

1 SB94
2 203336-1
3 By Senator Waggoner
4 RFD: Governmental Affairs
5 First Read: 04-FEB-20

8 SYNOPSIS: Under existing law, the Alabama Private
9 Investigation Board licenses private investigators.

10 This bill would further establish education
11 and work experience requirements for applicants in
12 order to qualify for a private investigator
13 license.

14 This bill would create a private
15 investigator apprentice license that would allow
16 apprentices to gain work experience through an
17 internship.

18 This bill would authorize the board to issue
19 a private investigator license to a licensed
20 private investigator apprentice who successfully
21 completes an internship in a specified time and
22 passes an examination.

23 This bill would require private
24 investigation agencies that do business within the
25 state to be licensed by the board and meet certain
26 requirements.

1 Amendment 621 of the Constitution of Alabama
2 of 1901, now appearing as Section 111.05 of the
3 Official Recompilation of the Constitution of
4 Alabama of 1901, as amended, prohibits a general
5 law whose purpose or effect would be to require a
6 new or increased expenditure of local funds from
7 becoming effective with regard to a local
8 governmental entity without enactment by a 2/3 vote
9 unless: it comes within one of a number of
10 specified exceptions; it is approved by the
11 affected entity; or the Legislature appropriates
12 funds, or provides a local source of revenue, to
13 the entity for the purpose.

14 The purpose or effect of this bill would be
15 to require a new or increased expenditure of local
16 funds within the meaning of the amendment. However,
17 the bill does not require approval of a local
18 governmental entity or enactment by a 2/3 vote to
19 become effective because it comes within one of the
20 specified exceptions contained in the amendment.

21
22 A BILL
23 TO BE ENTITLED
24 AN ACT

25
26 Relating to private investigation licensure; to
27 designate as Article 1, Sections 34-25B-1 to 34-25B-29,

1 inclusive, Code of Alabama 1975; to amend Sections 34-25B-2,
2 34-25B-3, 34-25B-10, 34-25B-12, 34-25B-14, 34-25B-17,
3 34-25B-22, and 34-25B-26, Code of Alabama 1975; to add Section
4 34-25B-12.1 and add a new Article 2, commencing with Section
5 34-25B-40 to Title 34, Chapter 25B of the Code of Alabama
6 1975; to require applicants for private investigator licenses
7 to complete education and work experience; to license private
8 investigator apprentices and allow apprentices to gain work
9 experience through an internship; to provide for licensure of
10 apprentices as private investigators after completing certain
11 requirements; and to provide for licensure of private
12 investigation agencies that do business in the state; and in
13 connection therewith would have as its purpose or effect the
14 requirement of a new or increased expenditure of local funds
15 within the meaning of Amendment 621 of the Constitution of
16 Alabama of 1901, now appearing as Section 111.05 of the
17 Official Recompilation of the Constitution of Alabama of 1901,
18 as amended.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. An article heading is added before
21 Section 34-25B-1 of the Code of Alabama 1975, to read as
22 follows:

23 ARTICLE 1. Private Investigator Licenses and Private
24 Investigation Board.

25 Section 2. Sections 34-25B-2, 34-25B-3, 34-25B-10,
26 and 34-25B-12 of the Code of Alabama 1975, are amended to read
27 as follows:

1 "§34-25B-2.

2 "As used in this chapter, the following terms shall
3 have the following meanings:

4 "(1) BOARD. The Alabama Private Investigation Board.

5 "~~(1)~~(2) FELONY. A criminal offense that is defined
6 and 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)~~(3) PRIVATE INVESTIGATION. The compensated act
14 of 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~~ an individual
22 giving testimony in a criminal or civil proceeding, knowledge,
23 trustworthiness, efficiency, loyalty, activity, movement,
24 whereabouts, affiliations, associations, transactions, acts,
25 reputations, or character of any person.

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

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

3 "(4) PRIVATE INVESTIGATION AGENCY. A corporation,
4 firm, partnership, or other business entity that, for
5 compensation, practices private investigation in this state
6 and that employs licensed private investigators. The term does
7 not include a business entity that practices private
8 investigation through licensed private investigators who are
9 solely independent contractors rather than employees.

10 "~~(3)~~ (5) PRIVATE INVESTIGATOR. a. A person An
11 individual who, for compensation, performs one or more of the
12 private investigation services defined and regulated by this
13 chapter.

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

22 "c. ~~A person~~ An individual who is engaged in private
23 investigation ~~as defined herein~~ and who is licensed in
24 accordance with this ~~chapter~~ article.

25 "(6) PRIVATE INVESTIGATOR APPRENTICE. An individual
26 who is engaged in private investigation under the supervision

1 of a licensed private investigator and who is licensed in
2 accordance with this article.

3 "§34-25B-3.

4 "(a) An individual may not ~~No person shall~~ practice
5 private investigation or hold himself or herself out to the
6 public as a private investigator or private investigator
7 apprentice or use any term, title, or abbreviation that
8 expresses, infers, or implies that the ~~person~~ individual is
9 licensed as a private investigator or private investigator
10 apprentice unless the ~~person~~ individual at the time holds a
11 valid license to practice private investigation as provided in
12 this ~~chapter~~ article. ~~All applicants shall pass a criminal~~
13 ~~background check based on criteria established pursuant to~~
14 ~~Section 34-25B-4.~~

15 "(b) (1) A licensed private investigator practicing
16 as a solo practitioner may use the term "agency" in title or
17 name and need not be licensed as a private investigation
18 agency under Article 2, provided the solo practitioner does
19 not employ licensed private investigators. However, if the
20 solo practitioner employs any licensed private investigators,
21 the solo practitioner must be licensed as a private
22 investigation agency under Article 2.

23 "(2) This subsection does not prohibit a solo
24 practitioner who subcontracts other licensed private
25 investigators from using the term "agency" in title or name,
26 and does not require the solo practitioner to be licensed as a
27 private investigation agency under Article 2.

1 "§34-25B-10.

2 "~~(a) Except as otherwise provided in this chapter,~~
3 ~~it~~ It shall be unlawful for any ~~person~~ individual to act as a
4 private investigator or private investigator apprentice
5 without first obtaining a license from the board. For
6 prosecution purposes, a violation of this ~~chapter is~~
7 ~~classified as~~ section is a Class A misdemeanor.

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

11 "§34-25B-12.

12 "~~(a)~~ Each individual applicant for a private
13 investigator license shall meet all of the following criteria
14 ~~that he or she~~ in order to obtain a license:

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

16 "(2) Has passed a criminal background check based on
17 criteria established by the board.

18 "~~(2)~~ (3) Has not been declared by any court of
19 competent jurisdiction incompetent by reason of mental defect
20 or disease unless a court of competent jurisdiction has
21 subsequently declared the applicant competent.

22 "~~(3)~~ (4) Has not been convicted of a crime of moral
23 turpitude, with the board having the final determination on
24 the interpretation of moral turpitude.

25 "~~(4)~~ (5) Has not been convicted of a felony crime.

26 "~~(5)~~ (6) Has passed an examination ~~to be~~ administered
27 ~~twice annually~~ by the board designed to measure knowledge and

1 competence in the investigation field and in state civil and
2 criminal privacy laws.

3 "(7) Has a minimum of two years' experience,
4 education, or training, or a combination thereof, directly
5 related to the field of private investigation in any of the
6 following areas, calculated in one-year increments:

7 "a. Special Investigations. Investigative experience
8 at the special investigation unit (SIU) level in insurance,
9 fire investigation, banking, a law firm, or a similar setting,
10 or other experience determined by the board as suitable
11 experience relating to private investigation.

12 "b. Law Enforcement. Experience as a sworn law
13 enforcement officer, or investigative experience as a
14 detective or investigator at the federal, state, or local
15 level.

16 "c. Education. A minimum of a two-year degree in a
17 field of study directly related to private investigation,
18 including, but not limited to, criminal justice, political
19 science, criminology, or law enforcement; provided, however,
20 the education component may only count for a maximum of one
21 year of credit toward the two-year requirement of this
22 subdivision.

23 "d. Internship. Successfully completed an internship
24 as a private investigator apprentice as provided in Section
25 34-25B-12.1.

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

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

8 Section 3. Section 34-25B-12.1 is added to the Code
9 of Alabama 1975, to read as follows:

10 §34-25B-12.1

11 (a) An individual may obtain a license as a private
12 investigator apprentice and work under the supervision of a
13 licensed private investigator as provided in this section.

14 (b) An applicant for a private investigator
15 apprentice license shall meet all of the following criteria in
16 order to obtain a license:

17 (1) Be at least 18 years of age.

18 (2) Graduated from high school or earned a GED
19 certification.

20 (3) Meet the requirements of subdivisions (2)
21 through (5) of Section 34-25B-12(a).

22 (c) An individual issued a private investigator
23 apprentice license shall successfully pass the examination
24 required by the board, which must be taken within 90 days of
25 license issuance. Before taking the exam, an apprentice
26 licensee may begin working as an intern.

1 (d) An apprentice licensee shall be trained under
2 the supervision of a sponsor private investigator who has at
3 least two years' experience as a licensed private investigator
4 in this state. Supervision may be in person or by telephone or
5 by other form of electronic communication and oversight. The
6 sponsoring private investigator trainer or private
7 investigation agency shall maintain records of training
8 activities as required by the board, by rule, and shall make
9 these records available to the board upon request. Failure by
10 a sponsoring private investigator to maintain records may
11 result in disqualification as a sponsor.

12 (e) An apprentice licensee shall do all of the
13 following within a three-year period to successfully complete
14 an internship:

15 (1) Complete a minimum of 2,000 hours of training
16 which shall include training in the field and in the
17 classroom, and shall cover administrative functions including
18 report writing and research.

19 (2) Complete a minimum of 24 hours of continuing
20 education credit administered by the Alabama Private
21 Investigators Association or other certified provider of
22 continuing education approved by the board. The coursework
23 must cover investigations, three hours of business operations,
24 and a minimum of three hours of ethics training.

25 (f) An apprentice licensee shall submit proof of
26 successfully completing an internship under this section to
27 qualify for licensure as a private investigator. An apprentice

1 licensee who successfully completes an internship, upon
2 payment of the license fee and satisfactory proof, as required
3 by the board, by rule, of successful completion of an
4 internship pursuant to this section, shall be granted a
5 license as a private investigator without having to fulfill
6 the examination requirements.

7 (g) An apprentice licensee who fails to successfully
8 complete an internship within three years of being issued an
9 apprentice license shall be required to reapply for a new
10 apprentice license. Any education and training experience
11 completed during the previous internship shall be credited
12 toward completing a new internship. The board, by rule, shall
13 establish documentation requirements of the previous
14 internship training records. The sponsoring private
15 investigator trainer or private investigation agency shall
16 maintain training records and make the records available for
17 inspection by the board upon request. An apprentice licensee
18 shall be permitted to obtain a copy of his or her training
19 records from the sponsoring private investigator trainer or
20 private investigation agency.

21 Section 4. Sections 34-25B-14, 34-25B-17, 34-25B-22,
22 and 34-25B-26, Code of Alabama 1975, are amended to read as
23 follows:

24 "§34-25B-14.

25 "(a) The board shall issue to every private
26 investigator licensee and private investigator apprentice
27 licensee an identification card, which shall be issued in

1 credit card size, be permanently laminated, and contain the
2 following information of the licensee:

3 "(1) Name.

4 "(2) Photograph.

5 "(3) Physical characteristics.

6 "(4) Private investigator's license number.

7 "(5) Expiration date of license.

8 "(b) The identification card shall be carried on the
9 person of the licensee when engaged in the activities of the
10 licensee.

11 "§34-25B-17.

12 "(a) All private investigator licenses and private
13 investigation agency licenses issued or renewed under this
14 ~~chapter~~ article shall be valid for a period of two years from
15 the date of issuance. The board shall provide each licensee
16 with a renewal application 60 days prior to the expiration of
17 the license.

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

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

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

26 "§34-25B-22.

1 "(a) The following acts when committed by ~~an~~
2 ~~individual licensed as a private investigator in Alabama a~~
3 licensed private investigator or by an individual employed by
4 or contracting with a licensed private investigation agency
5 shall constitute a violation punishable as a Class A
6 misdemeanor:

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

11 "(2) To make unsubstantiated monetary charges to a
12 client for services not rendered or transportation not
13 utilized.

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

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

21 "(5) To reveal information obtained for a client
22 during an investigation to another individual except as
23 required by law.

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

1 "§34-25B-26.

2 "(a) Each private investigator licensee shall
3 complete eight hours of continuing professional education
4 acceptable to the board in each calendar year.

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

11 "(c) The board shall ~~promulgate~~ adopt rules
12 necessary to carry out this section."

13 Section 5. Article 2, commencing with Section
14 34-25B-40, is added to Chapter 25B of Title 34 of the Code of
15 Alabama 1975, to read as follows:

16 ARTICLE 2. Private Investigation Agencies.

17 §34-25B-40.

18 (a) (1) A business entity, regardless of whether the
19 business entity is domiciled within or outside the state, that
20 employs licensed private investigators may not practice
21 private investigation or advertise or hold itself out to the
22 public in this state as a private investigation agency,
23 company, or other business entity without first being licensed
24 by the board pursuant to this article. A violation of this
25 section is a Class A misdemeanor.

26 (2) An individual solo practitioner licensed as a
27 private investigator under Article 1 who does not employ any

1 licensed private investigators may use the term "agency" in
2 title or name without being licensed under this article.

3 (3) An individual solo practitioner licensed as a
4 private investigator under Article 1 who subcontracts licensed
5 private investigators may use the term "agency" in title or
6 name without being licensed under this article.

7 (b) A business entity that employs licensed private
8 investigators and practices private investigation in the state
9 on July 1, 2020, may continue to practice private
10 investigation until the board establishes a licensure process,
11 but in no event may the business entity practice private
12 investigation in the state without a license pursuant to the
13 article after January 1, 2021.

14 §34-25B-41.

15 (a) Application for licensure under this article
16 shall be made in writing to the board on forms prescribed by
17 the board and shall include all of the following:

18 (1) The name of the applicant.

19 (2) The business, physical, and email address of the
20 applicant.

21 (3) A telephone number and other contact information
22 for the applicant.

23 (4) If the applicant is not an Alabama domestic
24 business entity, the name and contact information for the
25 registered agent of the applicant for service of process in
26 this state.

1 (5) The name, address, and contact information of a
2 principal contact for the applicant.

3 (6) Certification that the applicant verifies that a
4 corporate officer or principal of the applicant holds a
5 private investigator license in good standing in this state
6 pursuant to Article 1.

7 (7) An irrevocable uniform consent to service of
8 process.

9 (8) Any other information required by the board and
10 reasonably necessary to grant licensure.

11 (b) Upon receipt of a properly completed application
12 and payment of a license fee as provided in this subsection,
13 the board shall issue a license authorizing the licensee to do
14 business as a private investigation agency in this state.

15 (1) For Alabama domestic business entities, the
16 license fee shall be one hundred dollars (\$100).

17 (2) For all business entities domiciled outside of
18 the state, the license fee shall be five hundred dollars
19 (\$500).

20 (c) A private investigation agency license shall be
21 valid for two years and may be renewed upon payment of the
22 license fee described in subsection (b) and meeting any other
23 reasonable requirements established by rule by the board.

24 (d) Each business entity licensed in accordance with
25 this article shall designate to the board a physical address
26 where the entity's records are to be kept.

27 §34-25B-42.

1 (a) The board shall issue to every private
2 investigation agency licensee a certification which shall be
3 at least 8 inches by 10 inches in size and contain the
4 following information of the licensee:

5 (1) Name of the business.

6 (2) Address of the business.

7 (3) The license number.

8 (4) Expiration date of the license.

9 (b) The certification card shall be posted in a
10 conspicuous area of the licensee's business.

11 (c) A licensee shall display the agency's license
12 number on all advertisements, brochures, stationary,
13 letterhead, case reports, business cards, and promotional
14 items distributed or used by the licensee.

15 §34-25B-43.

16 (a) All private investigation agency licenses issued
17 or renewed under this article shall be valid for a period of
18 two years from the date of issuance. The board shall provide
19 each licensee with a renewal application 60 days prior to the
20 expiration of the license.

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 than
2 30 days after the expiration date of the license.

3 §34-25B-44.

4 (a) A licensed private investigation agency shall
5 ensure that at least one officer or principal of the company
6 holds a private investigator license in good standing in this
7 state pursuant to Article 1 and that at least one officer or
8 principal of the company is domiciled in the state.

9 (b) A licensed private investigation agency shall be
10 responsible for the actions of its employees and contractors
11 while acting in the scope of employment of the company.

12 §34-25B-45.

13 The board may adopt rules to implement this article.

14 Section 6. Although this bill would have as its
15 purpose or effect the requirement of a new or increased
16 expenditure of local funds, the bill is excluded from further
17 requirements and application under Amendment 621, now
18 appearing as Section 111.05 of the Official Recompilation of
19 the Constitution of Alabama of 1901, as amended, because the
20 bill defines a new crime or amends the definition of an
21 existing crime.

22 Section 7. This act shall become effective July 1,
23 2020, following its passage and approval by the Governor, or
24 its otherwise becoming law.