

# STATEMENT OF SCOPE

## Department of Safety and Professional Services

Rule No.: SPS 30 to 35

Relating to: Credentialing Requirements and Procedures for Private Detective Agencies, Private Detectives, and Private Security Professionals

Rule Type: Permanent

### 1. Finding/nature of emergency (Emergency Rule only):

N/A

### 2. Detailed description of the objective of the proposed rule:

The objective of this rulemaking project is to clarify existing rules for private detectives, private detective agencies, and private security professionals and to streamline the Department's licensure processes outlined in SPS 30 to 35. The processes to be evaluated include licensure and permit approvals, fee collection, records maintenance and retention, renewals, temporary permits, and the application of penalties for noncompliance with the code. The Department seeks to increase the efficiency of its licensing processes and ease the administrative burdens on private detectives. These goals are substantially in accordance with Governor Walker's Executive Order No. 61 which directs the Department to analyze its rules to increase efficiency and decrease costs to small businesses.

### 3. Description of the existing policies relevant to the rule, new policies proposed to be included in the rule, and an analysis of policy alternatives:

SPS Chapters 30 to 35 establish licensure and credentialing requirements for private detectives, private detective agencies, and private security personnel. The existing policies set standards for obtaining licenses and permits via submissions to the Department and a third party vendor. Certain records are held and maintained by the Department while others are verified by the third party vendor. Potential rule changes would simplify the form and content of submissions and standardize document maintenance and retention policies. All policies will be examined for opportunities to increase efficiency and decrease costs to small businesses pursuant to Executive Order No. 61. Not conducting this review may result in unnecessary costs and delays.

### 4. Detailed explanation of statutory authority for the rule (including the statutory citation and language):

Generally, Wis. Stat. § 227.11 (2) (a) empowers the Department of Safety and Professional Services to promulgate rules interpreting the provision of any statute the Department enforces or administers. The Department has specific authority to prescribe requirements for the licenses and permits of private detectives, private detective agencies, and private security personnel pursuant to Wis. Stat. § 440.26.

The Department has the following duties and powers:

**Wis. Stat. § 440.26 (1) (b)** The department may promulgate rules specifying activities in which a person may engage without obtaining a license or permit under this section.

**Wis. Stat. § 440.26 (2) (c)** *Approval.*

1. Subject to subds. 2. and 3., the department shall prescribe, by rule, such qualifications as it deems appropriate, with due regard to investigative experience, special professional education and training and other factors bearing on professional competence.
2. An individual who has been convicted in this state or elsewhere of a felony and who has not been pardoned for that felony is not eligible for a license under this section.
3. The department may not issue a license under this section to an individual unless the individual is over 18 years of age.
4. The department, in considering applicants for license, shall seek the advice of the appropriate local law enforcement agency or governmental official, and conduct such further investigation, as it deems proper to determine the competence of the applicant.
5. The department may, based on rules adopted by the department, refuse to issue a license under this section to an individual who has committed any of the acts described in sub. (6) (a) 1. to 5.

**Wis. Stat. § 440.26 (3m)** Rules concerning dangerous weapons. The department shall promulgate rules relating to the carrying of dangerous weapons by a person who holds a license or permit issued under this section or who is employed by a person licensed under this section. The rules shall meet the minimum requirements specified in 15 USC 5902 (b) and shall allow all of the following:

- (a) A person who is employed in this state by a public agency as a law enforcement officer to carry a concealed firearm if s. 941.23 (1) (g) 2. to 5. and (2) (b) 1. to 3. applies.
- (b) A qualified out-of-state law enforcement officer, as defined in s. 941.23 (1) (g), to carry a concealed firearm if s. 941.23 (2) (b) 1. to 3. applies.
- (c) A former officer, as defined in s. 941.23 (1) (c), to carry a concealed firearm if s. 941.23 (2) (c) 1. to 7. applies.
- (d) A licensee, as defined in s. 175.60 (1) (d), or an out-of-state licensee, as defined in s. 175.60 (1) (g), to carry a concealed weapon as permitted under s. 175.60.

**Wis. Stat. § 440.26 (6) (a)** Subject to the rules adopted under s. 440.03 (1), the department may reprimand the holder of a license or permit issued under this section or revoke, suspend or limit the license or permit of any person who has done any of the following:

1. Been convicted of a misdemeanor or found to have violated any state or local law that is punishable by a forfeiture, subject to ss. 111.321, 111.322 and 111.335.
2. Engaged in conduct reflecting adversely on his or her professional qualification.
3. Made a false statement in connection with any application for a license or permit under this section.
4. Violated this section or any rule promulgated or order issued under this section.
5. Failed to maintain a bond or liability policy as required under sub. (4).

**Wis. Stat. § 440.26 (6) (b)** Subject to the rules promulgated under s. 440.03 (1), the department shall revoke the license or permit of any person who has been convicted of a felony in this state or elsewhere and who has not been pardoned for that felony.

**5. Estimate of amount of time that state employees will spend developing the rule and of other resources necessary to develop the rule:**

The staff time needed to revise the rules is expected to be approximately 80 hours. This time includes research, consulting, drafting the rule revisions, consulting with stakeholders and potentially an advisory committee, processing the rule revisions through public hearings, legislative review, and adoption. There are no other resources necessary to revise the rules.

**6. List with description all entities that may be affected by the proposed rule:**

This rulemaking project may affect private detectives, private investigative agencies, and private security personnel.

**7. Summary and preliminary comparison with any existing or proposed federal regulation that is intended to address the activities to be regulated by the proposed rule:**

An Internet-based search of the *Code of Federal Regulations* (CFR) and the *Federal Register* did not reveal any federal regulations pertaining to the licensure of private detectives, private investigative agencies, or private security personnel. Similarly, no federal regulations regulate permits provided to private detectives, private investigative agencies, or private security personnel.

**8. Anticipated economic impact of implementing the rule:**

The Department believes that the proposed changes will have no adverse economic impact. The changes under consideration are intended to alleviate unnecessary economic burdens on private investigators and their employers. The revisions are also anticipated to decrease the Department's cost of administering Wis. Stat. § 440.26.

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Approved for publication in the *Wisconsin Administrative Register* at Madison, Wisconsin, this date:

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DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES



Dave Ross, Secretary

Approved for implementation at Madison, Wisconsin, this date:

DEPARTMENT OF SAFETY AND PROFESSIONAL SERVICES

Dave Ross, Secretary