

1 SB24
2 110296-1
3 By Senator Marsh
4 RFD: Governmental Affairs
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SYNOPSIS: Currently, the practice of private investigation is not regulated or licensed by the state.

 This bill would regulate and license the practice of private investigation by private investigators.

 This bill would define terms; create the Alabama Private Investigation Board and provide for its membership, meetings, officers, powers, and duties; and would prohibit persons acting as a private investigator without a license, subject to criminal punishment as a Class A misdemeanor.

 Amendment 621 of the Constitution of Alabama of 1901, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local

1 governmental entity without enactment by a 2/3 vote
2 unless: it comes within one of a number of
3 specified exceptions; it is approved by the
4 affected entity; or the Legislature appropriates
5 funds, or provides a local source of revenue, to
6 the entity for the purpose.

7 The purpose or effect of this bill would be
8 to require a new or increased expenditure of local
9 funds within the meaning of the amendment. However,
10 the bill does not require approval of a local
11 governmental entity or enactment by a 2/3 vote to
12 become effective because it comes within one of the
13 specified exceptions contained in the amendment.

14
15 A BILL
16 TO BE ENTITLED
17 AN ACT
18

19 Relating to the regulation and the licensure of
20 private investigators unless licensed by this act; to create
21 the Alabama Private Investigation Board to regulate and
22 license private investigators; to provide for the membership,
23 terms, filling of vacancies, powers, including discipline
24 powers, and duties of the commission; to provide for
25 application and licensure of private investigators; to provide
26 penalties; and in connection therewith would have as its

1 purpose or effect the requirement of a new or increased
2 expenditure of local funds within the meaning of Amendment 621
3 of the Constitution of Alabama of 1901, now appearing as
4 Section 111.05 of the Official ReCompilation of the
5 Constitution of Alabama of 1901, as amended.

6 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

7 Section 1. This act shall be known and may be cited
8 as the "Alabama Private Investigators Licensing and Regulatory
9 Act."

10 Section 2. As used in this act, the following terms
11 shall have the following meanings:

12 (1) FELONY. A criminal offense that is defined and
13 punishable under the laws of this state, or an offense
14 committed outside the State of Alabama, which if committed in
15 this state, would be subject to punishment by death or
16 imprisonment in an Alabama penitentiary; a crime in any other
17 state or a crime against the United States which is designated
18 as a felony; or an offense in any other state, territory, or
19 country punishable by imprisonment for a term exceeding one
20 year.

21 (2) PRIVATE INVESTIGATION. The investigation by a
22 person or persons for the purpose of obtaining information
23 with reference to any of the following matters:

24 a. A crime committed or threatened against the
25 United States or any state or territory of the United States,
26 when operating under express written authority of the

1 governmental official responsible for authorizing such
2 investigation.

3 b. The identity, habits, conduct, movements,
4 whereabouts, affiliations, associations, transactions,
5 reputation, or character of any society, person, or group of
6 persons.

7 c. The credibility of witnesses or other persons
8 giving testimony in a criminal or civil action.

9 d. The whereabouts of missing persons, owners of
10 unclaimed property or escheated property, or heirs to estates.

11 (3) PRIVATE INVESTIGATING. The act of any individual
12 or company engaging in the business of obtaining or furnishing
13 information with reference to any of the following:

14 a. A crime committed or threatened against the
15 United States or any state or territory of the United States.

16 b. The identity, habits, conduct, business,
17 occupation, honesty, integrity, credibility, knowledge,
18 trustworthiness, efficiency, loyalty, activity, movement,
19 whereabouts, affiliations, associations, transactions, acts,
20 reputations, or character of any person.

21 c. The location, disposition, or recovery of lost or
22 stolen property.

23 d. The cause or responsibility for fires, losses,
24 accidents, damages, or injuries to persons or to property.

1 (4) PRIVATE INVESTIGATOR. a. A person who performs
2 one or more of the private investigation services or private
3 investigating services defined and regulated by this act.

4 b. A person who, for consideration, advertises as
5 providing or performing private investigation. The term does
6 not include an informant who, on a one time or limited basis,
7 as a result of a unique expertise, ability, or vocation, and
8 who provides information or services while under the direction
9 and control of a licensee of the board, that would otherwise
10 be included in the definition of private investigation.

11 (5) PRIVATE INVESTIGATOR or INDIVIDUAL LICENSEE. A
12 person who is engaged in private investigating and licensed in
13 accordance with this act.

14 Section 3. No person shall hold himself or herself
15 out to the public as a private investigator or use any term,
16 title, or abbreviation that expresses, infers, or implies that
17 the person is licensed as a private investigator unless the
18 person at the time holds a valid license to practice private
19 investigating as provided in this act. All applicants shall
20 pass a criminal background check based on criteria established
21 pursuant to Section 4.

22 Section 4. (a) There is created the Alabama Private
23 Investigation Board. The membership of the board shall reflect
24 the racial, gender, geographic, urban and rural, and economic
25 diversity of the state. The board shall consist of the

1 following members, each of whom shall be a resident of this
2 state, appointed as follows:

3 (1) Three persons appointed by the Governor who
4 shall have been principally engaged in the activities of
5 private investigation in this state for at least five years
6 prior to the date of their appointment. Initially, the
7 Governor shall appoint two members for a term of two years and
8 one member for a term of three years. Thereafter, successor
9 members shall be appointed for terms of four years each.

10 (2) One person appointed by the Lieutenant Governor,
11 who shall have been principally engaged in the activities of
12 private investigation in this state for at least five years
13 prior to the date of their appointment. Initially, the
14 Lieutenant Governor shall appoint the member for two years.
15 Thereafter, successor members shall be appointed for terms of
16 four years.

17 (3) One person appointed by the Speaker of the House
18 of Representatives who shall have been principally engaged in
19 the activities of private investigation in this state for at
20 least five years prior to the date of appointment. Initially,
21 the Speaker of the House of Representatives shall appoint the
22 members for two years. Thereafter, successor member shall be
23 appointed for terms of four years.

24 (4) One person appointed by the Attorney General who
25 shall have been principally engaged in the activities of
26 private investigation in this state for at least five years

1 prior to the date of appointment. Initially, the Attorney
2 General shall appoint the member for two years. Thereafter,
3 successor members shall be appointed for terms of four years.

4 (5) One person appointed by the Alabama Private
5 Investigators Association who shall have been principally
6 engaged in the activities of private investigation in this
7 state for at least five years prior to the date of
8 appointment. Initially, the Alabama Private Investigators
9 Association shall appoint the member for two years.

10 Thereafter, successor members shall be appointed for terms of
11 four years.

12 (b) Following the initial appointments, all
13 successor members of the board shall be appointed for a term
14 of four years and shall serve until their successors are
15 appointed and qualified by subscribing to the constitutional
16 oath of office, which shall be filed with the Secretary of
17 State.

18 (c) Any vacancy occurring on the board shall be
19 filled by the appointing authority of the vacating member for
20 the unexpired term.

21 (d) No member shall be appointed to succeed himself
22 or herself for more than one full term.

23 (e) The appointing authority may remove a member of
24 the board for misconduct, incompetency, or willful neglect of
25 duty. The board may recommend to the appointing authority

1 suggested administrative actions that may be taken against a
2 board member for missing an excessive amount of meetings.

3 (f) Each member of the board shall receive a
4 certificate of appointment from the Governor before entering
5 upon the discharge of the duties of office.

6 Section 5. (a) The board is declared to be a
7 quasi-judicial body, and the members or the employees of the
8 board are granted immunity from civil liability and may not be
9 liable for damages when acting in the performance of their
10 duties under this act.

11 (b) Board members shall be defended by the Attorney
12 General in regard to any litigation filed against them because
13 of the performance of their duties under this act.

14 Section 6. At the initial meeting of the board and
15 every four years thereafter, the members of the board shall
16 select from among their members a chair and vice chair who
17 shall be private investigators and who shall each have the
18 power to do all things necessary and proper for carrying out
19 the provisions of this act not inconsistent with this act or
20 the laws of this state.

21 Section 7. (a) The board may promulgate rules
22 necessary to implement this act and accomplish its objectives
23 subject to the Alabama Administrative Procedure Act.

24 (b) The board may promulgate and establish canons
25 of ethics and minimum acceptable professional standards of
26 practice for licensees within any rules that it adopts.

1 (c) The board shall be entitled to the services of
2 the Attorney General in connection with the affairs of the
3 board.

4 Section 8. (a) The board shall establish regular and
5 special meetings for the purpose of transacting its business.
6 All members of the board shall be notified of the time and
7 place of each meeting pursuant to the Alabama Open Meeting
8 Act.

9 (b) A majority of the board shall constitute a
10 quorum at any meeting of the board.

11 Section 9. (a) Except as otherwise provided in this
12 act, it shall be unlawful for any person to act as a private
13 investigator, without first obtaining a license from the
14 board. For prosecution purposes a violation of this act is
15 classified as a Class A misdemeanor.

16 (b) All licenses issued to private investigators
17 before the enactment of this act shall continue in effect
18 until their expiration. Each holder of a license may
19 thereafter obtain a renewal of the equivalent license under
20 this act by complying with the terms and conditions for
21 renewal prescribed in this act.

22 (c) Each licensee licensed in accordance with this
23 act shall designate a physical address where his or her
24 records are to be kept.

25 Section 10. An application and all information on an
26 application for licensure as a private investigator shall be

1 treated as confidential and shall be filed with the board on
2 forms prescribed by the board. The application shall include
3 all of the following information of the applicant:

4 (1) His or her full name.

5 (2) His or her date and place of birth.

6 (3) All residences during the immediate past five
7 years.

8 (4) All employment or occupations engaged in during
9 the immediate past five years.

10 (5) Three sets of classifiable fingerprints.

11 (6) A list of convictions and pending charges
12 involving a felony or misdemeanor in any jurisdiction.

13 Section 11. (a) Each individual applicant shall meet
14 the following criteria the he or she:

15 (1) Is at least 19 years of age.

16 (2) Is a citizen of the United States or a legally
17 present resident alien.

18 (3) Has not been declared by any court of competent
19 jurisdiction incompetent by reason of mental defect or disease
20 unless a court of competent jurisdiction has subsequently
21 declared the applicant competent.

22 (4) Has not been convicted of a crime of moral
23 turpitude, with the board having the final determination on
24 the interpretation of moral turpitude.

25 (5) Is of good moral character.

1 (6) Has passed an examination to be administered
2 twice annually by the board designed to measure knowledge and
3 competence in the investigation field.

4 (b) A study guide shall be provided to any applicant
5 seeking to obtain an initial or renewal license under this
6 act.

7 (c) Any investigator currently licensed in the state
8 of Alabama shall not have to meet the initial application
9 requirements of this act, but shall be issued a license upon
10 application.

11 Section 12. (a) Upon receipt of an application for a
12 license pursuant to this act, nonrefundable, nonprorateable,
13 application fees shall be submitted for the following
14 services:

15 (1) A request that the Alabama Bureau of
16 Investigation compare the fingerprints submitted with the
17 application to fingerprints filed with the Alabama Bureau of
18 Investigation. On subsequent applications, the Alabama Bureau
19 of Investigation, at the request of the board, shall review
20 its criminal history files based upon the name, date of birth,
21 sex, race, and Social Security number of an applicant whose
22 fingerprints have previously been submitted to the bureau for
23 any new information since the date of the fingerprint
24 comparison, and shall furnish any information thereby derived
25 to the board.

1 (2) A request to submit the fingerprints to the
2 Federal Bureau of Investigation for a search of its files to
3 determine whether the individuals fingerprinted have any
4 recorded convictions.

5 (b) After the approval of the application by the
6 board, the board shall issue a license in a form prescribed by
7 the board to qualified applicants upon its receipt of a
8 nonrefundable, nonprorateable, private investigator license
9 fee as set by the board.

10 (c) (1) If an application for a license is denied,
11 the board shall notify the applicant in writing and shall set
12 forth the grounds for denial. If the grounds are subject to
13 correction by the applicant, the notice shall so state and
14 specify a reasonable period of time within which the applicant
15 shall make the required correction.

16 (2) The applicant shall be allowed to submit reason
17 for reconsideration to the board within 30 days from the date
18 of receipt of denial.

19 (d) The board shall issue an 8x10 license to all
20 licensees which must be displayed on a wall of the workplace
21 of the licensee. This license shall be deemed property of the
22 State of Alabama and subject to forfeiture to the state upon
23 revocation.

24 Section 13. (a) The board shall issue every private
25 investigator licensee an identification card that shall
26 contain the following information of the licensee:

- 1 (1) Name.
- 2 (2) Photograph.
- 3 (3) Physical characteristics.
- 4 (4) Private investigators license number.
- 5 (5) Expiration date of license.

6 (b) An identification card, which shall be issued in
7 a credit card size and shall be permanently laminated.

8 (c) The identification card shall be carried on the
9 person of the licensee when engaged in the activities of the
10 licensee.

11 Section 14. Making a false statement to the board
12 shall be punishable by a civil penalty not to exceed one
13 thousand dollars (\$1,000) and assessment of the maximum
14 application fee.

15 Section 15. Upon receipt of the application and
16 applicable fees, the board shall conduct an investigation to
17 determine whether the statements made in the application are
18 true.

19 Section 16. (a) All licenses issued or renewed under
20 this act shall be valid for a period of two years from the
21 date of issuance. The board shall provide each licensee with a
22 renewal application 60 days prior to the expiration of the
23 license.

24 (b) Each application for renewal shall be reviewed
25 for criminal convictions and civil fraud findings.

1 (c) An administrative monetary penalty prescribed by
2 the board shall be assessed on any renewal application
3 postmarked after the expiration date of the license.

4 (d) No renewal application may be accepted more than
5 30 days after the expiration date of the license or after
6 September 30 of the calendar year.

7 Section 17. (a) The board may suspend, revoke, or
8 refuse to issue or renew any license issued by it upon finding
9 that the holder or applicant has committed any of the
10 following acts:

11 (1) A violation of this act or any rule promulgated
12 under this act.

13 (2) Fraud, deceit, or misrepresentation regarding an
14 application or license.

15 (3) Knowingly and willfully making a material
16 misstatement in connection with an application for a license
17 or renewal.

18 (4) A conviction by a court of competent
19 jurisdiction of a felony or a misdemeanor if the board finds
20 that the conviction reflects unfavorably on the fitness for
21 the license.

22 (5) The commission of any act which would have been
23 cause for refusal to issue the license or registration card
24 had it existed and been known to the board at the time of
25 issuance.

1 (b) In addition to, or in lieu of, any other lawful
2 disciplinary action under this section, the board may assess a
3 civil penalty not exceeding two thousand dollars (\$2,000) for
4 a violation of this act.

5 (c) A license may be suspended for the remaining
6 license period and renewed during any period in which the
7 license was suspended.

8 Section 18. (a) No licensee or applicant shall be
9 required to obtain any authorization, permit, or license from,
10 or pay any other fee or post a bond in, any municipality,
11 county, or other political subdivision of this state to engage
12 in any activity regulated under this act.

13 (b) Notwithstanding subsection (a), a municipality,
14 county, or other political subdivision of this state may
15 impose a bona fide occupational tax on a licensee.

16 Section 19. The board may negotiate and enter into
17 reciprocal agreements with the appropriate officials in other
18 states to permit licensed investigators who meet or exceed the
19 qualifications established in this act to operate across state
20 lines under mutually acceptable terms.

21 Section 20. The board shall provide a copy of this
22 act and any rules promulgated under this act to the following:

23 (1) Each licensee, every two years.

24 (2) Any other person, upon request, for a reasonable
25 fee established by the board.

1 Section 21. The following acts when committed by an
2 individual licensed as a private investigator in Alabama shall
3 constitute a violation punishable as a Class A misdemeanor:

4 (1) To knowingly make a material misrepresentation
5 as to the ability of the individual to perform the
6 investigation required by a potential client in order to
7 obtain employment.

8 (2) To make unsubstantiated monetary charges to a
9 client for services not rendered or transportation not
10 utilized.

11 (3) To knowingly make a false report to a client in
12 relation to the investigation performed for a client.

13 (4) To continue an investigation for a client when
14 it becomes obvious to the investigator that a successful
15 completion of an investigation is unlikely without first
16 advising the client and obtaining the approval of the client
17 for continuation of the investigation.

18 (5) To reveal information obtained for a client
19 during an investigation to another individual except as
20 required by law.

21 (6) Persons licensed pursuant to this act are
22 required to report any suspected instances of child abuse or
23 neglect and must report their suspicions to local law
24 enforcement or the Department of Human Resources, or both.

1 Section 22. The Administrative Procedure Act shall
2 govern all matters and procedures respecting the hearing and
3 judicial overview of any contested case.

4 Section 23. This act does not apply to the
5 following:

6 (1) A private business employee conducting an
7 investigation relating to internal affairs of his or her
8 company.

9 (2) An investigation of the internal affairs of a
10 private business entity investigating a current or prospective
11 employee.

12 Section 24. (a) There is created within the board a
13 division of investigation that shall be its official
14 investigative agency.

15 (b) Each licensee shall provide to the investigative
16 staff all records that pertain to the exact nature of the
17 complaint under investigation and upon issuance of a subpoena.

18 (c) The board or any executive director of the board
19 may subpoena those persons or documents necessary to any
20 investigation undertaken under this act if other means
21 including, but not limited to, notification by return receipt
22 registered United States mail, have not produced the desired
23 results.

24 Section 25. (a) Each licensee shall complete eight
25 hours of continuing professional education acceptable to the
26 board in each calendar year.

1 (b) The board shall make every effort to ensure at
2 least one seminar per year will be held in each congressional
3 district of the state providing an opportunity to fulfill the
4 continuing professional education requirements of this
5 section, which shall include at least one hour per year on
6 ethics.

7 (c) The board shall promulgate rules necessary to
8 carry out this section.

9 Section 26. (a) Any person offering private
10 investigator training must first be certified by the board.
11 The board shall ensure that the instructors employed by the
12 training provider possess both the experience and academic
13 credentials to ensure that the curriculum and instruction will
14 be beneficial to those seeking to enter the profession. In
15 order to qualify as a certified trainer or instructor, or
16 both, the trainer shall meet the following criteria:

17 (1) He or she is 19 years of age.

18 (2) He or she has had at least three years'
19 experience satisfactory to the board with an investigative
20 company or proprietary entity or with any federal, United
21 States Military, state, county, or municipal law enforcement
22 agency and relating to the block of instruction.

23 (3) He or she is personally qualified to conduct the
24 training required by this act and is certified by the board
25 which shall establish standards for the instruction process.

1 (b) A certified trainer, in his or her discretion,
2 may instruct personally or use a combination of personal,
3 instruction, audio, and visual training aids.

4 (c) To assist in the implementation of a training
5 program, the certified trainer may use as an assistant trainer
6 one who meets the following requirements:

7 (1) He or she is 19 years of age.

8 (2) He or she has had at least one year of
9 experience with an investigative company or any United States
10 Military, state, county, or municipal law enforcement agency.

11 (d) A certified trainer may be an employee of a
12 private investigative or propriety agency or, if not, employed
13 by an agency as a company under this act.

14 (e) The certified trainer shall certify that he or
15 she has successfully completed the training and shall submit
16 the certification to the board.

17 (f) The training program, fees, and requirements
18 shall be established by rules promulgated by the board.

19 Section 27. No action taken under this act shall
20 preclude prosecution under any other law of this state.

21 Section 28. Although this bill would have as its
22 purpose or effect the requirement of a new or increased
23 expenditure of local funds, the bill is excluded from further
24 requirements and application under Amendment 621, now
25 appearing as Section 111.05 of the Official Recompilation of
26 the Constitution of Alabama of 1901, as amended, because the

1 bill defines a new crime or amends the definition of an
2 existing crime.

3 Section 29. This act shall become effective on the
4 first day of the third month following its passage and
5 approval by the Governor, or its otherwise becoming law.