FISCAL COMMENTS:

None.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

The bill requires DACS to adopt by rule the following:

- The portion of the Class “D” Security Officer training that may be conducted online;
- The manner in which Class “G” Statewide Firearm license applicants must complete their training, and the manner in which the Class “K” Firearms Instructor must submit the training results to DACS;
- The manner in which Class “CC” Private Investigative Intern license applicants must complete their training, and the manner in which the school, community college, college, or university must submit the training results to DACS;
- The manner in which Class “D” Security Officer license applicants must complete their training, and the manner in which the school, or training facility must submit the training results to DACS; and
- The manner in which Class “E” Recovery Agent or Class “EE” Recovery Agent Intern license applicants must complete their training, and the manner in which the school, or training facility must submit the training results to DACS.

There appears to be sufficient rulemaking authority in the bill and current law.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

According to FDLE, the Code of Federal Regulations (CFR) does not authorize FDLE to conduct a check of the FBI’s NICS Indices for the purpose of a Class “G” or “K” license. FDLE states that the “G” or “K” license is not a concealed weapons license nor is it a license that would authorize someone to purchase a weapon, rather it is a license to regulate a trade or business.<sup>37</sup> However, the CFR authorizes the NICS data sharing for purposes of “providing information to federal, state, tribal, or local criminal justice agencies in connection with the issuance of a firearm-related or explosives-related permit or license, including permits or licenses to possess, acquire, or transfer a firearm, or to carry a concealed firearm, or to import, manufacture, deal in, or purchase explosives.” To the extent that a Class “G” or “K” license is considered firearm related, the CFR may not limit the sharing of the NICS database to searches related to concealed weapons or the purchase of a weapon.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On February 4, 2020, the Business & Professions Subcommittee adopted one strike-all amendment and reported the bill favorably as a committee substitute. The committee substitute:

- Applies provisions uniformly to all license types in the chapter related to applications and submitting proof of training requirements;
- Clarifies provisions and makes conforming, grammatical and technical changes; and
- Authorizes armed Class “D” Security Officer licensees to be employed by a church, ecclesiastical or denominational organization, or church cemetery without the need to be employed by a security agency.

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<sup>37</sup> Email from Bobbie Smith, Legislative Analyst, Office of External Affairs, Florida Department of Law Enforcement, RE: HB 1353 Sharing Background Information with DACS (Jan. 31, 2020).