

1 SB172  
2 145601-6  
3 By Senators Holtzclaw, Fielding, Waggoner, Scofield, Whatley,  
4 Reed, Allen, Orr, Taylor, McGill, Singleton, Beason, Keahey,  
5 Blackwell and Smitherman  
6 RFD: Governmental Affairs  
7 First Read: 07-FEB-13

1 SB172

2  
3  
4 ENGROSSED

5  
6  
7 A BILL  
8 TO BE ENTITLED  
9 AN ACT

10  
11 Relating to the regulation of private investigation;  
12 to create the Alabama Private Investigation Board to regulate  
13 and license the practice of private investigation; to provide  
14 for the membership, terms, filling of vacancies, powers,  
15 including disciplinary powers, and duties of the board; to  
16 provide for the application for and licensure of private  
17 investigators; to establish the Alabama Private Investigation  
18 Board Fund within the State Treasury and to provide for an  
19 appropriation from the fund for fiscal years 2013 and 2014; to  
20 provide penalties; and in connection therewith would have as  
21 its purpose or effect the requirement of a new or increased  
22 expenditure of local funds within the meaning of Amendment 621  
23 of the Constitution of Alabama of 1901, now appearing as  
24 Section 111.05 of the Official Recompilation of the  
25 Constitution of Alabama of 1901, as amended.  
26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. This act shall be known and may be cited  
2 as the "Alabama Private Investigation Regulatory Act."

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

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

13           (2) PRIVATE INVESTIGATION. The compensated act of  
14 any individual or company engaging in the business of  
15 obtaining or furnishing information with reference to any of  
16 the following:

17           a. A crime committed or threatened against the  
18 United States or any state or territory of the United States.

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

26           c. The location, disposition, or recovery of lost or  
27 stolen property.

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

3           (3) PRIVATE INVESTIGATOR. a. A person who, for  
4 compensation, performs one or more of the private  
5 investigation services defined and regulated by this act.

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

13           (4) PRIVATE INVESTIGATOR. A person who is engaged in  
14 private investigation as defined herein and who is licensed in  
15 accordance with this act.

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

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

1 (b) Private investigator members provided for herein  
2 shall have had five years of experience as an investigator  
3 prior to his or her appointment. After five years following  
4 the effective date of this act, private investigator members  
5 who are appointed to the board shall have been licensed  
6 pursuant to this act as a private investigator for a period of  
7 at least five years prior to his or her appointment.

8 (c) The following members shall be appointed to the  
9 board:

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

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

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

26 (4) One person appointed by the Attorney General who  
27 must be a private investigator. The Attorney General shall

1       appoint the member for an initial term of two years.  
2       Thereafter, successor members shall be appointed for terms of  
3       four years.

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

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

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

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

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

24              (g) The appointing authority may remove a member of  
25      the board for misconduct, incompetency, or willful neglect of  
26      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 (h) 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. Absent negligence, wantonness,  
8 recklessness, or deliberate misconduct, the members and the  
9 employees of the board are granted immunity from civil  
10 liability and may not be liable for damages when acting in the  
11 performance of their duties under this act.

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

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

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

1 shall be withdrawn or expended from the fund for any purpose  
2 unless the monies have been appropriated by the Legislature  
3 and allocated pursuant to this chapter. Any monies  
4 appropriated shall be budgeted and allotted pursuant to the  
5 Budget Management Act in accordance with Article 4 (commencing  
6 with Section 41-4-80) of Chapter 4 of Title 41, Code of  
7 Alabama 1975, and only in the amounts provided by the  
8 Legislature in the general appropriations act or other  
9 appropriations act. There is hereby appropriated to the  
10 Alabama Private Investigation Board the sum of all monies  
11 collected and deposited into the Alabama Private Investigation  
12 Board Fund for each of the fiscal years ending September 30,  
13 2013, and September 30, 2014, to be used for the operations of  
14 the board.

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

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

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



1 (d) The Attorney General shall provide legal  
2 services to the board and board employees in connection with  
3 official duties and actions of the board.

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

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

11 Section 10. (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 board.  
14 For prosecution purposes, a violation of this act is  
15 classified as a Class A misdemeanor.

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

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

24 (1) His or her full name.

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

26 (3) All residences during the immediate past five  
27 years.

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

3           (5) Three sets of classifiable fingerprints.

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

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

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

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

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

15           (4) Has not been convicted of a crime of moral  
16 turpitude, with the board having the final determination on  
17 the interpretation of moral turpitude.

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

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

22           (b) A study guide shall be provided to any applicant  
23 seeking to obtain an initial or renewal license under this  
24 act.

25           (c) Any investigator currently holding a business  
26 license in the state of Alabama shall not have to meet the

1 initial application requirements of this act, but shall be  
2 issued a license pursuant to this act upon application.

3 Section 13. (a) Upon receipt of an application for a  
4 license pursuant to this act, nonrefundable, nonprorateable  
5 application fees shall be submitted to the board by the  
6 applicant for the following services:

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

18 (2) A request to submit the fingerprints to the  
19 Federal Bureau of Investigation for a search of its files to  
20 determine whether an individual fingerprinted has any recorded  
21 convictions.

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

1 (c) (1) If an application for a license is denied,  
2 the board shall notify the applicant in writing and specify  
3 the grounds for denial. If the grounds are subject to  
4 correction by the applicant, the notice shall so state and  
5 specify a reasonable period of time within which the applicant  
6 shall make the required correction.

7 (2) The applicant may submit an application for  
8 reconsideration to the board within 30 days from the date of  
9 receipt of denial.

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

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

19 (1) Name.

20 (2) Photograph.

21 (3) Physical characteristics.

22 (4) Private investigator's license number.

23 (5) Expiration date of license.

24 (b) The identification card shall be carried on the  
25 person of the licensee when engaged in the activities of the  
26 licensee.

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

5           Section 16. Upon receipt of an application and  
6 applicable fees, the board shall conduct an investigation to  
7 determine whether the statements made in the application are  
8 true.

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

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

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

20           (d) No renewal application may be accepted more than  
21 30 days after the expiration date of the license.

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

26           (1) A violation of this act or any rule promulgated  
27 pursuant to this act.

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

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

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

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

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

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

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

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

1           (b) Notwithstanding subsection (a), a municipality,  
2 county, or other political subdivision of this state may  
3 impose a bona fide occupational tax or business license fee on  
4 a licensee.

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

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

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

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

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

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

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

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

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

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

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

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

18           Section 24. This act does not apply to the  
19 following:

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

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



1           (3) An employee of any business or entity that is  
2 not primarily engaged in the business of private investigation  
3 when that employee is working under a contract for his or her  
4 services that his or her employer signed with a third party.

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

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

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

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

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

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

24           c. A consultant or forensic scientist when the  
25 person is retained by an attorney or appointed by a court to  
26 serve as an expert witness or to make tests, conduct  
27 experiments, draw conclusions, render opinions or make

1 diagnoses, where those services require the use of training or  
2 experience in a technical, scientific, or social science  
3 field.

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

5 a. Computer or digital forensic services.

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

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

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

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

21 (c) The board or an executive director of the board  
22 may subpoena those persons or documents necessary to any  
23 investigation undertaken under this act if other means  
24 including, but not limited to, notification by return receipt  
25 registered United States mail, have not produced the desired  
26 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

Senate

Read for the first time and referred to the Senate  
committee on Governmental Affairs..... 07-FEB-13

Read for the second time and placed on the calen-  
dar 1 amendment..... 26-FEB-13

Read for the third time and passed as amended .... 11-APR-13

Yeas 17  
Nays 1

Patrick Harris  
Secretary