COMMITTEE REPORT

February 27, 2019

**H. 3237**

Introduced by Rep. Rutherford

S. Printed 2/27/19--H.

Read the first time January 8, 2019.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 3237) to amend the Code of Laws of South Carolina, 1976, by adding Section 40‑18‑75 so as to prohibit a private investigation business from knowingly representing multiple parties, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking SECTION 1 and inserting:

/ SECTION 1. Chapter 18, Title 40 of the 1976 Code is amended by adding:

“Section 40‑18‑75. (A) No private investigator or any member of the private investigator’s private investigation business shall reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation, or the disclosure is permitted by subsection (B).

(B) A private investigator may reveal information relating to the representation of a client to the extent the private investigator reasonably believes necessary to:

(1) prevent the client from committing a criminal act;

(2) prevent reasonably certain death or substantial bodily harm;

(3) secure legal advice about the private investigator’s compliance with applicable laws and regulations;

(4) establish a claim or defense on behalf of the private investigator in a controversy between the private investigator and the client or to establish a defense to a criminal charge or civil claim against the private investigator based upon conduct in which the client was involved, or to respond to allegations in a proceeding concerning the private investigator’s representation of the client; or

(5) comply with a law or court order.

(C) It is unlawful for a private investigator or any member of the private investigator’s private investigation business to:

(1) knowingly represent a person whose interests are materially adverse to that of the private investigator’s current or former client unless the current or former client, as applicable, gives informed consent;

(2) use information relating to the representation to the disadvantage of a current or former client except as specifically permitted by this section or when the information has become generally known; or

(3) reveal information in violation of this section.

(D) In addition to other penalties for a violation of the provisions of this chapter, a person who violates the provisions of this section must reimburse any and all current and former clients for any and all payments made to the private investigator or private investigation business for a representation that violates this section. /

Renumber sections to conform.

Amend title to conform.

PETER M. MCCOY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 40‑18‑75 SO AS TO PROHIBIT A PRIVATE INVESTIGATION BUSINESS FROM KNOWINGLY REPRESENTING MULTIPLE PARTIES WITH OPPOSING INTERESTS IN CIVIL OR CRIMINAL MATTERS AND TO PROVIDE PENALTIES.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 18, Title 40 of the 1976 Code is amended by adding:

“Section 40‑18‑75. (A) It is unlawful for a private investigator or private investigation business to knowingly provide services to multiple parties whose interests are diametrically opposed to one another in a civil or criminal matter.

(B)(1) In addition to other penalties for a violation of the provisions of this chapter, a person who violates the provisions of this section is guilty of a misdemeanor and, upon conviction, must be fined not more than:

(a) five hundred dollars and his Private Investigation License and private investigator registration certificate, as applicable, must be suspended for two years for a first offense;

(b) one thousand dollars and his Private Investigation License and private investigator registration certificate, as applicable, must be suspended for three years for a second offense; and

(c) one thousand and five hundred dollars and his Private Investigation License and private investigator registration certificate, as applicable, must be suspended for five years for a third and all subsequent offenses.

(2) A private investigator or investigation business who violates the provisions of this section must reimburse the clients for all payments made to the investigator or investigation business.”

SECTION 2. This act takes effect upon approval by the Governor.

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