

Bills of Interest to Private Investigators

March 16, 2009

Protection of Consumers through Continuing Education

SB 202 [Harman] - *Support as Sponsor*

CALI is sponsoring this bill to assist California consumers by providing a mechanism for licensed investigators to be knowledgeable of the many new laws in the areas of privacy rights, ethics, legal and technological developments.

- Consumers who hire licensed private investigators are entitled to some measure of assurance that the person they engage knows the privacy laws that apply to the investigation.
- Many important privacy-related laws that have been enacted since the vast majority of private investigators received their licenses. The privacy laws cover, among other things, the protection of sensitive personal information, prohibitions against false personation, and measures to prevent identity theft.
- Neither the preparation for a state license, nor the testing that is conducted for a license, involve any of these laws.
- There is no current requirement providing the opportunity for investigators to learn of newly-enacted laws, nor is there a compendium of applicable laws for investigators to educate themselves.
- We also support the provisions of the measure that would increase the biennial licensure fee in an amount necessary to cover the costs to be borne by the Bureau of Security and Investigative Services [BSIS] in administering the new requirement. The timely and effective education of our industry is worth this financial investment.

Prohibitions against Use of Credit Report Information

AB 943 [Mendoza] - *Oppose*

This legislation would enact an unreasonable prohibition against the use of information that is critical in many business situations.

AB 943 would prohibit the use of information which is pertinent to evaluating the trustworthiness, integrity, and responsibility of the individual. This is critical in situations where the person is being considered for a position where funds, personal information, and/or confidential business information will be involved.

It is important to note that the information contained in a report issued to an employer by a credit bureau is different than the information contained in a consumer credit report that is used for an evaluation of the individual's creditworthiness. The report issued to employers does not contain FICO credit scores or account numbers.

Some examples of situations where consumer credit report information is important are: retail and food establishments where the employees will be handling money, property management companies where the employees will be sent into residences, sometimes when the tenants are not home, as well as housecleaning services, hotels, motels, and others, and parking lot attendants, who collect large sums of money with no supervision.

In addition, licensed private investigators performing basic security background checks for governmental entities are authorized to obtain this information.

Bills of Interest to Private Investigators - continued

Meal and Rest Periods & Licensed Private Investigators

SB 287 [Calderon] and SB 380 [Dutton] - ***Support***

These bills would provide flexibility by permitting employers and employees to agree to waive either the 1st or 2nd meal period. The bills address the confusion and inflexibility exists today with regard to the provision of meal and rest periods to employees.

CALL supports the requirement that employees be provided the opportunity to take meal and rest periods, as this is important to a healthy, productive and efficient work environment.

Licensed private investigators perform surveillance as a normal and important part of their work. Surveillance is often involved in cases such as child abduction investigations, corporate investigations involving allegations of employee misconduct or theft, and insurance fraud investigations [including workers' compensation fraud-level investigations conducted on behalf of the State of California, County, City, and private insurance carriers].

One of the most effective investigative tools to confirm and document the facts of an investigation is the use of discrete surveillance. In these situations, the investigator is typically operating alone and exercising independent judgment in the field as events develop and unfold. The circumstances vary, but typically have the following aspects:

- The surveillance is undercover and the investigator must not be identified.
- The investigator is alone and in the field.
- The surveillance demands uninterrupted observation.
- The surveillance involves movement that can entail multiple geographical locations.
- The surveillance continues for several consecutive hours.

Without elasticity in the provision of meal and rest periods, it becomes extremely difficult to perform an effective surveillance. An effective surveillance can be severely compromised and even destroyed by a rigid requirement with regard to meal and rest periods. Flexibility will help ensure that licensed private investigators can maximize their detection abilities to locate abducted children, obtain the facts with regard to possible insurance fraud, and perform other important investigations that benefit consumers and employers throughout the state.

Flexible Work Schedules

AB 141 [Tran] and SB 187 [Benoit] - ***Support***

These bills would provide mechanisms for employers and their employees to mutually agree on a specific work schedule that would provide 10 hour work days in a 40 hour week without the employer paying an overtime rate.

Expansion of Paid Sick Days

AB 1000 [Ma] - ***Oppose***

This bill would unreasonably expand paid sick days to additional situations and would exacerbate the challenges facing small businesses to survive in the current economic climate.

Fair Concealed Weapon Application Process

AB 357 [Knight] - ***Support***

This bill would convert California's concealed weapons permitting system from a 'may' issue to a 'shall' issue. More than thirty states have moved to a 'shall'. The bill would remove the arbitrary discretion of Sheriffs to withhold permits for political reasons and would establish a fair and equitable process for all applicants.

Bills of Interest to Private Investigators - continued

Enhanced Penalties for Unlawful Use of Personal Information

AB 130 [Jeffries] – **Support**

This bill would provide additional disincentives by providing that a 2nd or subsequent conviction for unlawfully acquiring or using personal identifying information would be punishable by a fine, by imprisonment in a county jail not to exceed one year, or by both a fine and imprisonment, or by imprisonment in the state prison for 2, 3 or 4 years.

Unreasonable Restrictions on Public Records

AB 520 [Carter] - **Oppose**

This bill would authorize closure of access to public records based upon criteria that would be ambiguous and over-reaching. If enacted, requests for “improper purposes” would be cause for closure of access.

AB 567 [Villines] and AB 831 [Monning] - **Oppose**

This bill would prohibit public disclosure of draft audit findings or related information. If enacted, a new barrier to critical information would be established, possibly harming efforts to uncover fraud.

Proper Venues for Prosecution of Identity Theft

SB 226 [Alquist] - **Support**

This bill would provide that when multiple offenses involving the unauthorized use of personal identifying information occur in multiple jurisdictions and all of the offenses involve the same defendant or defendants and the same scheme or substantially similar activity, then jurisdiction for all the offenses is proper in any one of the counties where one of the offenses occurred.

Adoptee Access to Birth Records

AB 372 [Ma] - **Support**

This bill would allow an adoptee who is at least 18 years of age to submit to the court a written, signed, and notarized request for a copy of the original record of his or her birth.

Recovery of Public Records

AB 1245 [Monning] - **Support**

This bill would establish a fair procedure to provide for the return of public records that belong to a state or local agency.

Expansion of Public Records

SB 218 [Yee] - **Support**

This bill would include nonprofit corporations that receive public funds or perform a governmental function as entities subject to the Public Records Act.

Bills of Interest to Private Investigators - continued

Timely Testing of DNA Specimens

SB 439 [Wyland] - *Support*

This bill would further the interests of justice by requiring DNA samples and specimens to be processed and analyzed within thirty days of collection.

Insured's Access to Accident Reports

AB 470 [Niello]- *Support*

This bill would allow an insured's lawyer to obtain information from an accident report, supplemental report, or investigative report, which would facilitate fair and informed decisions.

Peace Officer Identification

SB 169 [Benoit] - *Support*

This bill would authorize the head of a local agency that employs peace officers to issue identification in the form of a badge, insignia, emblem, device, label, certificate, card, or writing that clearly states the person's position as an honorably retired peace officer from that agency. The bill would also authorize the head of a local agency to revoke identification granted pursuant to those provisions in the event of misuse or abuse.

Restrictions on Technology

AB 255 [Anderson] - *Oppose*

CALI is concerned that the prohibition against providing street view photographs or imagery without blurring the image would unreasonably restrict the availability of information that could be important to investigations that are critical to important public policy objectives, including locating abducted persons, locating identity theft thieves, and combating insurance and workers' compensation fraud.

BSIS Posting of Accusations and Disciplinary Actions

SB 599 [Negrete McCleod] - *Support*

This bill would add transparency and inform the public by requiring the Bureau of Security and Investigative Services to post each accusation, statement of issues, and disciplinary actions on its website within 10 days of the filing date or effective date.

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