

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 491

S.P. 182

Received by the Secretary, February 7, 1995

An Act to Create a Board to Hear Citizen Complaints Regarding Private Investigators.

Referred to the Committee on Criminal Justice and ordered printed pursuant to Joint Rule 14.

A handwritten signature in cursive script that reads "May M. Ross".

MAY M. ROSS
Secretary of the Senate

Presented by Senator O'DEA of Penobscot.
Cosponsored by Senator: PINGREE of Knox.

2 **Be it enacted by the People of the State of Maine as follows:**

4 **Sec. 1. 5 MRSA §12004-B, sub-§9** is enacted to read:

6 9. Private Investi- Legislative 32 MRSA §8112-A
gators Complaint Review Per Diem
8 Board

10 **Sec. 2. 32 MRSA §8112-A** is enacted to read:

12 **§8112-A. Private Investigators Complaint Review Board**

14 1. Creation; members. The Private Investigators Complaint
Review Board, as established in Title 5, section 12004-B and
16 referred to in this section as the "board," is created to hear
complaints regarding the conduct of private investigators. The
board is comprised of 3 members as follows:

18 A. One private investigator appointed by the President of
20 the Senate;

22 B. One citizen representing the general public appointed by
24 the Speaker of the House of Representatives; and

26 C. One person agreed upon by the first 2 members and
selected from a list provided by the commissioner.

28 2. Terms; vacancies. Members of the board serve for a term
of 3 years and any vacancy on the board must be filled in the
30 same manner as the original appointment for that unexpired term.

32 3. Compensation. Members of the board are entitled to
compensation in accordance with Title 5, section 12004-B.

34 4. Investigation and hearing. The board shall investigate
36 and hear complaints, in accordance with the provisions of Title
5, chapter 375, subchapter IV regarding a violation by a private
38 investigator of this chapter or rules established by the
commissioner. After investigation and hearing, the board shall
40 recommend appropriate action to the commissioner including
refusal to issue or renew a license, or suspension or revocation
42 of a license. All members of the board shall be present for
deliberations and a majority vote is necessary to recommend
44 taking corrective or disciplinary action on a complaint.

46 5. Subpoenas. In an investigation conducted by the board
under this chapter, the board may issue subpoenas to compel the
48 attendance of witnesses and the production of evidence relevant
to any fact in issue.

50

2 6. Contempt. If a witness refuses to obey a subpoena or to
4 give any evidence relevant to proper inquiry by the board, the
6 Attorney General may petition the Superior Court in the county
8 where the refusal occurred to find the witness in contempt. The
10 Attorney General shall serve or have served on that witness an
12 order requiring the witness to appear before the Superior Court
14 to show cause why the witness should not be adjudged in contempt.
16 The court, in a summary manner, shall hear the evidence and, if
18 the evidence warrants, punish that witness in the same manner and
20 to the same extent as for contempt committed before the Superior
22 Court or with reference to the process of the Superior Court.

14 **Sec. 3. 32 MRSA §8113, first ¶,** as repealed and replaced by PL
16 1985, c.207, §2, is amended to read:

16 ~~The commissioner may, after~~ After a hearing in conformance
18 with ~~the provisions of the Maine Administrative Procedure Act,~~
20 ~~Title 5, chapter 375, subchapter IV,~~ section 8112-A and with the
22 ~~recommendation of the Private Investigators Complaint Review~~
24 ~~Board, the commissioner may refuse to issue or renew a license or~~
26 ~~may suspend or revoke a license.~~ The Administrative Court may
28 ~~suspend or revoke the license of any person licensed under this~~
30 ~~chapter.~~ The following shall be grounds for an action to
32 refuse to issue, renew, suspend, or revoke ~~or refuse to renew~~ the
34 license of a person licensed under this chapter:

28 **Sec. 4. 32 MRSA §8113, sub-§§4, 6 and 8,** as repealed and
30 replaced by PL 1985, c. 207, §2, are amended to read:

30 **4. Aiding or abetting unlicensed practice of private**
32 **investigation.** Aiding or abetting the practice of private
34 investigation by a person not duly licensed under this chapter
36 and who ~~represents himself purports~~ purports to be duly licensed;

36 **6. Incompetence.** Incompetence in the practice for which he
38 ~~the licensee~~ is licensed. A licensee ~~shall be deemed~~ is
40 considered incompetent in the practice if the licensee has:

40 A. Engaged in conduct ~~which~~ that evidences a lack of
42 ability or fitness to discharge the duty owed by the
44 licensee to a client or the general public; or

44 B. Engaged in conduct ~~which~~ that evidences a lack of
46 knowledge, or inability to apply principles or skills to
48 carry out the practice for which he ~~the licensee~~ is licensed;

48 **8. Representations that licensee is sworn peace officer.**
50 Representation by the licensee ~~which~~ that suggests, or ~~which~~
 would reasonably cause causes another person to believe, that he
 the licensee is a sworn peace officer of this State, any

political subdivision of this State, any other state or of the
Federal Government.

Sec. 5. 32 MRSA §8116, sub-§§1 and 2, as enacted by PL 1981, c.
126, §2, are repealed.

STATEMENT OF FACT

This bill establishes the Private Investigators Complaint
Review Board to hear and investigate complaints made against
private investigators. After an investigation and a hearing on a
complaint, the board makes recommendations to the Commissioner of
Public Safety as to the appropriate action that should be taken.
The board may recommend that a license not be issued or renewed
or that a license be suspended or revoked.