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ALABAMA PRIVATE INVESTIGATION REGULATORY ACT.

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History

Effective date:

The act which added this chapter is effective August 1, 2013.

Cross References

As to professional licenses and certificates for Spouses of active duty military personnel, see § 31-1-6.

As to licensure and academic credit for discharged Military service members, see Chapter 12A (commencing With § 31-12A-1) of Title 31.

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§ 34-25B-1. Short Title.

This chapter shall be known and may be cited as the “Alabama Private Investigation Regulatory Act.” (Act 2013-306, § 1.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-2. Definitions.

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

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

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

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

b. The identity, habits, conduct, business, occupation, honesty, integrity, credibility, including, but not limited to, the credibility of a person giving testimony in a criminal or civil proceeding, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputations, or character of a person.

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

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

(3) **PRIVATE INVESTIGATOR.**

a. A person who, for compensation, performs one or more of the private investigation services defined and regulated by this chapter.

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

c. A person who is engaged in private investigation as defined herein and who is licensed in accordance with this chapter. (Act. 2013-306, § 2.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

Code Commissioner’s Notes

In 2013, the Code Commissioner redesignated the last paragraph as paragraph c. of division (3) and deleted from the beginning “(4) PRIVATE INVESTIGATOR.” As surplusage and to conform to code style.

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§ 34-25B-3. License required; criminal background check.

No person shall practice private investigation or hold himself or herself out to the public as a private investigator or use any term, title, or abbreviation that expresses, infers, or implies that the person is licensed as a private investigator unless the person at the time holds a valid license to practice private investigation as provided in this chapter. All applicants shall pass a criminal background check based on criteria established pursuant to Section 34-25B-4. (Act 2013-306, § 3.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-4. Alabama Private Investigation Board – Creation; composition.

(a) There is created the Alabama Private Investigation Board. The membership of the board shall reflect the racial, gender, geographic, urban and rural, and economic diversity of the state.

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

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

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

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

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

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

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

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

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

(e) Any vacancy occurring on the board shall be filled by the appointing authority of the vacating seat of the unexpired term.

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

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

(h) Each member of the board shall receive a certificate of appointment from the Governor before entering upon the discharge of the duties of the office. (Act 2013-306, § 4.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-5. Alabama Private Investigation Board – Quasi-judicial body; liability of members.

(a) The board is declared to be a quasi-judicial body. Absent negligence, wantonness, recklessness, or deliberate misconduct, the members and the employees of the board are granted immunity from civil liability and may not be liable for damages when acting in the performance of their duties under this chapter.

(b) Board members and employees shall be defended by the Attorney General in regard to any criminal or civil litigation filed against them based on the performance of their official duties under this chapter. (Act 2013-306, § 5.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-6. Alabama Private Investigation Board - Officers.

At the initial meeting of the board and each time a new member is appointed to the board, the members of the board shall select from among their members a chair to preside over meetings of the board and a vice chair to preside in the absence of the chair. (Act 2013-306, § 6.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

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§ 34-25B-7. Alabama Private Investigation Board - Fund.

There is hereby created in the State Treasury for the use of the Alabama Private Investigation Board a fund to be known as the Alabama Private Investigation Board Fund. All application and license fees, penalties, fines, and any other funds collected by the Board under the provisions of this chapter are to be deposited in this fund and used only to carry out the operations of the board. No monies shall be withdrawn or expended from the fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this chapter. Any monies appropriated shall be budgeted and allotted pursuant to the Budget Management Act in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act. There is hereby appropriated to the Alabama Private Investigation Board the sum of all monies collected and deposited into the Alabama Private Investigation Board Fund for each of the fiscal years ending September 30, 2013, and September 30, 2014, to be used for the operations of the board. (Act 2013-306, § 7.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-8. Alabama Private Investigation Board – Promulgation of rules; canons of ethics; personnel; legal services.

(a) The board may promulgate rules necessary to implement this chapter and accomplish its objectives subject to the Alabama Administrative Procedure Act.

(b) The board may promulgate and establish canons of ethics and minimum acceptable professional standards of practice for licensees within any rules that it adopts.

(c) The board may hire personnel necessary or as advisable to carry out the purposes and provisions of this chapter. With the exception of the Executive Director, all personnel shall be subject to the provisions of the state Merit System Act.

(d) The Attorney General shall provide legal services to the board and board employees in connection with official duties and actions of the board. (Act 2013-306, § 8.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-9. Alabama Private Investigation Board - Meetings.

(a) The board shall establish regular and special meetings for the purpose of transacting its business as provided by rules promulgated by the board. Notice of board meetings and meetings of the board shall comply with the Alabama Open Meetings Act.

(b) A majority of the board shall constitute a quorum at any meeting of the board. (Act 2013-306, § 9.)

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Effective date:

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The act which added this section is effective August 1, 2013.

§ 34-25B-10. Practice of private investigation without a license; location of records.

(a) Except as otherwise provided in this chapter, it shall be unlawful for any person to act as a private investigator without first obtaining a license from the board. For prosecution purposes, a violation of this chapter is classified as a Class A misdemeanor.

(b) Each person licensed in accordance with this chapter shall designate to the board a physical address where his or her records are to be kept. (Act 2013-306, § 10.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-11. License application.

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

- (1) His or her full name.
- (2) His or her date and place of birth.
- (3) All residences during the immediate past five years.
- (4) All employment or occupations engaged in during the immediate past five years.
- (5) Three sets of classifiable fingerprints.
- (6) A list of convictions and pending charges involving a felony or misdemeanor in any jurisdiction. (Act 2013-306, § 11.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-12. Qualifications; study guide.

- (a) Each individual applicant shall meet the following criteria that he or she:
- (1) Is at least 21 years of age.
 - (2) Has not been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has subsequently declared the applicant competent.
 - (3) Has not been convicted of a crime of moral turpitude, with the board having the final determination on the interpretation of moral turpitude.
 - (4) Has not been convicted of a felony crime.
 - (5) Has passed an examination to be administered twice annually by the board designed to measure knowledge and competence in the investigation field.

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- (b) A study guide shall be provided to any applicant seeking to obtain an initial or renewal license under this chapter.
- (c) Any investigator currently holding a business license in the State of Alabama shall not have to meet the initial application requirements of this chapter, but shall be issued a license pursuant to this chapter upon application. (Act 2013-306, § 12.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-13. Application fees; issuance of license; denial of application.

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

(1) A request that the Alabama Bureau of Investigation compare the fingerprints submitted with the application to fingerprints filed with the Alabama Bureau of Investigation. On subsequent applications, the Alabama Bureau of Investigation, at the request of the board, shall review its criminal history files based upon the name, date of birth, sex, race, and Social Security number of an applicant whose fingerprints have previously been submitted to the bureau of any new information since the date of the fingerprint comparison, and shall furnish any information thereby derived to the board.

(2) A request to submit the fingerprints to the Federal Bureau of Investigation for a search of its files to determine whether an individual fingerprinted has any recorded convictions.

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

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

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

(d) The board shall issue a license to all licensees that shall be at least 8”X10” in size and shall be displayed on a wall of the workplace of the licensee. This license shall be deemed property of the State of Alabama and subject to forfeiture to the state upon revocation. (Act 2013-306, § 13.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-14. Identification Card.

(a) The board shall issue to every private investigator licensee an identification card, which shall be issued in credit card size, be permanently laminated, and contain the following information of the licensee:

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- (1) Name.
- (2) Photograph
- (3) Physical characteristics.
- (4) Private investigator's license number.
- (5) Expiration date of license.

(b) The identification card shall be carried on the person of the licensee when engaged in the activities of the licensee. (Act. 2013-306, § 14.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-15. Making false statement to the board.

Making a false statement to the board shall be punishable by a civil penalty not to exceed one thousand dollars (\$1,000) and assessment of the maximum application fee. (Act 2013-306, § 15.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-16. Investigation into veracity of application.

Upon receipt of an application and applicable fees, the board shall conduct an investigation to determine whether the statements made in the application are true. (Act 2013-306, § 16.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-17. Expiration and renewal of license.

(a) All licenses issued or renewed under this chapter shall be valid for a period of two years from the date of issuance. The board shall provide each licensee with a renewal application 60 days prior to the expiration of the license.

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

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

(d) No renewal application may be accepted more than 30 days after the expiration date of the license. (Act 2013-306, § 17.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

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§ 34-25B-18. Suspension, revocation, etc., of license; penalties.

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

- (1) A violation of this chapter or any rule promulgated pursuant to this chapter.
- (2) Fraud, deceit, or misrepresentation regarding an application or license.
- (3) Knowingly and willfully making a material misstatement in connection with an application for a license or renewal.
- (4) A conviction by a court of competent jurisdiction of a felony.
- (5) A conviction by a court of competent jurisdiction of a Class A misdemeanor, if the board finds that the conviction reflects unfavorably on the fitness of the person for the license.
- (6) The commission of any act which would have been cause for refusal to issue the license or identification card had it existed and been known to the board at the time of issuance.

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

(c) A license may be suspended for the remaining license period and renewed during any period in which the license was suspended. (Act 2013-306, § 18.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-19. Sufficiency of license to practice; occupational tax or business license fee authorized.

(a) No licensee or applicant shall be required to obtain any authorization or license from, or pay any other fee or post a bond in, any municipality, county, or other political subdivision of this state to engage in any activity regulated under this chapter.

(b) Notwithstanding subsection (a), a municipality, county, or other political subdivision of this state may impose a bona fide occupational tax or business license fee on a licensee. (Act 2013-306, § 19.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-20. Reciprocity with other states.

The board may negotiate and enter into reciprocal agreements with the appropriate officials in other states to permit licensed investigators who meet or exceed the qualifications established in this chapter to operate in reciprocal states under mutually acceptable terms. (Act 2013-306, § 20.)

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Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-21. Copy of statutes and rules provided by board.

The board shall provide a copy of this chapter and any rules promulgated under this chapter to the following:

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

(2) Any other person, upon request, for a reasonable fee established by the board. (Act 2013-306, § 21.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-22. Violations.

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

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

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

(3) To knowingly make a false report to a client in relations to the investigation performed for a client.

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

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

(b) Persons licensed pursuant to this chapter shall report any suspected instances of child abuse or neglect to a local law enforcement agency or the Department of Human Resources, or both. (Act 2013-306, § 22.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-23. Application of Administrative Procedure Act.

The Administrative Procedure Act shall govern all matters and procedures respecting the hearing and judicial overview of any contested case. (Act 2013-306, § 23.)

HISTORY

Effective date:

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The act which added this section is effective August 1, 2013.

§ 34-25B-24. Exceptions.

This chapter does not apply to the following:

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

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

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

(4) Any person or professional, including without limitation an attorney providing legal services, who is not primarily engaged in the business of private investigation, but who in conjunction with his or her business or profession may occasionally perform private investigation services.

(5) Any business or entity that is not primarily engaged in the business of private investigation.

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

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

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

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

c. A consultant, accident reconstructionist, or forensic scientist when the person is retained by an attorney, insurance company representative, or appointed by a court to serve as an expert witness or to investigate, or to make tests, conduct experiments, draw conclusions, render opinions or make diagnoses, where those services require the use of training or experience in technical, scientific, or social science field.

(9) Any individual engaged in any of the following:

a. Computer or digital forensic services.

b. The acquisition, review, or analysis of digital or computer-based information in order to obtain or furnish information for evidentiary or other purposes or to provide expert testimony before any court, board, officer, or investigating committee.

c. Network or system vulnerability testing, including network scans and risk assessment and analysis of computers connected to a network. (Act 2013-306, § 24.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

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§ 34-25B-25. Division of Investigation.

(a) There is created within the board a Division of Investigation that shall be the board's official investigative agency.

(b) Each licensee shall provide to the investigative division staff all records that pertain to the exact nature of the complaint under investigation and upon the issuance of a subpoena.

(c) The board or an executive director of the board may subpoena those persons or documents necessary to any investigation undertaken under this chapter if other means including, but not limited to, notification by return receipt registered United States mail, have not produced the desired results. Any subpoena issued shall be limited to investigations by the board of its members and shall not extend to any other matter. (Act 2013-306, § 25.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-26. Continuing professional education.

(a) Each licensee shall complete eight hours of continuing professional education acceptable to the board in each calendar year.

(b) the board shall make every effort to ensure at least one seminar per year will be held in each congressional district of the state providing an opportunity to fulfill the continuing education requirements of this section, which shall include at least one hour per year on ethics.

(c) The board shall promulgate rules necessary to carry out this section. (Act 2013-306, § 26.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-27. Certification required for trainers.

(a) Any person offering private investigation training must first be certified by the board. The board shall ensure that the instructors employed by the training provider possess both the experience and academic credentials to ensure that the curriculum and instruction will be beneficial to those seeking to enter the profession. In order to qualify as a certified trainer or instructor, or both, the trainer shall meet the following criteria that he or she:

(1) Is 21 years of age.

(2) Has had at least three years' experience satisfactory to the board with an investigative company or proprietary entity or with any federal, United States Military, state, county, or municipal law enforcement agency relating to the block of instruction.

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

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

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

(1) Is 19 years of age.

(2) Has had at least one year of experience with an investigative company or any United States Military, state, county, or municipal law enforcement agency.

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

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

(f) The training program, fees, and requirements shall be established by rules promulgated by the board. (Act 2013-306, § 27.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-28. Construction with other laws.

No criminal or civil action taken under this chapter precludes a prosecution or action under any other law of this state. (Act 2013-306, § 28.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.

§ 34-25B-29. Sunset provision.

The Alabama Private Investigation Board is subject to the provisions of the Alabama Sunset Law of 1981. The board shall automatically terminate on October 1, 2016, and every four years thereafter, unless a bill is passed that it be continued, modified, or reestablished. (Act 2013-306, § 29.)

HISTORY

Effective date:

The act which added this section is effective August 1, 2013.