

1 HB197
2 145601-5
3 By Representatives Sanderford, McCutcheon, Patterson, Tuggle,
4 Ball, Farley, Greer, Butler, Weaver, Harper, Todd, Black,
5 Sessions, Long, Baughn, Roberts, Williams (D), Burdine, Carns,
6 Collins, Nordgren, Fincher, Millican, Hammon, Buttram,
7 Chesteen, Clouse, Boothe, Vance, Merrill, Jones, Moore (B),
8 Davis, Beech, McMillan and Newton (C)
9 RFD: Boards, Agencies and Commissions
10 First Read: 07-FEB-13

1 (1) FELONY. A criminal offense that is defined and
2 punishable under the laws of this state, or an offense
3 committed outside the State of Alabama, which if committed in
4 this state, would constitute a felony under Alabama law; a
5 crime in any other state or a crime against the United States
6 which is designated as a felony; or an offense in any other
7 state, territory, or country punishable by imprisonment for a
8 term exceeding one year.

9 (2) PRIVATE INVESTIGATION. The compensated act of
10 any individual or company engaging in the business of
11 obtaining or furnishing information with reference to any of
12 the following:

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

15 b. The identity, habits, conduct, business,
16 occupation, honesty, integrity, credibility, including, but
17 not limited to, the credibility of a person giving testimony
18 in a criminal or civil proceeding, knowledge, trustworthiness,
19 efficiency, loyalty, activity, movement, whereabouts,
20 affiliations, associations, transactions, acts, reputations,
21 or character of any person.

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

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

1 (3) PRIVATE INVESTIGATOR. a. A person who, for
2 compensation, performs one or more of the private
3 investigation 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 (4) PRIVATE INVESTIGATOR. A person who is engaged in
12 private investigation as defined herein and who is licensed in
13 accordance with this act.

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

26 (b) Private investigator members provided for herein
27 shall have had five years of experience as an investigator

1 prior to his or her appointment. After five years following
2 the effective date of this act, private investigator members
3 who are appointed to the board shall have been licensed
4 pursuant to this act as a private investigator for a period of
5 at least five years prior to his or her appointment.

6 (c) The following members shall be appointed to the
7 board:

8 (1) Two persons appointed by the Governor, one of
9 whom must be a private investigator in this state and one of
10 whom shall be a consumer who will represent the public at
11 large. The Governor shall appoint the two members to initial
12 terms of three years. Thereafter, successor members shall be
13 appointed for terms of four years each.

14 (2) One person appointed by the Lieutenant Governor,
15 who must be a private investigator. The Lieutenant Governor
16 shall appoint the member for an initial term of two years.
17 Thereafter, successor members shall be appointed for terms of
18 four years.

19 (3) One person appointed by the Speaker of the House
20 of Representatives who must be a private investigator. The
21 Speaker of the House of Representatives shall appoint the
22 member for an initial term of two years. Thereafter, successor
23 members shall be appointed for terms of four years.

24 (4) One person appointed by the Attorney General who
25 must be a private investigator. The Attorney General shall
26 appoint the member for an initial term of two years.

1 Thereafter, successor members shall be appointed for terms of
2 four years.

3 (5) One person appointed by the Alabama State Bar
4 Association who must be a member in good standing for an
5 initial term of four years. Thereafter, successor members
6 shall be appointed for terms of four years.

7 (6) One person appointed by the Alabama Private
8 Investigators Association who must be a private investigator.
9 The association shall appoint the member for an initial term
10 of four years. Thereafter, successor members shall be
11 appointed for terms of four years.

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

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

23 (g) 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
26 suggested administrative actions that may be taken against a
27 board member for missing an excessive amount of meetings.

1 (h) Each member of the board shall receive a
2 certificate of appointment from the Governor before entering
3 upon the discharge of the duties of office.

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

10 (b) Board members and employees shall be defended by
11 the Attorney General in regard to any criminal or civil
12 litigation filed against them based on the performance of
13 their official duties under this act.

14 Section 6. At the initial meeting of the board and
15 each time a new member is appointed to the board, the members
16 of the board shall select from among their members a chair to
17 preside over meetings of the board and a vice chair to preside
18 in the absence of the chair.

19 Section 7. There is hereby created in the State
20 Treasury for the use of the Alabama Private Investigation
21 Board a fund to be known as the Alabama Private Investigation
22 Board Fund. All application and license fees, penalties,
23 fines, and any other funds collected by the board under the
24 provisions of this act are to be deposited in this fund and
25 used only to carry out the operations of the board. No monies
26 shall be withdrawn or expended from the fund for any purpose
27 unless the monies have been appropriated by the Legislature

1 and allocated pursuant to this chapter. Any monies
2 appropriated shall be budgeted and allotted pursuant to the
3 Budget Management Act in accordance with Article 4 (commencing
4 with Section 41-4-80) of Chapter 4 of Title 41, Code of
5 Alabama 1975, and only in the amounts provided by the
6 Legislature in the general appropriations act or other
7 appropriations act. There is hereby appropriated to the
8 Alabama Private Investigation Board the sum of all monies
9 collected and deposited into the Alabama Private Investigation
10 Board Fund for each of the fiscal years ending September 30,
11 2013, and September 30, 2014, to be used for the operations of
12 the board.

13 Section 8. (a) The board may promulgate rules
14 necessary to implement this act and accomplish its objectives
15 subject to the Alabama Administrative Procedure Act.

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

19 (c) The board may hire personnel necessary or as
20 advisable to carry out the purposes and provisions of this
21 article. With the exception of the Executive Director, all
22 personnel shall be subject to the provisions of the state
23 Merit System Act.

24 ~~(c)~~ (d) The Attorney General shall provide legal
25 services to the board and board employees in connection with
26 official duties and actions of the board.

1 Section 9. (a) The board shall establish regular and
2 special meetings for the purpose of transacting its business
3 as provided by rules promulgated by the board. Notice of board
4 meetings and meetings of the board shall comply with the
5 Alabama Open Meetings Act.

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

8 Section 10. (a) Except as otherwise provided in this
9 act, it shall be unlawful for any person to act as a private
10 investigator without first obtaining a license from the board.
11 For prosecution purposes, a violation of this act is
12 classified as a Class A misdemeanor.

13 (b) Each person licensed in accordance with this act
14 shall designate to the board a physical address where his or
15 her records are to be kept.

16 Section 11. An application and all information on an
17 application for licensure as a private investigator shall be
18 treated as confidential and shall be filed with the board on
19 forms prescribed by the board. The application shall include
20 all of the following information of the applicant:

21 (1) His or her full name.

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

23 (3) All residences during the immediate past five
24 years.

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

27 (5) Three sets of classifiable fingerprints.

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

3 Section 12. (a) Each individual applicant shall meet
4 the following criteria that he or she:

5 (1) Is at least 21 years of age.

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

8 (3) Has not been declared by any court of competent
9 jurisdiction incompetent by reason of mental defect or disease
10 unless a court of competent jurisdiction has subsequently
11 declared the applicant competent.

12 (4) Has not been convicted of a crime of moral
13 turpitude, with the board having the final determination on
14 the interpretation of moral turpitude.

15 (5) Has not been convicted of a felony crime.

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

19 (b) A study guide shall be provided to any applicant
20 seeking to obtain an initial or renewal license under this
21 act.

22 (c) Any investigator currently holding a business
23 license in the state of Alabama shall not have to meet the
24 initial application requirements of this act, but shall be
25 issued a license pursuant to this act upon application.

26 Section 13. (a) Upon receipt of an application for a
27 license pursuant to this act, nonrefundable, nonprorateable

1 application fees shall be submitted to the board by the
2 applicant for the following services:

3 (1) A request that the Alabama Bureau of
4 Investigation compare the fingerprints submitted with the
5 application to fingerprints filed with the Alabama Bureau of
6 Investigation. On subsequent applications, the Alabama Bureau
7 of Investigation, at the request of the board, shall review
8 its criminal history files based upon the name, date of birth,
9 sex, race, and Social Security number of an applicant whose
10 fingerprints have previously been submitted to the bureau for
11 any new information since the date of the fingerprint
12 comparison, and shall furnish any information thereby derived
13 to the board.

14 (2) A request to submit the fingerprints to the
15 Federal Bureau of Investigation for a search of its files to
16 determine whether an individual fingerprinted has any recorded
17 convictions.

18 (b) After the approval of the application by the
19 board, the board shall issue a license in a form prescribed by
20 the board to each qualified applicant upon its receipt of a
21 nonrefundable, nonprorateable private investigator license fee
22 as set by the board.

23 (c) (1) If an application for a license is denied,
24 the board shall notify the applicant in writing and specify
25 the grounds for denial. If the grounds are subject to
26 correction by the applicant, the notice shall so state and

1 specify a reasonable period of time within which the applicant
2 shall make the required correction.

3 (2) The applicant may submit an application for
4 reconsideration to the board within 30 days from the date of
5 receipt of denial.

6 (d) The board shall issue a license to all licensees
7 that shall be at least 8"x10" in size and shall be displayed
8 on a wall of the workplace of the licensee. This license shall
9 be deemed property of the State of Alabama and subject to
10 forfeiture to the state upon revocation.

11 Section 14. (a) The board shall issue to every
12 private investigator licensee an identification card, which
13 shall be issued in credit card size, be permanently laminated,
14 and contain the following information of the licensee:

15 (1) Name.

16 (2) Photograph.

17 (3) Physical characteristics.

18 (4) Private investigator's license number.

19 (5) Expiration date of license.

20 (b) The identification card shall be carried on the
21 person of the licensee when engaged in the activities of the
22 licensee.

23 Section 15. Making a false statement to the board
24 shall be punishable by a civil penalty not to exceed one
25 thousand dollars (\$1,000) and assessment of the maximum
26 application fee.

1 Section 16. Upon receipt of an application and
2 applicable fees, the board shall conduct an investigation to
3 determine whether the statements made in the application are
4 true.

5 Section 17. (a) All licenses issued or renewed under
6 this act shall be valid for a period of two years from the
7 date of issuance. The board shall provide each licensee with a
8 renewal application 60 days prior to the expiration of the
9 license.

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

12 (c) An administrative late fee not exceeding two
13 hundred dollars (\$200) as prescribed by the board shall be
14 assessed on any renewal application postmarked after the
15 expiration date of the license.

16 (d) No renewal application may be accepted more than
17 30 days after the expiration date of the license.

18 Section 18. (a) The board may suspend, revoke, or
19 refuse to issue or renew any license issued by it upon finding
20 that the holder or applicant has committed any of the
21 following acts:

22 (1) A violation of this act or any rule promulgated
23 pursuant to this act.

24 (2) Fraud, deceit, or misrepresentation regarding an
25 application or license.

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

4 (4) A conviction by a court of competent
5 jurisdiction of a felony.

6 (5) A conviction by a court of competent
7 jurisdiction of a Class A misdemeanor, if the board finds that
8 the conviction reflects unfavorably on the fitness of the
9 person for the license.

10 (6) The commission of any act which would have been
11 cause for refusal to issue the license or registration card
12 had it existed and been known to the board at the time of
13 issuance.

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

18 (c) A license may be suspended for the remaining
19 license period and renewed during any period in which the
20 license was suspended.

21 Section 19. (a) No licensee or applicant shall be
22 required to obtain any authorization or license from, or pay
23 any other fee or post a bond in, any municipality, county, or
24 other political subdivision of this state to engage in any
25 activity regulated under this act.

26 (b) Notwithstanding subsection (a), a municipality,
27 county, or other political subdivision of this state may

1 impose a bona fide occupational tax or business license fee on
2 a licensee.

3 Section 20. The board may negotiate and enter into
4 reciprocal agreements with the appropriate officials in other
5 states to permit licensed investigators who meet or exceed the
6 qualifications established in this act to operate in
7 reciprocal states under mutually acceptable terms.

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

10 (1) Each licensee, upon issuance of an original
11 license, and every two years thereafter upon license renewal.

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

14 Section 22. (a) The following acts when committed by
15 an individual licensed as a private investigator in Alabama
16 shall constitute a violation punishable as a Class A
17 misdemeanor:

18 (1) To knowingly make a material misrepresentation
19 as to the ability of the individual to perform the
20 investigation required by a potential client in order to
21 obtain employment.

22 (2) To make unsubstantiated monetary charges to a
23 client for services not rendered or transportation not
24 utilized.

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

1 (4) To continue an investigation for a client when
2 it becomes obvious to the investigator that a successful
3 completion of an investigation is unlikely without first
4 advising the client and obtaining the approval of the client
5 for continuation of the investigation.

6 (5) To reveal information obtained for a client
7 during an investigation to another individual except as
8 required by law.

9 (b) Persons licensed pursuant to this act shall
10 report any suspected instances of child abuse or neglect to a
11 local law enforcement agency or the Department of Human
12 Resources, or both.

13 Section 23. The Administrative Procedure Act shall
14 govern all matters and procedures respecting the hearing and
15 judicial overview of any contested case.

16 Section 24. This act does not apply to the
17 following:

18 (1) An employee of any business or entity that is
19 not primarily engaged in the business of private investigation
20 when that employee is performing duties related to his or her
21 employment.

22 (2) An investigation of the internal affairs of a
23 private business entity investigating a current or prospective
24 employee.

25 (3) An employee of any business or entity that is
26 not primarily engaged in the business of private investigation

1 when that employee is working under a contract for his or her
2 services that his or her employer signed with a third party.

3 (4) Any person or professional, including without
4 limitation an attorney providing legal services, who is not
5 primarily engaged in the business of private investigation,
6 but who in conjunction with his or her business or profession
7 may occasionally perform private investigation services.

8 (5) Any business or entity that is not primarily
9 engaged in the business of private investigation.

10 (6) A consumer reporting agency as defined by the
11 Federal Fair Credit Reporting Act.

12 (7) Any certified public accountant authorized to
13 engage in the practice of public accountancy in this state or
14 any entity licensed or otherwise permitted to engage in the
15 practice of public accountancy in this state or the affiliated
16 entities thereof.

17 (8)a. An attorney-at-law in good standing and
18 licensed to practice law;

19 b. An employee of a single attorney or single law
20 firm who is acting within the employee's scope of employment
21 for the attorney or law firm; or

22 c. A consultant or forensic scientist when the
23 person is retained by an attorney or appointed by a court to
24 serve as an expert witness or to make tests, conduct
25 experiments, draw conclusions, render opinions or make
26 diagnoses, where those services require the use of training or

1 experience in a technical, scientific, or social science
2 field.

3 (9) Any individual engaged in any of the following:

4 a. Computer or digital forensic services.

5 b. The acquisition, review, or analysis of digital
6 or computer-based information in order to obtain or furnish
7 information for evidentiary or other purposes or to provide
8 expert testimony before any court, board, officer, or
9 investigating committee.

10 c. Network or system vulnerability testing,
11 including network scans and risk assessment and analysis of
12 computers connected to a network.

13 Section 25. (a) There is created within the board a
14 Division of Investigation that shall be the board's official
15 investigative agency.

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

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

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

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

10 (c) The board shall promulgate rules necessary to
11 carry out this section.

12 Section 27. (a) Any person offering private
13 investigation training must first be certified by the board.
14 The board shall ensure that the instructors employed by the
15 training provider possess both the experience and academic
16 credentials to ensure that the curriculum and instruction will
17 be beneficial to those seeking to enter the profession. In
18 order to qualify as a certified trainer or instructor, or
19 both, the trainer shall meet the following criteria that he or
20 she:

21 (1) Is 21 years of age.

22 (2) Has had at least three years' experience
23 satisfactory to the board with an investigative company or
24 proprietary entity or with any federal, United States
25 Military, state, county, or municipal law enforcement agency
26 and relating to the block of instruction.

1 (3) Is personally qualified to conduct the training
2 required by this act and is certified by the board which shall
3 establish standards for the instruction process.

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

7 (c) To assist in the implementation of a training
8 program, the certified trainer may use as an assistant trainer
9 any person who meets each of the following requirements that
10 the assistant:

11 (1) Is 19 years of age.

12 (2) Has had at least one year of experience with an
13 investigative company or any United States Military, state,
14 county, or municipal law enforcement agency.

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

18 (e) The certified trainer shall certify that he or
19 she has successfully completed the training and shall submit
20 the certification to the board.

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

23 Section 28. No criminal or civil action taken under
24 this act precludes a prosecution or action under any other law
25 of this state.

26 Section 29. The Alabama Private Investigation Board
27 is subject to the provisions of the Alabama Sunset Law of

1 1981. The board shall automatically terminate on October 1,
2 2016, and every four years thereafter, unless a bill is passed
3 that it be continued, modified, or reestablished.

4 Section 30. Although this bill would have as its
5 purpose or effect the requirement of a new or increased
6 expenditure of local funds, the bill is excluded from further
7 requirements and application under Amendment 621, now
8 appearing as Section 111.05 of the Official Recompilation of
9 the Constitution of Alabama of 1901, as amended, because the
10 bill defines a new crime or amends the definition of an
11 existing crime.

12 Section 31. This act shall become effective on the
13 first day of the third month following its passage and
14 approval by the Governor, or its otherwise becoming law.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18

House of Representatives

Read for the first time and re-
ferred to the House of Representa-
tives committee on Boards, Agencies
and Commissions..... 07-FEB-13

Read for the second time and placed
on the calendar 1 amendment 14-FEB-13

Read for the third time and passed
as amended..... 09-APR-13

Yeas 98, Nays 0, Abstains 0

Jeff Woodard
Clerk