

SENATE BILL NO. 209
INTRODUCED BY J. ESSMANN

A BILL FOR AN ACT ENTITLED: "AN ACT TRANSFERRING REGISTRATION AND OVERSIGHT OF PROCESS SERVERS AND LEVYING OFFICERS FROM THE CLERKS OF DISTRICT COURT TO THE BOARD OF PRIVATE SECURITY PATROL OFFICERS AND INVESTIGATORS; PROVIDING FOR A PROCESS SERVER TO BE ON THE BOARD OF PRIVATE SECURITY PATROL OFFICERS AND INVESTIGATORS; REQUIRING REGISTRATION OF PROCESS SERVERS WITH EXCEPTIONS; AMENDING SECTIONS 2-15-1781, 15-1-121, 25-1-1101, 25-1-1104, 25-1-1107, 25-1-1111, 25-1-1112, 25-3-105, 25-3-201, 25-3-203, 25-3-204, 25-3-302, 37-60-101, 37-60-103, 37-60-105, 37-60-202, 37-60-301, 37-60-303, 37-60-304, AND 37-60-405, MCA; REPEALING SECTIONS 25-1-1103, 25-1-1105, AND 25-1-1106, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-15-1781, MCA, is amended to read:

"2-15-1781. Board of private security patrol officers and investigators. (1) There is a board of private security patrol officers and investigators.

(2) The board consists of seven voting members appointed by the governor with the consent of the senate. The members shall represent:

- (a) one contract security company, as defined by 37-60-101;
- (b) one proprietary security organization, as defined by 37-60-101;
- (c) one city police department;
- (d) one county sheriff's office;
- (e) one member of the public;
- (f) one member of the peace officers' standards and training advisory council; and
- (g) a licensed private investigator or a registered process server.

(3) Members of the board must be at least 25 years of age and have been residents of this state for more than 5 years.

(4) The appointed members of the board shall serve for a term of 3 years. The terms of board members must be staggered.

(5) The governor may remove a member for misconduct, incompetency, neglect of duty, or unprofessional or dishonorable conduct.

(6) A vacancy on the board must be filled in the same manner as the original appointment and may only be for the unexpired portion of the term.

(7) The board is allocated to the department for administrative purposes only as prescribed in 2-15-121."

Section 2. Section 15-1-121, MCA, is amended to read:

"15-1-121. Entitlement share payment -- appropriation. (1) The amount calculated pursuant to this subsection, as adjusted pursuant to subsection (3)(a)(i), is each local government's base entitlement share. The department shall estimate the total amount of revenue that each local government received from the following sources for the fiscal year ending June 30, 2001:

(a) personal property tax reimbursements pursuant to sections 167(1) through (5) and 169(6), Chapter 584, Laws of 1999;

(b) vehicle, boat, and aircraft taxes and fees pursuant to:

(i) Title 23, chapter 2, part 5;

(ii) Title 23, chapter 2, part 6;

(iii) Title 23, chapter 2, part 8;

(iv) 61-3-317;

(v) 61-3-321;

(vi) Title 61, chapter 3, part 5, except for 61-3-509(3), as that subsection read prior to the amendment of 61-3-509 in 2001;

(vii) Title 61, chapter 3, part 7;

(viii) 5% of the fees collected under 61-10-122;

(ix) 61-10-130;

(x) 61-10-148; and

(xi) 67-3-205;

(c) gaming revenue pursuant to Title 23, chapter 5, part 6, except for the permit fee in 23-5-612(2)(a);

(d) district court fees pursuant to:

(i) 25-1-201, except those fees in 25-1-201(1)(d), (1)(g), and (1)(j);

(ii) 25-1-202;

~~(iii) 25-1-1103;~~

- ~~(iv)(iii)~~ 25-9-506; and
~~(v)(iv)~~ 27-9-103;
 (e) certificate of title fees for manufactured homes pursuant to 15-1-116;
 (f) financial institution taxes collected pursuant to the former provisions of Title 15, chapter 31, part 7;
 (g) all beer, liquor, and wine taxes pursuant to:
 (i) 16-1-404;
 (ii) 16-1-406; and
 (iii) 16-1-411;
 (h) late filing fees pursuant to 61-3-220;
 (i) title and registration fees pursuant to 61-3-203;
 (j) veterans' cemetery license plate fees pursuant to 61-3-459;
 (k) county personalized license plate fees pursuant to 61-3-406;
 (l) special mobile equipment fees pursuant to 61-3-431;
 (m) single movement permit fees pursuant to 61-4-310;
 (n) state aeronautics fees pursuant to 67-3-101; and
 (o) department of natural resources and conservation payments in lieu of taxes pursuant to Title 77, chapter 1, part 5.

(2) (a) From the amounts estimated in subsection (1) for each county government, the department shall deduct fiscal year 2001 county government expenditures for district courts, less reimbursements for district court expenses, and fiscal year 2001 county government expenditures for public welfare programs to be assumed by the state in fiscal year 2002.

(b) The amount estimated pursuant to subsections (1) and (2)(a) is each local government's base year component. The sum of all local governments' base year components is the base year entitlement share pool. For the purpose of calculating the sum of all local governments' base year components, the base year component for a local government may not be less than zero.

(3) (a) The base year entitlement share pool must be increased annually by a growth rate as provided for in this subsection (3). The amount determined through the application of annual growth rates is the entitlement share pool for each fiscal year. By October 1 of each even-numbered year, the department shall calculate the growth rate of the entitlement share pool for each year of the next biennium in the following manner:

(i) Before applying the growth rate for fiscal year 2007 to determine the fiscal year 2007 entitlement share payments, the department shall subtract from the fiscal year 2006 entitlement share payments the following

amounts:

Beaverhead	\$6,972
Big Horn	\$52,551
Blaine	\$13,625
Broadwater	\$2,564
Carbon	\$11,537
Carter	\$407
Cascade	\$157,151
Chouteau	\$3,536
Custer	\$7,011
Daniels	\$143
Dawson	\$3,893
Fallon	\$1,803
Fergus	\$9,324
Flathead	\$33,655
Gallatin	\$222,029
Garfield	\$91
Glacier	\$3,035
Golden Valley	\$2,282
Granite	\$4,554
Hill	\$31,740
Jefferson	\$5,700
Judith Basin	\$1,487
Lake	\$38,314
Lewis and Clark	\$247,886
Liberty	\$152
Lincoln	\$3,759
Madison	\$8,805
McCone	\$1,651
Meagher	\$2,722
Mineral	\$2,361

Missoula	\$172,600
Musselshell	\$23,275
Park	\$6,582
Petroleum	\$36
Phillips	\$653
Pondera	\$10,270
Powder River	\$848
Powell	\$5,146
Prairie	\$717
Ravalli	\$93,090
Richland	\$3,833
Roosevelt	\$9,526
Rosebud	\$19,971
Sanders	\$30,712
Sheridan	\$271
Stillwater	\$12,117
Sweet Grass	\$2,463
Teton	\$5,560
Toole	\$7,113
Treasure	\$54
Valley	\$6,899
Wheatland	\$918
Wibaux	\$72
Yellowstone	\$266,644
Anaconda-Deer Lodge	\$20,707
Butte-Silver Bow	\$53,057
Alberton	\$675
Bainville	\$258
Baker	\$2,828
Bearcreek	\$143
Belgrade	\$11,704

Belt	\$1,056
Big Sandy	\$1,130
Big Timber	\$2,910
Billings	\$163,499
Boulder	\$2,340
Bozeman	\$52,805
Bridger	\$1,303
Broadus	\$766
Broadview	\$258
Brockton	\$414
Browning	\$1,830
Cascade	\$1,374
Chester	\$1,430
Chinook	\$2,275
Choteau	\$3,050
Circle	\$1,018
Clyde Park	\$572
Colstrip	\$4,090
Columbia Falls	\$6,805
Columbus	\$3,245
Conrad	\$4,562
Culbertson	\$1,216
Cut Bank	\$5,316
Darby	\$1,348
Deer Lodge	\$5,708
Denton	\$503
Dillon	\$6,928
Dodson	\$194
Drummond	\$561
Dutton	\$661
East Helena	\$2,888

Ekalaka	\$689
Ennis	\$1,518
Eureka	\$1,733
Fairfield	\$1,120
Fairview	\$1,152
Flaxville	\$143
Forsyth	\$3,286
Fort Benton	\$2,579
Fort Peck	\$393
Froid	\$328
Fromberg	\$855
Geraldine	\$457
Glasgow	\$5,361
Glendive	\$8,099
Grass Range	\$254
Great Falls	\$96,422
Hamilton	\$7,148
Hardin	\$5,920
Harlem	\$1,422
Harlowton	\$1,678
Havre	\$16,223
Helena	\$45,877
Hingham	\$263
Hobson	\$397
Hot Springs	\$912
Hysham	\$482
Ismay	\$43
Joliet	\$1,006
Jordan	\$606
Judith Gap	\$263
Kalispell	\$28,144

Kevin	\$304
Laurel	\$10,804
Lavina	\$361
Lewistown	\$10,170
Libby	\$4,475
Lima	\$397
Livingston	\$12,145
Lodge Grass	\$889
Malta	\$3,389
Manhattan	\$2,485
Medicine Lake	\$410
Melstone	\$234
Miles City	\$14,152
Missoula	\$104,264
Moore	\$319
Nashua	\$536
Neihart	\$149
Opheim	\$180
Outlook	\$125
Philipsburg	\$1,612
Pinesdale	\$1,413
Plains	\$2,007
Plentywood	\$3,185
Plevna	\$225
Polson	\$7,722
Poplar	\$1,544
Red Lodge	\$3,903
Rexford	\$263
Richey	\$309
Ronan	\$3,262
Roundup	\$3,280

Ryegate	\$465
Saco	\$354
Scobey	\$1,798
Shelby	\$5,677
Sheridan	\$1,150
Sidney	\$7,747
Stanford	\$737
Stevensville	\$3,063
St. Ignatius	\$1,367
Sunburst	\$709
Superior	\$1,521
Terry	\$1,011
Thompson Falls	\$2,272
Three Forks	\$3,130
Townsend	\$3,286
Troy	\$1,654
Twin Bridges	\$695
Valier	\$817
Virginia City	\$223
Walkerville	\$1,183
West Yellowstone	\$2,083
Westby	\$263
White Sulphur Springs	\$1,734
Whitefish	\$9,932
Whitehall	\$1,889
Wibaux	\$893
Winifred	\$259
Winnett	\$314
Wolf Point	\$4,497

(ii) The department shall calculate the average annual growth rate of the Montana gross state product, as published by the bureau of economic analysis of the United States department of commerce, for the following

periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(ii)(A).

(iii) The department shall calculate the average annual growth rate of Montana personal income, as published by the bureau of economic analysis of the United States department of commerce, for the following periods:

(A) the last 4 calendar years for which the information has been published; and

(B) the 4 calendar years beginning with the year before the first year in the period referred to in subsection (3)(a)(iii)(A).

(b) (i) The entitlement share pool growth rate for the first year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(B) and (3)(a)(iii)(B):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(ii) The entitlement share pool growth rate for the second year of the biennium must be the following percentage of the average of the growth rates calculated in subsections (3)(a)(ii)(A) and (3)(a)(iii)(A):

(A) for counties, 54%;

(B) for consolidated local governments, 62%; and

(C) for incorporated cities and towns, 70%.

(4) As used in this section, "local government" means a county, a consolidated local government, an incorporated city, and an incorporated town. A local government does not include a tax increment financing district provided for in subsection (6). For purposes of calculating the base year component for a county or consolidated local government, the department shall include the revenue listed in subsection (1) for all special districts within the county or consolidated local government. The county or consolidated local government is responsible for making an allocation from the county's or consolidated local government's share of the entitlement share pool to each special district within the county or consolidated local government in a manner that reasonably reflects each special district's loss of revenue sources listed in subsection (1).

(5) (a) The entitlement share pools calculated in this section and the block grants provided for in subsection (6) are statutorily appropriated, as provided in 17-7-502, from the general fund to the department for distribution to local governments. Each local government is entitled to a pro rata share of each year's entitlement

share pool based on the local government's base component in relation to the base year entitlement share pool. The distributions must be made on a quarterly basis.

(b) (i) The growth amount is the difference between the entitlement share pool in the current fiscal year and the entitlement share pool in the previous fiscal year. For the purposes of subsection (5)(b)(ii)(A), a county with a negative base year component has a base year component of zero. The growth factor in the entitlement share must be calculated separately for:

- (A) counties;
- (B) consolidated local governments; and
- (C) incorporated cities and towns.

(ii) In each fiscal year, the growth amount for counties must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each county's percentage of the base year entitlement share pool for all counties; and

(B) 50% of the growth amount must be allocated based upon the percentage that each county's population bears to the state population not residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iii) In each fiscal year, the growth amount for consolidated local governments must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each consolidated local government's percentage of the base year entitlement share pool for all consolidated local governments; and

(B) 50% of the growth amount must be allocated based upon the percentage that each consolidated local government's population bears to the state's total population residing within consolidated local governments as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(iv) In each fiscal year, the growth amount for incorporated cities and towns must be allocated as follows:

(A) 50% of the growth amount must be allocated based upon each incorporated city's or town's percentage of the base year entitlement share pool for all incorporated cities and towns; and

(B) 50% of the growth amount must be allocated based upon the percentage that each city's or town's population bears to the state's total population residing within incorporated cities and towns as determined by the latest interim year population estimates from the Montana department of commerce as supplied by the United States bureau of the census.

(v) In each fiscal year, the amount of the entitlement share pool not represented by the growth amount is distributed to each local government in the same manner as the entitlement share pool was distributed in the prior fiscal year.

(6) (a) If a tax increment financing district was not in existence during the fiscal year ending June 30, 2000, then the tax increment financing district is not entitled to any block grant. If a tax increment financing district referred to in subsection (6)(b) terminates, then the block grant provided for in subsection (6)(b) terminates.

(b) One-half of the payments provided for in this subsection (6)(b) must be made by November 30 and the other half by May 31 of each year. Subject to subsection (6)(a), the entitlement share for tax increment financing districts is as follows:

Cascade	Great Falls - downtown	\$468,966
Deer Lodge	TIF District 1	3,148
Deer Lodge	TIF District 2	3,126
Flathead	Kalispell - District 1	758,359
Flathead	Kalispell - District 2	5,153
Flathead	Kalispell - District 3	41,368
Flathead	Whitefish District	164,660
Gallatin	Bozeman - downtown	34,620
Lewis and Clark	Helena - #2	731,614
Missoula	Missoula - 1-1B & 1-1C	1,100,507
Missoula	Missoula - 4-1C	33,343
Silver Bow	Butte - uptown	283,801
Yellowstone	Billings	436,815

(7) The estimated base year entitlement share pool and any subsequent entitlement share pool for local governments do not include revenue received from countywide transportation block grants or from countywide retirement block grants.

(8) (a) If revenue that is included in the sources listed in subsections (1)(b) through (1)(o) is significantly reduced, except through legislative action, the department shall deduct the amount of revenue loss from the entitlement share pool beginning in the succeeding fiscal year and the department shall work with local governments to propose legislation to adjust the entitlement share pool to reflect an allocation of the loss of revenue.

(b) For the purposes of subsection (8)(a), a significant reduction is a loss that causes the amount of

revenue received in the current year to be less than 95% of the amount of revenue received in the base year.

(9) A three-fifths vote of each house is required to reduce the amount of the entitlement share calculated pursuant to subsections (1) through (3).

(10) When there has been an underpayment of a local government's share of the entitlement share pool, the department shall distribute the difference between the underpayment and the correct amount of the entitlement share. When there has been an overpayment of a local government's entitlement share, the local government shall remit the overpaid amount to the department.

(11) A local government may appeal the department's estimation of the base year component, the entitlement share pool growth rate, or a local government's allocation of the entitlement share pool, according to the uniform dispute review procedure in 15-1-211.

(12) A payment required pursuant to this section may not be offset by a debt owed to a state agency by a local government in accordance with Title 17, chapter 4, part 1."

Section 3. Section 25-1-1101, MCA, is amended to read:

"25-1-1101. Registered process server -- levying officer -- use of title reserved. (1) ~~Any~~ Except as provided in subsection (2), a person who makes more than 10 services of process, as defined in 25-3-101, within this state during 1 calendar year shall file a verified certificate of registration as a process server with the clerk of the district court of the county in which the person resides or in which the person's principal place of business is located. A registered process server may make service of process in any county in this state must be registered under Title 37, chapter 60.

(2) This part does not apply to:

(a) a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of employment; or

(b) a licensed attorney.

(3) A registered process server may act as a levying officer under Title 25, chapter 13.

(4) A registered process server may make service of process in any county in this state.

(5) A person may not use the title of process server unless the person is registered as a process server under Title 37, chapter 60."

Section 4. Section 25-1-1104, MCA, is amended to read:

"25-1-1104. Handbook for process servers. (1) The department of labor and industry shall publish a

handbook for process servers and levying officers.

(2) ~~Each person who applies to the clerk of the district court of any county for registration as a process server shall demonstrate that the person has passed~~ The board of private security patrol officers and investigators, established in 2-15-1781, shall develop and administer an examination for applicants for registration as a process server based on the handbook and administered by the board of private security patrol officers and investigators provided for in 2-15-1781.

(3) The department of labor and industry may charge a reasonable examination fee to cover the costs of publishing the handbook and administering the examination provided for in this section."

Section 5. Section 25-1-1107, MCA, is amended to read:

"25-1-1107. Proof of service -- requirements. A proof of service of process signed by a registered process server must ~~indicate the county in which he is registered and the~~ include the process server's registration number assigned to him under 25-1-1105."

Section 6. Section 25-1-1111, MCA, is amended to read:

"25-1-1111. Bond required -- levy limited. (1) ~~The clerk of the district court may not accept a certificate of registration as a~~ After completing the requirements in Title 37, chapter 60, for registration, a process server unless the certificate is accompanied by shall provide the board of private security patrol officers and investigators with proof of a surety bond of \$10,000 ~~per for an~~ individual or \$100,000 ~~per for a~~ firm, conditioned upon compliance with this part ~~and, all laws governing service of process in this state, and the requirements of Title 37, chapter 60.~~

(2) A levying officer may not levy on a judgment that exceeds the value of the bond."

Section 7. Section 25-1-1112, MCA, is amended to read:

"25-1-1112. Action on bond. (1) Any person who recovers damages for an injury caused by a service of process, made by a registered process server, that did not comply with the law governing service of process in this state may recover the amount of damages from the bond required under 25-1-1111.

(2) If there has been recovery against a registered process server's bond, ~~the registrant must~~ registered process server shall file a new bond within 30 days or reinstate the bond. If the bond has not been reinstated or filed within 30 days, ~~the county attorney~~ board of private security patrol officers and investigators must shall revoke the ~~registrant's certificate~~ process server's registration within a timeframe established by rule."

Section 8. Section 25-3-105, MCA, is amended to read:

"25-3-105. Person serving process -- penalty for obstruction -- exception. (1) A process server registered under ~~chapter 1, part 11~~ Title 37, chapter 60, a licensed attorney, or a sheriff, constable, coroner, elisor, or other government employee who is acting in the course of the person's employment while serving process is a public servant for the purpose of determining the offense of obstructing a public servant as provided in 45-7-302.

(2) A person who obstructs a person serving process is guilty of obstruction of a public servant and is punishable as provided in 45-7-302.

(3) An unregistered person who serves 10 or fewer services of process in a calendar year, as provided in 25-1-1101(1), is not acting as a public servant."

Section 9. Section 25-3-201, MCA, is amended to read:

"25-3-201. Delivery of papers to officer. (1) (a) ~~It is the duty of the clerk of any district court, at the request of a party in any civil action pending in such a district court or his the party's agent or attorney, to forward by mail any process, summons, or other papers required in the cause; and it~~

(b) It is the duty of the sheriff, registered process server, or other officer to whom said the process, summons, or papers described in subsection (1)(a) may be directed to receive the same process, summons, or papers at the place where the same the documents are directed. When process in one county is intended for service in another, it is the duty of the clerk to forward the same in like manner.

(2) If the papers are delivered for service away from the county seat, all necessary copies thereof must be furnished for service.

(3) ~~If any a sheriff, registered process server, or other officer refuses to receive any a summons or other process at the point where it was directed to him or refuses to serve the same summons or process, he the sheriff, registered process server, or other officer is guilty of a misdemeanor and upon conviction thereof must shall be fined in any a sum not exceeding \$100."~~

Section 10. Section 25-3-203, MCA, is amended to read:

"25-3-203. Prepayment of cost of service. ~~In no case shall the~~ An officer or registered process server receiving papers for service may not be required to serve ~~the same~~ papers for service unless the person in on whose behalf the service is made or his that person's agent or attorney first pay pays the cost of the service upon a demand ~~therefor~~ by the officer or registered process server."

Section 11. Section 25-3-204, MCA, is amended to read:

"25-3-204. Officer to exhibit process. The officer or registered process server executing ~~such a service~~ of process ~~must~~ shall display the service of process, all attached papers, and an identification card upon request ~~by an interested party; then and at all times subsequent so long as he retains it, upon request, show the same with all papers attached to any person interested therein~~ at any time during execution of the service of process."

Section 12. Section 25-3-302, MCA, is amended to read:

"25-3-302. Return prima facie evidence. The return of the sheriff or registered process server upon process or notices is prima facie evidence of the ~~facts in such return stated~~ proof of the process or notices having been served as stated."

Section 13. Section 37-60-101, MCA, is amended to read:

"37-60-101. Definitions. As used in this chapter, the following definitions apply:

(1) "Alarm response runner" means any individual employed by a contract security company or a proprietary security organization to respond to security alarm system signals.

(2) "Armed carrier service" means any person who transports or offers to transport under armed private security guard from one place to another any currency, documents, papers, maps, stocks, bonds, checks, or other items of value that require expeditious delivery.

(3) "Armed private investigator" means a private investigator who at any time wears, carries, possesses, or has access to a firearm in the performance of the individual's duties.

(4) "Armed private security guard" means an individual employed by a contract security company or a proprietary security organization whose duty or any portion of whose duty is that of a security guard, armored car service guard, carrier service guard, or alarm response runner and who at any time wears or carries a firearm in the performance of the individual's duties.

(5) "Armored car service" means any person who transports or offers to transport under armed private security guard from one place to another any currency, jewels, stocks, bonds, paintings, or other valuables of any kind in a specially equipped motor vehicle that offers a high degree of security.

(6) "Board" means the board of private security patrol officers and investigators provided for in 2-15-1781.

(7) "Branch office" means any office of a licensee within the state, other than its principal place of business within the state.

(8) "Contract security company" means any person who installs or maintains a security alarm system, undertakes to provide a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a contractual basis to another person who exercises no direction and control over the performance of the details of the services rendered.

(9) "Department" means the department of labor and industry provided for in 2-15-1701.

(10) "Insurance adjuster" means a person employed by an insurance company, other than a private investigator, who for any consideration ~~whatsoever~~ conducts investigations in the course of adjusting or otherwise participating in the disposal of any claims in connection with a policy of insurance but who does not perform surveillance activities or investigate crimes or wrongs committed or threatened against the United States or any state or territory of the United States.

(11) "Licensee" means a person licensed under this chapter.

(12) "Paralegal" or "legal assistant" means a person qualified through education, training, or work experience to perform substantive legal work that requires knowledge of legal concepts and that is customarily but not exclusively performed by a lawyer and who may be retained or employed by one or more lawyers, law offices, governmental agencies, or other entities or who may be authorized by administrative, statutory, or court authority to perform this work.

(13) "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

(14) "Private investigator" means a person other than an insurance adjuster who for any consideration ~~whatsoever~~ makes or agrees to make any investigation with reference to:

(a) crimes or wrongs done or threatened against the United States or any state or territory of the United States;

(b) the identity, habits, conduct, business, occupation, honesty, integrity, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, reputation, or character of any person;

(c) the location, disposition, or recovery of lost or stolen property;

(d) the cause or responsibility for fires, libels, losses, accidents, or injury to persons or property; or

(e) securing evidence to be used before any court, board, officer, or investigating committee.

(15) "Private security guard" means an individual employed or assigned duties to protect a person or property or both a person and property from criminal acts and whose duties or any portion of whose duties include but are not limited to the prevention of unlawful entry, theft, criminal mischief, arson, or trespass on private

property or the direction of the movements of the public in public areas.

~~(16)~~ (16) "Process server" means a person described in 25-1-1101(1).

~~(16)~~(17) "Proprietary security organization" means any person who employs a private security guard, alarm response runner, armored car service, street patrol service, or armed carrier service on a routine basis solely for the purposes of that person and exerts direction and control over the performance of the details of the service rendered.

~~(17)~~(18) "Qualifying agent" means, in the case of a corporation, a corporate employee employed in a management capacity or, in the case of a partnership, a general or unlimited partner meeting the qualifications set forth in this chapter for the operation of a contract security company, proprietary security organization, or private investigator, whichever is applicable.

~~(18)~~(19) "Resident manager" means the person appointed to exercise direct supervision, control, charge, management, or operation of each branch office located in this state where the business of the licensee is conducted.

~~(19)~~(20) (a) "Security alarm system" means an assembly of equipment and devices or a single device, such as a solid state unit that plugs directly into a 110-volt AC line, designed to detect or signal or to both detect and signal unauthorized intrusion, movement, or criminal acts at a protected premises and to which signals police, private security guards, or alarm response runners are expected to respond.

(b) The term does not include alarm systems and alarm systems that monitor temperature, humidity, or any other atmospheric condition not directly related to the detection of an unauthorized intrusion or criminal act at a premises.

~~(20)~~(21) "Street patrol service" means any contract security company or proprietary security organization that uses foot patrols, motor vehicles, or any other means of transportation to maintain public order or detect criminal activities in public areas or thoroughfares.

~~(24)~~(22) "Unarmed private investigator" means a private investigator who does not wear, carry, possess, or have access to a firearm in the performance of the individual's duties.

~~(22)~~(23) "Unarmed private security guard" means an individual who is employed by a contract security company or a proprietary security organization, whose duty or any portion of whose duty is that of a private security guard, armored car service guard, or alarm response runner, and who does not wear or carry a firearm in the performance of those duties."

Section 14. Section 37-60-103, MCA, is amended to read:

"37-60-103. Purpose. The purpose of this chapter is to increase the levels of integrity, competency, and performance of private security personnel ~~and~~, private investigators, and process servers in order to safeguard the public health, safety, and welfare against illegal, improper, or incompetent actions committed by private security personnel ~~or~~, private investigators, or process servers."

Section 15. Section 37-60-105, MCA, is amended to read:

"37-60-105. Exemptions. ~~This~~ (1) Except as provided in subsection (2), this chapter does not apply to:

~~(1)~~ (a) any one person employed singly and exclusively by any one employer in connection with the affairs of ~~such~~ that employer only and ~~where~~ when there exists an employer-employee relationship and the employee is unarmed, does not wear a uniform, and is guarding inside a structure ~~which~~ that at the time is not open to the public;

(b) a person:

(i) employed singly and exclusively by a retail merchant;

(ii) performing at least some ~~of his~~ work for the retail merchant as a private security guard; and

(iii) who has received training as a private security guard from the employer or at the employer's direction;

~~(2)~~(c) an officer or employee of the United States, ~~of America or~~ of this state, ~~or of~~ a political subdivision ~~thereof~~ of the United States or this state while ~~such~~ the officer or employee is engaged in the performance of his official duties;

~~(3)~~(d) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons or as to the personal habits and financial responsibility of applicants for insurance, indemnity bonds, or commercial credit;

~~(4)~~ ~~(a)~~(e) an attorney at law ~~in~~ while performing his duties as an attorney at law;

~~(b)~~(f) a legal intern, paralegal, or legal assistant employed by one or more lawyers, law offices, governmental agencies, or other entities; or

~~(c)~~(g) a law student who is serving a legal internship;

~~(5)~~(h) a collection agency or finance company licensed to do business under the laws of this state, or an employee ~~thereof~~ of a collection agency or finance company licensed in this state while acting within the scope of his employment, while making an investigation incidental to the business of the agency or company, including an investigation of the location of a debtor or ~~his~~ the debtor's property ~~where~~ when the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent ~~thereof~~;

~~(6)~~(i) special agents employed by railroad companies, provided that the railroad company notifies the

board that ~~such~~ its agents are operating in the state;

~~(7)(j)~~ insurers and insurance producers and insurance brokers licensed by the state, while performing duties in connection with insurance transacted by them;

~~(8)(k)~~ an insurance adjuster, as defined by in 37-60-101~~(4)~~; or

~~(9)(l)~~ an internal investigator or auditor; while making an investigation incidental to the business of the agency or company by which ~~he~~ the investigator or auditor is singularly and regularly employed.

(2) (a) Except as provided in subsection (2)(b), persons listed as exempt in subsection (1) are not exempt for the purposes of acting as registered process servers.

(b) Subsection (2)(a) does not apply to attorneys or persons who make 10 or fewer services of process in a calendar year, as provided in 25-1-1101."

Section 16. Section 37-60-202, MCA, is amended to read:

"37-60-202. Rulemaking power. The board shall adopt and enforce rules:

(1) fixing the qualifications of resident managers, qualifying agents, licensees, ~~and~~ holders of identification cards, and process servers, in addition to those prescribed in Title 25, chapter 1, part 11, and in this chapter, necessary to promote and protect the public welfare;

(2) establishing, in accordance with 37-1-134, application fees for original or renewal licenses and identification cards, and providing for refunding of any fees;

(3) (a) prohibiting the establishment of branch offices of any licensee, except a proprietary security organization, without approval by the board; and

(b) establishing qualification requirements and license fees for branch offices identified in subsection (3)(a);

(4) for the certification of private investigator and private security guard training programs, including the certification of firearms training programs;

(5) for the licensure of firearms instructors;

(6) for the approval of weapons;

(7) requiring the maintenance of records;

(8) requiring licensees, except process servers, to file an insurance policy with the board; and

(9) providing for the issuance of probationary identification cards for private investigators who do not meet the requirements for age, employment experience, and written examination."

Section 17. Section 37-60-301, MCA, is amended to read:

"37-60-301. License required -- process server registration required. (1) (a) Except as provided in 37-60-105 and 37-60-315, it is unlawful for any person to act as or perform the duties, as defined in 37-60-101, of a contract security company or proprietary security organization, a private investigator, or a private security guard without having first obtained a license from the board. ~~Those persons licensed on April 18, 1983, shall retain their current licensure status and shall renew their licenses on the renewal date as prescribed by the department.~~

(b) Except as provided in 25-1-1101(2), it is unlawful for any person to act as or perform the duties of a process server for more than 10 services of process in a calendar year without being issued a certificate of registration by the board.

(2) It is unlawful for any unlicensed person to act as, pretend to be, or represent to the public that the person is licensed as a private investigator, a contract security company, a proprietary security organization, or a private security guard.

(3) A person appointed by the court as a confidential intermediary under 42-6-104 is not required to be licensed under this chapter. A person who is licensed under this chapter is not authorized to act as a confidential intermediary, as defined in 42-1-103, without meeting the requirements of 42-6-104.

(4) A person who knowingly engages an unlicensed private investigator, private security guard, or contract security company is guilty of a misdemeanor punishable under 37-60-411."

Section 18. Section 37-60-303, MCA, is amended to read:

"37-60-303. License or registration qualifications. (1) Except as provided in subsection (7)(a), an applicant for licensure under this chapter or an applicant for registration as a process server under this chapter is subject to the provisions of this section and shall submit evidence under oath that the applicant:

- (a) is at least 18 years of age;
- (b) is a citizen of the United States;
- (c) has not been convicted in any jurisdiction of any felony or any crime involving moral turpitude or illegal use or possession of a dangerous weapon, for which a full pardon or similar relief has not been granted;
- (d) has not been judicially declared incompetent by reason of any mental defect or disease or, if so declared, has been fully restored;
- (e) is not suffering from habitual drunkenness or from narcotics addiction or dependence;
- (f) is of good moral character; and

(g) has complied with other experience qualifications as may be set by the rules of the board.

(2) In addition to meeting the qualifications in subsection (1), an applicant for licensure as a private security guard shall:

(a) complete the training requirements of a private security guard training program certified by the board and provide, on a form prescribed by the board, written notice of satisfactory completion of the training; and

(b) fulfill other requirements as the board may by rule prescribe.

(3) In addition to meeting the qualifications in subsection (1), each applicant for a license to act as a private investigator shall submit evidence under oath that the applicant:

(a) is at least 21 years of age;

(b) has at least a high school education or the equivalent;

(c) has not been dishonorably discharged from any branch of the United States military service; and

(d) has fulfilled any other requirements as the board may by rule prescribe.

(4) The board may require an applicant to demonstrate by written examination additional qualifications as the board may by rule require.

(5) An applicant for a license as a private security patrol officer or private investigator who will wear or carry a firearm in performance of the applicant's duties shall submit written notice of satisfactory completion of a firearms training program certified by or satisfactory to the board, as the board may by rule prescribe.

(6) Except for an applicant subject to the provisions of subsection (7)(a), the board shall require a background investigation of each applicant for licensure or registration under this chapter that includes a fingerprint check by the Montana department of justice and the federal bureau of investigation.

(7) (a) A firm, company, association, partnership, limited liability company, corporation, or other entity that intends to engage in business governed by the provisions of this chapter must be incorporated under the laws of this state or qualified to do business within this state and must be licensed by the board or, if doing business as a process server, must be registered by the board.

(b) Individual employees, officers, directors, agents, or other representatives of an entity described in subsection (7)(a) who engage in duties that are subject to the provisions of this part must be licensed pursuant to the requirements of this part or, if doing business as a process server, must be registered by the board."

Section 19. Section 37-60-304, MCA, is amended to read:

"37-60-304. Licenses and registration -- application form and content. (1) ~~Except as provided in 37-60-303(7), an~~ An application for a license or for a certificate of registration as a process server must be

submitted to the department and accompanied by the application fee set by the board.

(2) An application must be made under oath and must include:

(a) the full name and address of the applicant;
 (b) the name under which the applicant intends to do business;
 (c) a statement as to the general nature of the business in which the applicant intends to engage;
 (d) a statement as to whether the applicant desires to be licensed as a contract security company, a proprietary security organization, a private investigator, or a private security guard or registered as a process server;

(e) one recent photograph of the applicant, of a type prescribed by the department, and one classifiable set of the applicant's fingerprints;

(f) a statement of the applicant's age and experience qualifications; and

(g) other information, evidence, statements, or documents as may be prescribed by the rules of the board.

(3) The board shall verify the statements in the application and the ~~applicant's~~ moral character of each applicant other than an applicant under 37-60-303(7)(a).

(4) The submittal of fingerprints is a prerequisite to the issuance of a license or certificate of registration to an applicant, other than an applicant under 37-60-303(7)(a), by means of fingerprint checks by the Montana department of justice and the federal bureau of investigation."

Section 20. Section 37-60-405, MCA, is amended to read:

"37-60-405. Approval of weapons. The weapons to be carried by armed licensees or ~~identification card holders~~ of identification cards as private security personnel or private investigators must be approved by the board."

NEW SECTION. **Section 21. Repealer.** Sections 25-1-1103, 25-1-1105, and 25-1-1106, MCA, are repealed.

NEW SECTION. **Section 22. Effective date.** [This act] is effective July 1, 2007.

- END -

