

1 HB364
2 217504-1
3 By Representatives Mooney, Hanes, Holmes, Wingo, Sanderford,
4 Sells, Oliver, Carns, Stringer and Fincher
5 RFD: Boards, Agencies and Commissions
6 First Read: 16-FEB-22

8 SYNOPSIS: Under existing law, the Alabama Private
9 Investigation Board is responsible for licensing
10 and regulating private investigators in the state
11 pursuant to the Alabama Private Investigation
12 Regulatory Act.

13 This bill would change the name of the
14 regulatory law to the Alabama Private Investigation
15 and Process Server Regulatory Act and would provide
16 for the licensing and regulation of process servers
17 by the board.

18 Amendment 621 of the Constitution of Alabama
19 of 1901, as amended by Amendment 890, now appearing
20 as Section 111.05 of the Official Recompilation of
21 the Constitution of Alabama of 1901, as amended,
22 prohibits a general law whose purpose or effect
23 would be to require a new or increased expenditure
24 of local funds from becoming effective with regard
25 to a local governmental entity without enactment by
26 a 2/3 vote unless: it comes within one of a number
27 of specified exceptions; it is approved by the

1 affected entity; or the Legislature appropriates
2 funds, or provides a local source of revenue, to
3 the entity for the purpose.

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

11
12 A BILL
13 TO BE ENTITLED
14 AN ACT

15
16 Relating to the Alabama Private Investigation
17 Regulatory Act; to amend Sections 34-25B-1, 34-25B-2,
18 34-25B-3, 34-25B-4, 34-25B-7, 34-25B-10, 34-25B-11, 34-25B-12,
19 34-25B-14, 34-25B-22, 34-25B-24, and 34-25B-27, Code of
20 Alabama 1975; to change the name of the regulatory act to the
21 Alabama Private Investigation and Process Server Regulatory
22 Act; to provide for the licensing and regulation of process
23 servers by the Alabama Private Investigation Board; and in
24 connection therewith would have as its purpose or effect the
25 requirement of a new or increased expenditure of local funds
26 within the meaning of Amendment 621 of the Constitution of
27 Alabama of 1901, as amended by Amendment 890, now appearing as

1 Section 111.05 of the Official Recompilation of the
2 Constitution of Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-25B-1, 34-25B-2, 34-25B-3,
5 34-25B-4, 34-25B-7, 34-25B-10, 34-25B-11, 34-25B-12,
6 34-25B-14, 34-25B-22, 34-25B-24, and 34-25B-27 of the Code of
7 Alabama 1975, are amended to read as follows:

8 "§34-25B-1.

9 "This chapter shall be known and may be cited as the
10 "Alabama Private Investigation and Process Server Regulatory
11 Act."

12 "§34-25B-2.

13 "As used in this chapter, the following terms shall
14 have the following meanings:

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

23 "(2) PRIVATE INVESTIGATION. The compensated act of
24 any individual or company engaging in the business of
25 obtaining or furnishing information with reference to any of
26 the following:

1 "a. A crime committed or threatened against the
2 United States or any state or territory of the United States.

3 "b. The identity, habits, conduct, business,
4 occupation, honesty, integrity, credibility, including, but
5 not limited to, the credibility of ~~a person~~ an individual
6 giving testimony in a criminal or civil proceeding, knowledge,
7 trustworthiness, efficiency, loyalty, activity, movement,
8 whereabouts, affiliations, associations, transactions, acts,
9 reputations, or character of any ~~person~~ individual.

10 "c. The location, disposition, or recovery of lost
11 or stolen property.

12 "d. The cause or responsibility for fires, losses,
13 accidents, damages, or injuries to ~~persons~~ individuals or to
14 property.

15 "(3) PRIVATE INVESTIGATOR. a. ~~A person~~ An
16 individual who, for compensation, performs one or more of the
17 private investigation services defined and regulated by this
18 chapter.

19 "b. ~~A person~~ An individual who, for consideration,
20 advertises as providing or performing private investigation.
21 The term does not include an informant who, on a one time or
22 limited basis, as a result of a unique expertise, ability, or
23 vocation, and who provides information or services while under
24 the direction and control of a licensee of the board, that
25 would otherwise be included in the definition of private
26 investigation.

1 "~~c. A person~~ An individual who is engaged in private
2 investigation as defined herein and who is licensed in
3 accordance with this chapter.

4 "(4) PROCESS SERVER. An individual who engages in
5 the service of legal process including, but not limited to,
6 writs, warrants, summonses, and orders of courts of justice or
7 judicial officers within any jurisdiction of this state and is
8 licensed by the board. The term does not include any of the
9 following:

10 "a. A sheriff, coroner, elisor, or other government
11 employee who is acting in the course of employment.

12 "b. A licensed attorney.

13 "§34-25B-3.

14 "(a) No ~~person~~ individual 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~~ individual
18 is licensed as a private investigator unless the ~~person~~
19 individual at the time holds a valid license to practice
20 private investigation as provided in this chapter.

21 "(b) No individual shall engage in the service of
22 legal process or hold himself or herself out to the public as
23 a process server or use any term, title, or abbreviation that
24 expresses, infers, or implies that he or she is licensed as a
25 process server, unless the individual at the time holds a
26 valid license to practice process serving as provided in this
27 chapter.

1 "(c) All applicants shall pass a criminal background
2 check based on criteria established pursuant to Section
3 34-25B-4.

4 "§34-25B-4.

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

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

18 "(2) Beginning on the effective date of the act
19 adding this sentence, process server members who are appointed
20 to the board shall have had five years of experience as a
21 process server prior to his or her appointment. Beginning on
22 August 1, 2028, process server members who are appointed to
23 the board shall have been licensed pursuant to this chapter as
24 a process server for a period of at least five years prior to
25 appointment.

26 "(c) The following members shall be appointed to the
27 board:

1 "(1) Three ~~persons~~ individuals appointed by the
2 Governor, two of whom shall be private investigators in this
3 state and one of whom shall be a consumer who will represent
4 the public at large. The Governor shall appoint the three
5 members to initial terms of three years. ~~Thereafter, successor~~
6 ~~members shall be appointed for terms of four years each.~~

7 "(2) One ~~person~~ individual appointed by the
8 Lieutenant Governor, who ~~must~~ shall be a private investigator
9 or a process server. The Lieutenant Governor shall appoint the
10 member for an initial term of two years. ~~Thereafter, successor~~
11 ~~members shall be appointed for terms of four years.~~

12 "(3) One ~~person~~ individual appointed by the Speaker
13 of the House of Representatives who ~~must~~ shall be a private
14 investigator or a process server. The Speaker of the House of
15 Representatives shall appoint the member for an initial term
16 of two years. ~~Thereafter, successor members shall be appointed~~
17 ~~for terms of four years.~~

18 "(4) One ~~person~~ individual appointed by the Attorney
19 General who ~~must~~ shall be a private investigator. The Attorney
20 General shall appoint the member for an initial term of two
21 years. ~~Thereafter, successor members shall be appointed for~~
22 ~~terms of four years.~~

23 "(5) One ~~person~~ individual appointed by the Alabama
24 State Bar Association who ~~must~~ shall be a member in good
25 standing for an initial term of four years. ~~Thereafter,~~
26 ~~successor members shall be appointed for terms of four years.~~

1 "(6) One ~~person~~ individual appointed by the Alabama
2 Private Investigators Association who ~~must~~ shall be a private
3 investigator. The association shall appoint the member for an
4 initial term of four years. ~~Thereafter, successor members~~
5 ~~shall be appointed for terms of four years.~~

6 "(d) Following the initial appointments, all
7 successor members of the board shall be appointed for a term
8 of four years and shall serve until their successors are
9 appointed and qualified by subscribing to the constitutional
10 oath of office, which shall be filed with the Secretary of
11 State.

12 "(e) Any vacancy occurring on the board shall be
13 filled by the appointing authority of the vacating member for
14 the unexpired term.

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

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

22 "(h) Each member of the board shall receive a
23 certificate of appointment from the Governor before entering
24 upon the discharge of the duties of office.

25 "§34-25B-7.

26 "There is ~~hereby~~ created in the State Treasury for
27 the use of the Alabama Private Investigation Board a fund to

1 be known as the Alabama Private Investigation Board Fund. All
2 private investigator and process server application and
3 license fees, penalties, fines, and any other funds collected
4 by the board under ~~the provisions of~~ this chapter are to be
5 deposited in this fund and used only to carry out the
6 operations of the board. No monies shall be withdrawn or
7 expended from the fund for any purpose unless the monies have
8 been appropriated by the Legislature and allocated pursuant to
9 this chapter. Any monies appropriated shall be budgeted and
10 allotted pursuant to the Budget Management Act in accordance
11 with Article 4 (commencing with Section 41-4-80) of Chapter 4
12 of Title 41, and only in the amounts provided by the
13 Legislature in the general appropriations act or other
14 appropriations act. ~~There is appropriated to the Alabama~~
15 ~~Private Investigation Board the sum of all monies collected~~
16 ~~and deposited into the Alabama Private Investigation Board~~
17 ~~Fund for each of the fiscal years ending September 30, 2013,~~
18 ~~and September 30, 2014, to be used for the operations of the~~
19 ~~board.~~

20 "§34-25B-10.

21 "(a) Except as otherwise provided in this chapter,
22 it shall be unlawful for any person individual to act as a
23 private investigator or process server without first obtaining
24 a license from the board. For prosecution purposes, a
25 violation of this chapter is classified as a Class A
26 misdemeanor.

1 "(b) Each ~~person~~ individual licensed in accordance
2 with this chapter shall designate to the board a physical
3 address where his or her records are to be kept.

4 "§34-25B-11.

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

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

20 "§34-25B-12.

21 "~~(a)~~ Each individual private investigator or process
22 server applicant shall meet the following criteria that he or
23 she:

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

25 "(2) Has not been declared by any court of competent
26 jurisdiction incompetent by reason of mental defect or disease

1 unless a court of competent jurisdiction has subsequently
2 declared the applicant competent.

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

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

7 "(5) Has passed an examination to be administered
8 twice annually by the board designed to measure knowledge and
9 competence in the investigation field.

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

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

17 "§34-25B-14.

18 "(a) The board shall issue to every private
19 investigator licensee and process server licensee an
20 identification card, which shall be issued in credit card
21 size, be permanently laminated, and contain the following
22 information of the licensee:

23 "(1) Name.

24 "(2) Photograph.

25 "(3) Physical characteristics.

26 "(4) ~~Private investigator's~~ The license number of
27 the private investigator or process server.

1 "(5) Expiration date of license.

2 "(b) The identification card shall be carried on the
3 person of the licensee when engaged in the activities of the
4 licensee.

5 "§34-25B-22.

6 "(a) The following acts, when committed by an
7 individual licensed as a private investigator in Alabama, shall
8 constitute a violation punishable as a Class A
9 misdemeanor:

10 "(1) To knowingly make a material misrepresentation
11 as to the ability of the individual to perform the
12 investigation required by a potential client in order to
13 obtain employment.

14 "(2) To make unsubstantiated monetary charges to a
15 client for services not rendered or transportation not
16 utilized.

17 "(3) To knowingly make a false report to a client in
18 relation to the investigation performed for a client.

19 "(4) To continue an investigation for a client when
20 it becomes obvious to the investigator that a successful
21 completion of an investigation is unlikely without first
22 advising the client and obtaining the approval of the client
23 for continuation of the investigation.

24 "(5) To reveal information obtained for a client
25 during an investigation to another individual except as
26 required by law.

1 "(b) (1) The board may revoke the license of any
2 process server for malfeasance, misfeasance, neglect of duty,
3 or incompetence, as provided by court rule or board rule.

4 "(2) Willfully and knowingly executing a false
5 return of service by a process server shall constitute a
6 violation punishable as a Class A misdemeanor, and shall
7 result in the permanent revocation of the license of the
8 violating process server.

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

13 "§34-25B-24.

14 "This chapter does not apply to the following:

15 "(1) An employee of any business or entity that is
16 not primarily engaged in the business of private investigation
17 or process serving when that employee is performing duties
18 related to his or her employment.

19 "(2) An investigation of the internal affairs of a
20 private business entity investigating a current or prospective
21 employee.

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

26 "(4) Any ~~person~~ individual or professional,
27 including without limitation an attorney providing legal

1 services, who is not primarily engaged in the business of
2 private investigation or process serving, but who in
3 conjunction with his or her business or profession may
4 occasionally perform private investigation services or process
5 server services.

6 "(5) Any business or entity that is not primarily
7 engaged in the business of private investigation or process
8 serving.

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

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

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

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

21 "c. A consultant, accident reconstructionist, or
22 forensic scientist when the ~~person~~ individual is retained by
23 an attorney, insurance company representative, or appointed by
24 a court to serve as an expert witness or to investigate, or to
25 make tests, conduct experiments, draw conclusions, render
26 opinions or make diagnoses, where those services require the

1 use of training or experience in a technical, scientific, or
2 social science 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 "§34-25B-27.

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

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

24 "(2) ~~Has~~ a. For a private investigator trainer, has
25 had at least three years' experience satisfactory to the board
26 with an investigative company or proprietary entity or with
27 any federal, United States Military, state, county, or

1 municipal law enforcement agency relating to the block of
2 instruction.

3 "b. For a process server trainer, has had at least
4 three years' experience satisfactory to the board with a
5 process service company or firm.

6 "(3) Is personally qualified to conduct the training
7 required by this chapter and is certified by the board which
8 shall establish standards for the instruction process.

9 "(b) A certified trainer, in his or her discretion,
10 may instruct personally or use a combination of personal,
11 instruction, audio, and visual training aids.

12 "(c) To assist in the implementation of a training
13 program, the certified trainer may use as an assistant trainer
14 any ~~person~~ individual who meets each of the following
15 requirements that the assistant:

16 "(1) Is at least 19 years of age.

17 "(2) Has had at least one year of experience with an
18 investigative company or experience as a process server, or
19 with any United States Military, state, county, or municipal
20 law enforcement agency.

21 "(d) A certified trainer may be an employee of a
22 private investigative or propriety agency or, if not, employed
23 by an agency as a company under this chapter.

24 "(e) The certified trainer shall certify that he or
25 she has successfully completed the training and shall submit
26 the certification to the board.

1 "(f) The training program, fees, and requirements
2 shall be established by rules ~~promulgated~~ adopted by the
3 board."

4 Section 2. 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, as amended
8 by Amendment 890, now appearing as Section 111.05 of the
9 Official Recompilation of the Constitution of Alabama of 1901,
10 as amended, because the bill defines a new crime or amends the
11 definition of an existing crime.

12 Section 3. 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.