

1 HB327  
2 190573-1  
3 By Representative Mooney  
4 RFD: Boards, Agencies and Commissions  
5 First Read: 30-JAN-18

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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 increase the number of  
4                   hours of continuing education required to maintain  
5                   licensure.

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7                   A BILL  
8                   TO BE ENTITLED  
9                   AN ACT

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

27                   BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1           Section 1. Sections 34-25B-4, 34-25B-7, 34-25B-11,  
2           34-25B-12, 34-25B-13, 34-25B-17, 34-25B-18, 34-25B-21,  
3           34-25B-22, and 34-25B-26 of the Code of Alabama 1975, are  
4           amended to read as follows:

5           "§34-25B-4.

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

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

19          "(c) The following members shall be appointed to the  
20          board:

21          "(1) Three persons appointed by the Governor, two of  
22          whom shall be private investigators in this state and one of  
23          whom shall be a consumer who will represent the public at  
24          large. The Governor shall appoint the three members to initial  
25          terms of three years. Thereafter, successor members shall be  
26          appointed for terms of four years each.

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

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

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

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

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

25           "(d) Following the initial appointments, all  
26 successor members of the board shall be appointed for a term  
27 of four years and shall serve until their successors are

1 appointed and qualified by subscribing to the constitutional  
2 oath of office, ~~which shall be filed with the Secretary of~~  
3 ~~State.~~

4 "(e) Any vacancy occurring on the board shall be  
5 filled by the appointing authority of the vacating member for  
6 the unexpired term.

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

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

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

17 "§34-25B-7.

18 "(a) There is hereby created in the State Treasury  
19 for the use of the Alabama Private Investigation Board a fund  
20 to be known as the Alabama Private Investigation Board Fund.  
21 All application and license fees, penalties, fines, and any  
22 other funds collected by the board under ~~the provisions of~~  
23 this chapter are to be deposited in this fund and used only to  
24 carry out the operations of the board. Fees that the board may  
25 charge, collect, and deposit into the fund shall include, but  
26 not be limited to, all of the following:

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

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

5           "(3) A reinstatement application fee.

6           "(4) A late renewal fee.

7           "(5) A change of information fee.

8           "(6) A replacement license fee.

9           "(7) An inactive license fee.

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

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

1 provided that the expenses of the board shall not exceed the  
2 amount of monies in the fund.

3 "§34-25B-11.

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

9 "(1) His or her full name.

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

11 "(3) All residences during the immediate past five  
12 years.

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

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

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 applicant for licensure as a  
22 private investigator shall meet all of the following criteria  
23 that he or 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 at  
8 least twice annually and approved by the board designed to  
9 measure knowledge and competence in the investigation field.

10 "(6) Provides proof to the board of one of the  
11 following:

12 "a. Completion of a two-year apprenticeship approved  
13 by the board.

14 "b. Two years of local, state, federal, or military  
15 investigative experience.

16 "c. A two-year degree in criminal justice, political  
17 science, criminology, a law enforcement related field of  
18 study, or any other field of study that demonstrates an  
19 interest in the profession of investigation, as determined by  
20 the board.

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

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

1           "§34-25B-13.

2           "(a) Upon receipt of an application for a license  
3 pursuant to this chapter, nonrefundable, nonprorateable  
4 application fees shall be submitted to the board by the  
5 applicant for the following services:

6           "(1) A request that ~~the Alabama Bureau of~~  
7 ~~Investigation compare the fingerprints submitted with the~~  
8 ~~application to fingerprints filed with the Alabama Bureau of~~  
9 ~~Investigation~~ a criminal background check be obtained as  
10 approved by the board. On subsequent applications, the Alabama  
11 ~~Bureau of Investigation~~ State Law Enforcement Agency,  
12 successor organization, or other criminal history background  
13 provider approved by the board, at the request of the board,  
14 shall review its criminal history files based upon the name,  
15 date of birth, sex, race, and Social Security number of an  
16 applicant whose ~~fingerprints have~~ criminal history information  
17 has previously been submitted ~~to the bureau~~ for any new  
18 information since the date of the original fingerprint or  
19 criminal history background check comparison, and shall  
20 furnish any information thereby derived to the board.

21           "(2) A request to submit the fingerprints to the  
22 ~~Federal Bureau of Investigation~~ Alabama State Law Enforcement  
23 Agency, successor organization, or other approved provider of  
24 criminal history background information for a search of its  
25 files to determine whether an individual ~~fingerprinted~~ has any  
26 recorded convictions.

1           "(b) After the approval of the application by the  
2 board, the board shall issue a license in a form prescribed by  
3 the board to each qualified applicant upon its receipt of a  
4 nonrefundable, nonprorateable private investigator license fee  
5 as set by the board.

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

12           "(2) The applicant may submit an application for  
13 reconsideration to the board within 30 days from the date of  
14 receipt of denial.

15           "(d) The board shall issue a license to all private  
16 investigator licensees that shall be at least 8" x 10" in size  
17 and shall be displayed on a wall of the workplace of the  
18 licensee. ~~This license~~ All licenses and identification cards  
19 issued by the board shall be deemed property of the State of  
20 Alabama and subject to forfeiture to the state upon  
21 revocation.

22           "§34-25B-17.

23           "(a) All private investigator licenses issued or  
24 renewed under this chapter shall be valid for a period of two  
25 years from the ~~date~~ month of issuance. The board shall ~~provide~~  
26 ~~each licensee with~~ mail to each licensee, at his or her  
27 address of record, a renewal application at least 60 days

1 prior to the expiration of the license. A licensee shall  
2 report any change of address to the board.

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

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

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

11 "(e) Any person licensed by the board may elect  
12 inactive status by notifying the board in writing. The fee for  
13 the issuance and renewal of an inactive status certificate  
14 shall be established by rule of the board. The board shall  
15 provide by rule for those activities which an inactive status  
16 certificate holder may engage in, and for a procedure and fee  
17 for the reinstatement to an active license.

18 "§34-25B-18.

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

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

25 "(2) Fraud, deceit, or misrepresentation regarding  
26 an 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 identification 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           "(d) Any entity or person found to be providing  
22 private investigator services without a license as required by  
23 this chapter shall be subject to an administrative fine of up  
24 to one thousand dollars (\$1,000) per day that services are  
25 provided without a license, and may be administratively  
26 enjoined by the board from providing services until such time  
27 as the entity or person complies with this chapter.

1           "§34-25B-21.

2           "The board shall provide a copy of this chapter and  
3 any rules promulgated under this chapter ~~to the following:~~ on  
4 the website of the board.

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

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

9           "§34-25B-22.

10          "(a) The following acts when committed by an  
11 individual licensed as a private investigator in Alabama shall  
12 constitute a violation punishable as a Class A misdemeanor:

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

17           "(2) To make unsubstantiated monetary charges to a  
18 client for services not rendered or transportation not  
19 utilized.

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

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

1           "(5) To reveal information obtained for a client  
2 during an investigation to another individual except as  
3 required by law.

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

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

10           "§34-25B-26.

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

14           "~~(b) The board shall make every effort to ensue at~~  
15 ~~least one seminar per year will be held in each congressional~~  
16 ~~district of the state providing an opportunity to fulfill the~~  
17 ~~continuing professional education requirements of this~~  
18 ~~section, which shall include at least one hour per year on~~  
19 ~~ethics.~~

20           "~~(c)~~ (b) The board shall promulgate rules necessary  
21 to carry out this section."

22           Section 2. This act shall become effective on the  
23 first day of the third month following its passage and  
24 approval by the Governor, or its otherwise becoming law.