

1 SB363
2 196737-3
3 By Senator Smitherman
4 RFD: Governmental Affairs
5 First Read: 02-MAY-19

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8 SYNOPSIS: Under existing law, the Alabama Private
9 Investigation Board is responsible for the
10 licensing and regulation of private investigators
11 in the state.

12 This bill would clarify those fees collected
13 by the board that must be deposited into the Board
14 of Private Investigation Fund.

15 This bill would provide further for the
16 qualifications for licensure as a private
17 investigator.

18 This bill would provide further for criminal
19 history background checks for applicants for
20 licensure.

21 This bill would authorize the board to grant
22 inactive status to licensees and to provide, by
23 rule, for a procedure and fee to reinstate an
24 inactive license.

25 This bill would provide for administrative
26 penalties against any person practicing without a
27 license.

1 This bill would require licensees to report
2 arrests to the board within 72 hours.

3 This bill would also clarify that the number
4 of hours of continuing education required to
5 maintain licensure is 16 hours during the two-year
6 license period.

7
8 A BILL

9 TO BE ENTITLED

10 AN ACT

11
12 To amend Sections 34-25B-4, 34-25B-7, 34-25B-11,
13 34-25B-12, 34-25B-13, 34-25B-17, 34-25B-18, 34-25B-21,
14 34-25B-22, and 34-25B-26 of the Code of Alabama 1975, relating
15 to the Alabama Private Investigation Regulatory Act; to
16 clarify those fees collected by the board that must be
17 deposited into the Board of Private Investigation Fund; to
18 provide further for the qualifications for licensure as a
19 private investigator; to provide further for criminal history
20 background checks for applicants for licensure; to authorize
21 the board to grant inactive status to licensees and to
22 provide, by rule, for a procedure and fee to reinstate an
23 inactive license; to provide for administrative penalties
24 against any person practicing without a license; to require
25 licensees to report arrests to the board within 72 hours; and
26 to clarify that the number of hours of continuing education

1 required to maintain licensure is 16 hours during the two-year
2 license period.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-25B-4, 34-25B-7, 34-25B-11,
5 34-25B-12, 34-25B-13, 34-25B-17, 34-25B-18, 34-25B-21,
6 34-25B-22, and 34-25B-26 of the Code of Alabama 1975, are
7 amended to read as follows:

8 "§34-25B-4.

9 "(a) There is created the Alabama Private
10 Investigation Board. The appointing authorities shall
11 coordinate their appointments to assure the membership of the
12 board ~~shall reflect~~ is inclusive and reflects the racial,
13 gender, geographic, urban and rural, and economic diversity of
14 the state.

15 "(b) Private investigator members provided for
16 herein shall have had five years of experience as an
17 investigator prior to his or her appointment. Beginning on
18 August 1, 2018, private investigator members who are appointed
19 to the board shall have been licensed pursuant to this chapter
20 as a private investigator for a period of at least five years
21 prior to his or her appointment.

22 "(c) The following members shall be appointed to the
23 board:

24 "(1) Three persons appointed by the Governor, two of
25 whom shall be private investigators in this state and one of
26 whom shall be a consumer who will represent the public at
27 large. The Governor shall appoint the three members to initial

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

3 "(2) One person appointed by the Lieutenant
4 Governor, who must be a private investigator. The Lieutenant
5 Governor shall appoint the member for an initial term of two
6 years. Thereafter, successor members shall be appointed for
7 terms of four years.

8 "(3) One person appointed by the Speaker of the
9 House of Representatives who must be a private investigator.
10 The Speaker of the House of Representatives shall appoint the
11 member for an initial term of two years. Thereafter, successor
12 members shall be appointed for terms of four years.

13 "(4) One person appointed by the Attorney General
14 who must be a private investigator. The Attorney General shall
15 appoint the member for an initial term of two years.
16 Thereafter, successor members shall be appointed for terms of
17 four years.

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

22 "(6) One person appointed by the Alabama Private
23 Investigators Association who must be a private investigator.
24 The association shall appoint the member for an initial term
25 of four years. Thereafter, successor members shall be
26 appointed for terms of four years.

1 "(d) Following the initial appointments, all
2 successor members of the board shall be appointed for a term
3 of four years and shall serve until their successors are
4 appointed and qualified by subscribing to the constitutional
5 oath of office, ~~which shall be filed with the Secretary of~~
6 ~~State.~~

7 "(e) Any vacancy occurring on the board shall be
8 filled by the appointing authority of the vacating member for
9 the unexpired term.

10 "(f) No member may be appointed to ~~succeed himself~~
11 ~~or herself for more than one full term~~ two consecutive full
12 terms.

13 "(g) The appointing authority may remove a member of
14 the board for misconduct, incompetency, or willful neglect of
15 duty. The board may recommend to the appointing authority
16 suggested administrative actions that may be taken against a
17 board member for missing an excessive amount of meetings.

18 "~~(h) Each member of the board shall receive a~~
19 ~~certificate of appointment from the Governor before entering~~
20 ~~upon the discharge of the duties of office.~~

21 "§34-25B-7.

22 "(a) There is hereby created in the State Treasury
23 for the use of the Alabama Private Investigation Board a fund
24 to be known as the Alabama Private Investigation Board Fund.
25 All application and license fees, penalties, fines, and any
26 other funds collected by the board under ~~the provisions of~~
27 this chapter are to be deposited in this fund and used only to

1 carry out the operations of the board. Fees that the board may
2 charge, collect, and deposit into the fund shall include, but
3 not be limited to, all of the following:

4 "(1) An application fee for an original license and
5 an inactive status certificate.

6 "(2) A renewal fee for a license and an inactive
7 status certificate.

8 "(3) A reinstatement application fee.

9 "(4) A late renewal fee.

10 "(5) A change of information fee.

11 "(6) A replacement license fee.

12 "(7) An inactive license fee.

13 "(8) Reasonable and necessary administrative fees
14 that reflect the actual costs of services provided.

15 "(b) No monies shall be withdrawn or expended from
16 the fund for any purpose unless the monies have been
17 appropriated by the Legislature and allocated pursuant to this
18 chapter. Any monies appropriated shall be budgeted and
19 allotted pursuant to the Budget Management Act in accordance
20 with Article 4 (commencing with Section 41-4-80) of Chapter 4
21 of Title 41, and only in the amounts provided by the
22 Legislature in the general appropriations act or other
23 appropriations act. There is hereby appropriated to the
24 Alabama Private Investigation Board the sum of all monies
25 collected and deposited into the Alabama Private Investigation
26 Board Fund for each of the fiscal years ending September 30,
27 2013, and September 30, 2014, to be used for the operations of

1 the board. All expenses incurred by the board in implementing
2 and administering this chapter shall be paid out of the fund,
3 provided that the expenses of the board shall not exceed the
4 amount of monies in the fund.

5 "§34-25B-11.

6 "An application and all information on an
7 application for licensure as a private investigator shall be
8 treated as confidential and shall be filed with the board on
9 forms prescribed by the board. The application shall include
10 all of the following information of the applicant:

11 "(1) His or her full name.

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

13 "(3) All residences during the immediate past five
14 years.

15 "(4) All employment or occupations engaged in during
16 the immediate past five years.

17 "(5) Three sets of classifiable fingerprints or
18 criminal history background information, or both, as approved
19 by the board for initial licensure.

20 "(6) A list of convictions and pending charges
21 involving a felony or misdemeanor in any jurisdiction.

22 "§34-25B-12.

23 "~~(a)~~ Each individual applicant for licensure as a
24 private investigator shall meet all of the following criteria
25 that he or she:

26 "(1) Is at least 21 years of age.

1 "(2) Has not been declared by any court of competent
2 jurisdiction incompetent by reason of mental defect or disease
3 unless a court of competent jurisdiction has subsequently
4 declared the applicant competent.

5 "(3) Has not been convicted of a crime of moral
6 turpitude, with the board having the final determination on
7 the interpretation of moral turpitude.

8 "(4) Has not been convicted of a felony crime.

9 "(5) Has passed an examination to be administered at
10 least twice annually and approved by the board designed to
11 measure knowledge and competence in the investigation field.

12 "~~(b) A study guide shall be provided to any~~
13 ~~applicant seeking to obtain an initial or renewal license~~
14 ~~under this chapter.~~

15 "~~(c) Any investigator currently holding a business~~
16 ~~license in the State of Alabama shall not have to meet the~~
17 ~~initial application requirements of this chapter, but shall be~~
18 ~~issued a license pursuant to this chapter upon application.~~

19 "§34-25B-13.

20 "(a) Upon receipt of an application for a license
21 pursuant to this chapter, nonrefundable, nonprorateable
22 application fees shall be submitted to the board by the
23 applicant for the following services:

24 "(1) A request that ~~the Alabama Bureau of~~
25 ~~Investigation compare the fingerprints submitted with the~~
26 ~~application to fingerprints filed with the Alabama Bureau of~~
27 ~~Investigation~~ a criminal background check be obtained as

1 approved by the board. On subsequent applications, the Alabama
2 Bureau of Investigation State Law Enforcement Agency,
3 successor organization, or other criminal history background
4 provider approved by the board, at the request of the board,
5 shall review its criminal history files based upon the name,
6 date of birth, sex, race, and Social Security number of an
7 applicant whose ~~fingerprints have~~ criminal history information
8 has previously been submitted ~~to the bureau~~ for any new
9 information since the date of the original fingerprint or
10 criminal history background check comparison, and shall
11 furnish any information thereby derived to the board.

12 "(2) A request to submit the fingerprints to the
13 ~~Federal Bureau of Investigation~~ Alabama State Law Enforcement
14 Agency, successor organization, or other approved provider of
15 criminal history background information for a search of its
16 files to determine whether an individual ~~fingerprinted~~ has any
17 recorded 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 private
7 investigator licensees that shall be at least 8" x 10" in size
8 and shall be displayed on a wall of the workplace of the
9 licensee. ~~This license~~ All licenses and identification cards
10 issued by the board shall be deemed property of the State of
11 Alabama and subject to forfeiture to the state upon
12 revocation.

13 "§34-25B-17.

14 "(a) All private investigator licenses issued or
15 renewed under this chapter shall be valid for a period of two
16 years from the ~~date~~ month of issuance. The board shall ~~provide~~
17 ~~each licensee with~~ mail to each licensee, at his or her
18 address of record, a renewal application at least 60 days
19 prior to the expiration of the license. A licensee shall
20 report any change of address to the board.

21 "(b) Each application for renewal shall be reviewed
22 for criminal convictions and civil fraud findings.

23 "(c) An administrative late fee not exceeding two
24 hundred dollars (\$200) as prescribed by the board shall be
25 assessed on any renewal application postmarked after the
26 expiration date of the license.

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

3 "(e) Any person licensed by the board may elect
4 inactive status by notifying the board in writing. The fee for
5 the issuance and renewal of an inactive status certificate
6 shall be established by rule of the board. The board shall
7 provide by rule for those activities which an inactive status
8 certificate holder may engage in, and for a procedure and fee
9 for the reinstatement to an active license.

10 "§34-25B-18.

11 "(a) The board may suspend, revoke, or refuse to
12 issue or renew any private investigator license issued by it
13 upon finding that the holder or applicant has committed any of
14 the following acts:

15 "(1) A violation of this chapter or any rule
16 promulgated pursuant to this chapter.

17 "(2) Fraud, deceit, or misrepresentation regarding
18 an application or license.

19 "(3) Knowingly and willfully making a material
20 misstatement in connection with an application for a license
21 or renewal.

22 "(4) A conviction by a court of competent
23 jurisdiction of a felony.

24 "(5) A conviction by a court of competent
25 jurisdiction of a Class A misdemeanor, if the board finds that
26 the conviction reflects unfavorably on the fitness of the
27 person for the license.

1 "(6) The commission of any act which would have been
2 cause for refusal to issue the license or identification card
3 had it existed and been known to the board at the time of
4 issuance.

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

9 "(c) A license may be suspended for the remaining
10 license period and renewed during any period in which the
11 license was suspended.

12 "(d) Any entity or person found to be providing
13 private investigator services without a license as required by
14 this chapter shall be subject to an administrative fine of up
15 to one thousand dollars (\$1,000) per day that services are
16 provided without a license, and may be administratively
17 enjoined by the board from providing services until such time
18 as the entity or person complies with this chapter.

19 "§34-25B-21.

20 "The board shall provide a copy of this chapter and
21 any rules promulgated under this chapter ~~to the following:~~ on
22 the website of the board.

23 "~~(1) Each licensee, upon issuance of an original~~
24 ~~license, and every two years thereafter upon license renewal.~~

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

27 "§34-25B-22.

1 "(a) 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 "(b) Persons licensed pursuant to this chapter shall
22 report any suspected instances of child abuse or neglect to a
23 local law enforcement agency or the Department of Human
24 Resources, or both.

25 "(c) Persons licensed pursuant to this chapter shall
26 report any arrest to the board within 72 hours.

27 "§34-25B-26.

1 "(a) Each licensee shall complete ~~eight~~ 16 hours of
2 continuing professional education acceptable to the board in
3 each ~~calendar year~~ renewal period.

4 ~~(b) The board shall make every effort to ensue 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)~~ (b) The board shall promulgate rules necessary
11 to carry out this section."

12 Section 2. 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.