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Minnesota House of Representatives
Committee on Public Safety Finance and Policy
Attn: John Hultquist (By email: john.hultquist@house.mn.gov)

RE: Support for H.F. 2825 Concerning Private Detective and Protective Agent Services
Licensing

Dear Committee Members:

As the Chair of the Minnesota Board of Private Detective and Protective Agent Services and a Public Member, as well as the most senior member of that Board, I am pleased to submit this letter on behalf of a unanimous decision of the Board to endorse and urge the adoption of this important public safety bill.

Our Board licenses and regulates the private detective and protective agent services industry in the State of Minnesota. While members of the public see that industry every time they go to a public event or venue, it is a little known but important part of the public and private partnership in this State to keep us all as safe as can reasonably be accomplished. Because of the on-going and growing concerns of our residents for public safety accompanied by the desperate shortage in many places of fully and adequately staffed law enforcement agencies, businesses, people and public places and even governments are increasingly turning to private security providers. Data suggests that there are now as many people employed in private security in Minnesota as there are licensed peace officers. To protect the public and regulate and monitor the providers of this critical safety function since at least 1987 the State of Minnesota has required people and entities that provide this service to be licensed under Minn. Stat. 326.32 to 326.56. The purpose of licensing is to make sure that those who provide this service are not only properly trained, but also are themselves not a risk to the safety of the public as demonstrated by their past behaviors, which, as we all know, is the best predictor of future behavior.

Minn. Stat. 326.3381 and 326.3382 establish the criteria and process that must be employed when the Board grants or denies a license to work as a private detective or protective services agent. Among the requirements is that the applicant successfully pass a criminal history background check to insure as protectors of people and property it has

not been proven beyond a reasonable doubt that they have been convicted of certain listed crimes, such as assault, theft or gun crimes. This check is accomplished by means of the applicant signing a consent form and fingerprint driven checks then being done through the BCA. Thanks to the legislation you enacted in 2024, an FBI check can also be conducted for some license applicants and if other legislation is passed this session that will be able to be done for all applicants.

In a similar vein Minn. Stat. 326.336 imposes a legal mandate on license holders that requires that people they plan to hire to serve as security staff or investigators pass a criminal record check for disqualifying criminal convictions. In this regard our regulatory system for private detectives and security is somewhat similar to criminal justice employees and peace officers. For peace officers under POST each officer is licensed and vetted through their hiring agencies and the results of those record records are submitted to the POST Board to determine if the person is disqualified to obtain a peace officer license. Our regulatory system requires the private employer to essentially do the same thing as a condition of their own license and failure to do so could be a basis for discipline including loss of that license. Experience has shown that when license holders have full access to criminal history records of potential employees they rarely end up hiring security staff that have a record of a criminal disqualifying conviction.

With that background here is why we support this Bill and urge you to vote for it. Since January 1, 2015, Minnesota has engaged in a steady and massive expansion of criminal records that are eligible to be sealed and removed from public access. Under the statutes every petty misdemeanor, misdemeanor, gross misdemeanor and about 70 different felony crimes, including felony theft, fraud, forgery and gun crimes, are eligible to be sealed and removed from public access. The sealing of these records does not aside the convictions, according to the Minnesota Supreme Court, but only makes it far harder for them to be found even by regulators and licensing authorities such as our Board. The convictions that are now hidden from access have grown to hundreds of thousands of crimes as of January 1, 2025, with enactment of the Clean Slate Act and many of these convictions are for crimes that the legislature has in statute declared to be ones for which people should be barred from the security industry. These convictions are not just being withheld from public view and they are also made unavailable to our Board and license holders as they try to avoid hiring legally disqualified people. If this bill is not adopted we will have a growing number of people who legally should not be serving in the security industry, but our Board and the license holders will not be able to find those people and comply with the laws that this legislature enacted those many years ago.

We recognize that the policy makers of the State have decided it is a good idea that to improve the chances for housing and employment for some people with criminal records to remove some criminal records from public view, but the legislature has also long held that such mercy and second chances must be balanced against public safety. For example, Minn. Stat. Chpt. 364, commonly known as the Ex-Offender Rehabilitation Act, has always excluded certain public safety positions from its scope, including criminal justice employment and the Private Detective and Protective Agent Services Board. Likewise, the Minnesota Supreme Court in at least two decisions, *State v. M.D.T.*, 831 N.W. 2d 276

(Minn. 2013) and State v. S.L.H., 755 N.W. 2d 271 (Minn. 2008), has held that even when a conviction is sealed it can remain a disqualifying conviction for some purposes. Minn. Stat. 609A.03, subd. 5a has that same provision for possession of firearms and POST Board Rule 6700.0100, subp. 9a has that limitation for peace officer licensing and holds that a sealed or expunged conviction is still a disqualifying conviction. These facts demonstrate our state policy makers see the need for comprehensive vetting of those who work in public safety and that need is no less important for private sector security and investigation functions.

This bill allows for complete and accurate criminal history background checks for those who seek a license in private investigations or security and to treat them as we already do for those who apply to work in law enforcement agencies. The language of this bill is taken almost verbatim from existing statutes, Minn. Stat. 609A.03, subd 7 and 7a, for criminal justice pre-employment background investigations. Just as you and your predecessors saw the wisdom in creating the ability to access criminal conviction records for public criminal justice agencies to be able to hire the right people, this bill would do the same thing for the private investigation and security industry.

Lastly, in this time of fiscal austerity, I am sure that many of you will want to know what this legislation will cost the taxpayer. I have good news because the answer is, and I have consulted with the criminal history records staff at the BCA, **this will not cost taxpayers any additional tax money.** The license applicants and employers already pay an application fee to cover the costs of running a criminal record check and this bill does nothing to change that. These records already exist and all this bill really does is give our Board and licensed Private Detective and Protective Services businesses access to the records that are being denied to us and them under current law. Please support this legislation.

If any committee members want additional information I am available in any forum to provide such answers as I can.

Sincerely,

s/Richard Hodsdon

Board Chair, Minnesota Board of Private Detectives and Protective Agent Services