



ALABAMA PRIVATE INVESTIGATION BOARD (APIB)

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HB327

By Rep. Mooney

WHAT THIS BILL DOES

Summary and Purpose: Housekeeping Legislation for the newly established Alabama Private Investigation Board. After almost five years of operation, these amendments to the original enabling statute are needed to administer the Alabama Private Investigation Board more efficiently and effectively for the purpose of completing our mandate of public protection. This bill addresses limitations found in the course of our brief history and standard language updates through-out the bill.

Clarify Renewal Period and CE Requirements – CE to be acquired over renewal period rather than calendar year due to a biennial licensure; and licenses to be renewed two years from the month of issuance, rather than date of issuance, to provide administrative relief to the Board; Provide that licensees are to keep their address current with the Board and renewal notices shall be sent to this address of record.

Board Terms – for appointing authorities to coordinate appointments for the purpose of inclusivity; and define clearly a full term for a Board seat as four years.

Examination – provide that the licensure examination approved by the Board may be given more often as a service to applicants.

Grandfathering – Eliminate expired grandfathering language.

Reduction of Costs to the State – Provide that the Law and Rules and Regulations are available on the web site free and not mailed to applicants and licensees for the purpose of reducing printing costs to the Board; the Board not to provide CE's to licensees to keep costs of administering the program low; and eliminate the requirement for the Governor's Office to issue Certificates of Appointment to save the State money.

Criminal Background Checks – provide the Board with options in approving criminal background check providers to assist the Board in providing faster application turn-around time for background checks; and update ABI language that is now outdated.

Fine for Unlicensed Practice – provide for an administrative fine for up to \$1,000 a day for practicing without a license.

Duty to Report – Licensees to report arrests to the Board within seventy- two (72) hours.

Provide Inactive Status – authorize the Board to provide an inactive status to licensees. This will provide relief for current licensees who may want an option of not renewing their license and provide a more expedited path to returning to full licensure.

Provide for a Reinstatement Process – Provide a path to licensure for those who may have missed their renewal deadline or have placed their license on inactive status without having to take another examination.

Clarifies Fees – The board currently has the authority to charge fees for applications, licenses, renewals, and late renewals. However, standard fees of change of information, replacement license fee, and any reasonable administrative fees that reflect the actual costs of services are needed which are standard for most licensure boards in Alabama. With the proposed inactive status and reinstatement process in this bill, the board is asking for an inactive status fee and reinstatement fee. All fees would be advertised to the public for public comment through the Rule making process.

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3 HOUSE BOARDS, AGENCIES, AND COMMISSIONS COMMITTEE AMENDMENT TO
4 HB327
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9 On page 2, lines 3 and 25, delete "increase" and
10 insert in lieu thereof the following:

11 clarify that
12

13 On page 2, lines 5 and 26, after "licensure" insert
14 the following:

15 is 16 hours during the two-year license period
16

17 On page 5, line 8, after "full" insert the
18 following:

19 four-year
20

21 On page 8, delete lines 10 to 20, inclusive

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.

6
7 A BILL

8 TO BE ENTITLED

9 AN ACT

10
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.