

By: Senator(s) Hall

To: Judiciary

SENATE BILL NO. 2082

1 AN ACT TO PROVIDE FOR THE REGULATION AND LICENSING OF PRIVATE
 2 AND LEGAL INVESTIGATORS; TO DEFINE CERTAIN TERMS; TO AUTHORIZE THE
 3 ASSESSMENT OF AN APPLICATION FEE AND A LICENSE FEE; TO PROVIDE FOR
 4 THE RENEWAL OF SUCH LICENSE AND FOR THE ASSESSMENT OF A RENEWAL
 5 LICENSE FEE; TO PROVIDE FOR THE REVOCATION OF SUCH LICENSE UPON
 6 CERTAIN VIOLATIONS; TO CREATE THE MISSISSIPPI PRIVATE AND LEGAL
 7 INVESTIGATION COMMISSION AND PROVIDE FOR THE ORGANIZATION AND
 8 RULES OF THE COMMISSION; TO AUTHORIZE THE COMMISSION TO
 9 INVESTIGATE INSTANCES OF SUSPECTED VIOLATIONS OF THIS ACT AND TO
 10 PROVIDE PENALTIES THEREFOR; AND FOR RELATED PURPOSES.

11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

12 SECTION 1. This act shall be known and may be cited as the
 13 "Private Investigators/Legal Investigators Licensing and
 14 Regulatory Act."

15 SECTION 2. As used in this act, unless the context otherwise
 16 requires:

17 (a) "Branch manager" means the individual who is
 18 immediately responsible for the operation of a branch office.

19 (b) "Branch office" means any office of an
 20 investigations company within this state other than its principal
 21 place of business within this state.

22 (c) "Commission" means the Private and Legal
 23 Investigation Commission.

24 (d) "Identification card" means a pocket card issued by
 25 the commission evidencing that the holder has met the
 26 qualifications required by this act to perform the duties of a
 27 private investigator in this state.

28 (e) "Investigations company" means any person who
 29 engages in the business or accepts employment to obtain or furnish
 30 information with reference to:

31 (i) Crime or wrongs done or threatened against the
32 United States or any state or territory of the United States;

33 (ii) The identity, habits, conduct, business,
34 occupation, honesty, integrity, credibility, knowledge,
35 trustworthiness, efficiency, loyalty, activity, movement,
36 whereabouts, affiliations, associations, transactions, acts,
37 reputations or character of any person;

38 (iii) The location, disposition or recovery of lost
39 or stolen property;

40 (iv) The cause or responsibility for fires, libels,
41 losses, accidents, damages or injuries to persons or to property;
42 or

43 (v) The securing of evidence to be used before any
44 court, board, commission, officer or investigating committee.

45 (f) "Legal investigator" means any person who accepts
46 employment from any licensed attorney to perform one or more
47 services as described in paragraph (e) of this section.

48 (g) "Licensee" means any investigations company,
49 private investigator or legal investigator licensed in accordance
50 with the provisions of this act.

51 (h) "Person" means any individual, firm, association,
52 company, partnership, corporation, nonprofit organization,
53 institution, or similar entity.

54 (i) "Principal corporate officer" means the chief
55 executive officer, president, vice-president, treasurer, secretary
56 or comptroller, as well as any other responsible officer or
57 executive employee who performs functions for the corporation
58 corresponding to those performed by the foregoing officers.

59 (j) "Private investigator" means any person who
60 performs one or more services as described in paragraph (e) of
61 this section.

62 (k) "Qualifying agent" means a principal corporate
63 officer meeting the qualifications set forth in this act for

64 operating an investigations company.

65 (1) "Adjuster" means a person whose primary
66 responsibility is to determine the viability and applicability of
67 a contract of insurance, who conducts his inquiries in an office
68 setting and only goes into the field for the purpose of assessing
69 the actual dollar value of the damage concerning the claim.

70 SECTION 3. (1) Except as otherwise provided in this act, it
71 shall be unlawful for any person to act as an investigations
72 company, private investigator or legal investigator, without first
73 having obtained a license from the commission.

74 (2) A private investigations company license and individual
75 license will be issued to an individual who has been continually
76 engaged in the private investigations or legal investigations
77 business on a full-time basis, as determined by the commission,
78 for the year prior to July 1, 1999, provided the individual met
79 the requirements set forth in Section 6 of this act.

80 (3) Every private investigator or legal investigator
81 licensed in accordance with this act shall maintain a place of
82 business in this state at an investigations company which has been
83 duly licensed by the commission.

84 (4) In the event an applicant for an investigations company
85 license maintains more than one (1) place of business within the
86 state, he shall apply for and obtain a branch office license for
87 each branch office in addition to the company license for the
88 principal place of business.

89 (5) Every private investigations or legal investigations
90 company shall maintain errors and omissions insurance coverage and
91 professional liability coverage in the following amounts: Per
92 incident, One Hundred Thousand Dollars (\$100,000.00); Total, Five
93 Hundred Thousand Dollars (\$500,000.00).

94 SECTION 4. (1) An application for an investigations company
95 license shall be filed with the commission on the prescribed form.
96 The application shall include:

97 (a) The full name and business address of the
98 applicant:
99 (i) If the applicant is a partnership, the name and
100 address of each partner; or
101 (ii) If the applicant is a corporation, the name
102 and address of the qualifying agent;
103 (b) The name under which the applicant intends to do
104 business;
105 (c) The address of the principal place of business and
106 all branch offices of the applicant within this state;
107 (d) As to each individual applicant; or, if the
108 applicant is a partnership, as to each partner; or, if the
109 applicant is a corporation, as to the qualifying agent, the
110 following information:
111 (i) Full name;
112 (ii) Date and place of birth;
113 (iii) All residences during the immediate past five
114 (5) years;
115 (iv) All employment or occupations engaged in
116 during the immediate past five (5) years;
117 (v) Three (3) sets of classifiable fingerprints;
118 (vi) Three (3) credit references from lending
119 institutions or business firms with whom the subject has
120 established a credit record; and
121 (vii) A list of all convictions and pending charges
122 of the commission of a felony or misdemeanor in any jurisdiction;
123 (e) If the applicant is a corporation, the following
124 information:
125 (i) The correct legal name of the corporation;
126 (ii) The state and date of incorporation;
127 (iii) The date the corporation qualified to do
128 business in this state;
129 (iv) The address of the corporate headquarters, if

130 located outside this state; and

131 (v) The name of two (2) principal corporate
132 officers other than the qualifying agent, and the business
133 address, residence address and the office held by each in the
134 corporation; and

135 (f) Such other information as the commission may
136 reasonably require.

137 (2) The application shall be subscribed and sworn to:

138 (a) By the applicant, if the applicant is an individual
139 applicant; or

140 (b) By each partner, if the applicant is a partnership;
141 or

142 (c) By the qualifying agent, if the applicant is a
143 corporation.

144 (3) Any individual signing the application must be at least
145 twenty-one (21) years of age.

146 SECTION 5. Each individual applicant for an investigations
147 company license; or, if the applicant is a partnership, each
148 partner; or, if the applicant is a corporation, the qualifying
149 agent, must:

150 (a) Be at least twenty-one (21) years of age;

151 (b) Be a citizen of the United States or a resident
152 alien;

153 (c) Not have been declared by any court of competent
154 jurisdiction incompetent by reason of mental defect or disease
155 unless a court of competent jurisdiction has since declared him
156 competent;

157 (d) Not be suffering from habitual drunkenness or
158 narcotics addiction or dependence;

159 (e) Be of good moral character; and

160 (f) Pass an examination to be administered at least
161 twice annually by the commission designed to measure knowledge and
162 competence in the investigation field.

163 SECTION 6. (1) Each applicant for a private investigator
164 license must:

165 (a) Be at least twenty-one (21) years of age;

166 (b) Be a citizen of the United States or a resident
167 alien;

168 (c) Not have been declared by any court of competent
169 jurisdiction incompetent by reason of mental defect or disease
170 unless a court of competent jurisdiction has since declared him
171 competent;

172 (d) Not be suffering from habitual drunkenness or
173 narcotics addiction or dependence;

174 (e) Be of good moral character; and

175 (f) Possess at least three (3) years' investigative
176 experience satisfactory to the commission, with any federal,
177 United States military, state, county, or municipal law
178 enforcement agency; or possess at least three (3) years of
179 experience as a manager, supervisor, or administrator with an
180 investigations company; or pass an examination to be administered
181 at least twice annually by the commission, designed to measure
182 knowledge and competence in the investigations company business.

183 (2) Each applicant for a legal investigator license must:

184 (a) Be at least twenty-one (21) years of age;

185 (b) Be a citizen of the United States or a resident
186 alien;

187 (c) Not have been declared by any court of competent
188 jurisdiction incompetent by reason of mental defect or disease
189 unless a court of competent jurisdiction has since declared him
190 competent;

191 (d) Not be suffering from habitual drunkenness or
192 narcotics addiction or dependence;

193 (e) Be of good moral character;

194 (f) Possess at least five (5) years' investigative
195 experience satisfactory to the commission, with any federal,

196 United States military, state, county, or municipal law
197 enforcement agency; or possess at least five (5) years of
198 experience as a manager, supervisor, or administrator with an
199 investigations company; or pass an examination to be administered
200 at least twice annually by the commission, designed to measure
201 knowledge and competence in the investigations company business;

202 (g) Provide a notarized statement that the majority of
203 his investigation services are performed for licensed attorneys;
204 and

205 (h) Provide five (5) letters of recommendation from
206 individual licensed attorneys attesting to his knowledge,
207 competency and performance.

208 (3) The commission shall grant apprentice status, by
209 correspondence to applicants for an individual investigator's
210 license, provided that the applicant is employed by an
211 investigative company. The apprentice is enjoined from working
212 without the direct supervision of a licensed investigator until
213 such time as the apprentice's license application is fully
214 processed.

215 (4) An apprenticeship may not commence until the sponsoring
216 company has submitted a notice of intent to sponsor. Such notice
217 shall be by written endorsement to the application of the
218 apprentice.

219 (5) An apprentice status shall be limited to twelve (12)
220 months and a person shall be able to apply for an apprentice
221 status only once.

222 (6) Apprenticeship is intended to serve as a learning
223 process. Sponsors shall assume a training status by providing
224 direction and control of the apprentice. No sponsor may sponsor
225 more than six (6) apprentices at one (1) time. The sponsor shall
226 certify completion of training or the termination of the
227 apprentice within fifteen (15) days of such action. The report
228 shall be in such form as may be required by the commission, but

229 shall include as a minimum the following:

230 (a) The inclusive dates of the apprenticeship;

231 (b) A narrative explaining the primary duties, types of
232 experiences gained, and the scope of the training received,
233 including attendance at nationally recognized investigative
234 seminars; and

235 (c) An evaluation of the performance of the apprentice
236 and a recommendation regarding future licensing.

237 SECTION 7. (1) Upon receipt of an application for a
238 license, accompanied by a non-refundable, non-proratable
239 application fee, the commission shall:

240 (a) Conduct an investigation to determine whether the
241 statements made in the application are true;

242 (b) Submit the fingerprints to the Federal Bureau of
243 Investigation for a search of its files to determine whether the
244 individual fingerprinted has any recorded convictions; and

245 (c) Request that the Mississippi Department of Public
246 Safety compare the fingerprints submitted with the application to
247 fingerprints on file with the Mississippi Department of Public
248 Safety. On subsequent applications the Mississippi Department of
249 Public Safety shall, at the request of the commission, review its
250 criminal history files based upon the name, date of birth, sex,
251 race and Social Security number of an applicant for any new
252 information since the date of the fingerprint comparison and shall
253 furnish any information thereby derived to the commission.

254 Such application fee shall be charged and collected by the
255 commission according to the following schedule:

256 Private investigator license..... \$ 150.00
257 Legal investigator license..... \$ 150.00

258 Company License:

259 Number of investigators employed

260 by company:

261 Sole practitioner investigator..... \$ 250.00

262 Two to five (2-5) employees..... \$ 500.00
263 Over five (5) employees..... \$1,000.00

264 (2) If an application for license is granted, the commission
265 shall issue a license, in a form which the commission shall
266 prescribe, to qualified applicants upon receipt of a
267 non-refundable, non-proratable license fee. Such license fee
268 shall be charged and collected by the commission in accordance
269 with the following schedule:

270 Private investigator license..... \$ 100.00
271 Legal investigator license..... \$ 100.00

272 Company License:

273 Number of investigators employed
274 by company:

275 Sole practitioner investigator..... \$ 125.00
276 Two to five (2-5) employees..... \$ 250.00
277 Over five (5) employees..... \$ 500.00

278 (3) If an application for a license is denied, the
279 commission shall notify the applicant in writing and shall set
280 forth the grounds for denial. If such grounds are subject to
281 correction by the applicant, the notice of denial shall so state
282 and specify a reasonable period of time within which the applicant
283 must make the required correction.

284 (4) The commission shall issue with every investigator
285 license an identification card that shall contain at least the
286 following information:

- 287 (a) Name;
- 288 (b) Photograph;
- 289 (c) Physical characteristics;
- 290 (d) Private investigator license number or
291 legal investigator license number; and
- 292 (e) Expiration date of license.

293 (5) The identification card shall be issued in a
294 wallet-sized card and shall be permanently laminated.

295 (6) The identification card shall be carried on the person
296 of the licensee when engaged in the activities of the licensee.

297 (7) An application shall be accompanied by a notarized
298 statement sworn by the applicant as to the identity and number of
299 investigators employed by or affiliated with such investigation
300 company. Making a false statement shall be punishable by a civil
301 penalty not to exceed One Thousand Dollars (\$1,000.00) and
302 assessment of the maximum application fee.

303 SECTION 8. (1) A license, or renewal thereof, issued under
304 this act shall be valid for a period of two (2) years from the
305 date of issuance. The commission shall provide each licensee with
306 a renewal application form sixty (60) days prior to the expiration
307 of the license.

308 (2) The fee for the timely renewal of a license shall be set
309 by the commission in accordance with the following schedule:

| | | |
|-----|-------------------------------------|------------|
| 310 | Private investigator license..... | \$ 100.00 |
| 311 | Legal investigator license..... | \$ 100.00 |
| 312 | Company License: | |
| 313 | Number of investigators employed | |
| 314 | by company: | |
| 315 | Sole practitioner investigator..... | \$ 250.00 |
| 316 | Two to five (2-5) employees..... | \$ 500.00 |
| 317 | Over five (5) employees..... | \$1,000.00 |

318 A penalty as prescribed by the commission will be assessed on any
319 renewal application postmarked after the expiration date of the
320 license.

321 (3) No renewal application will be accepted more than thirty
322 (30) days after the expiration date of the license. No renewal
323 fee will be accepted more than thirty (30) days after the date on
324 which the commission notified the licensee that the fee is due.

325 (4) A renewal application shall be accompanied by a
326 notarized statement sworn by the applicant as to the identity and
327 number of investigators employed by or affiliated with such

328 investigations company. Making a false statement shall be
329 punishable by a civil penalty not to exceed One Thousand Dollars
330 (\$1,000.00) and assessment of the maximum renewal fee.

331 SECTION 9. If the qualifying agent of a licensee ceases to
332 perform his duties on a regular basis, the licensee shall:

333 (a) Within thirty (30) days, notify the commission by
334 certified or registered mail; and

335 (b) Within three (3) months, obtain a substitute
336 qualifying agent. The commission may, in its discretion, extend
337 the period for obtaining a substitute qualifying agent for a
338 reasonable time.

339 SECTION 10. A licensee shall notify the commission in
340 writing within three (3) days of:

341 (a) Any change in the qualifying agent of principal
342 corporate officers identified in its application for license;

343 (b) Any material change in the information previously
344 furnished or required to be furnished to the commission;

345 (c) An occurrence which could reasonably be expected to
346 affect the licensee's right to a license under this act,
347 including, but not limited to, any criminal charges placed against
348 any licensee by any person. An investigative company must also
349 within thirty (30) days notify the commission of any criminal
350 charges placed against any investigator employed by or affiliated
351 with such company; or

352 (d) Any judgment received by any person for punitive
353 damages against any licensee.

354 SECTION 11. If the ownership of an investigations company
355 changes, the new owner, if not already a licensee, may not operate
356 that company more than thirty (30) days after the date of such
357 change of ownership unless within such thirty-day period the new
358 owner submits an application for a license. If such application
359 is submitted, the new owner may continue to operate such company
360 until the application has been finally determined by the

361 commission.

362 For good cause, the commission may extend the period of
363 submitting such application for a reasonable time.

364 SECTION 12. (1) The commission may suspend, revoke, or
365 refuse to issue or renew any license hereunder upon finding that
366 the holder or applicant has:

367 (a) Violated any provision of this act, or any rule
368 promulgated hereunder;

369 (b) Practiced fraud, deceit, or misrepresentation;

370 (c) Knowingly and willfully made a material
371 misstatement in connection with an application for license or
372 renewal; or

373 (d) Been convicted by a court of competent jurisdiction
374 of a felony or a misdemeanor, if the commission finds that such
375 conviction reflects unfavorably on the fitness for such license.

376 (2) In addition to or in lieu of any other lawful
377 disciplinary action under this section, the commission may assess
378 a civil penalty not exceeding Two Thousand Dollars (\$2,000.00).

379 (3) A license shall be subject to expiration and renewal
380 during any period in which the license is suspended.

381 SECTION 13. (1) No licensee or registrant shall be required
382 to obtain any authorization, permit or license from, or pay any
383 other fee or post a bond in, any municipality, county or other
384 political subdivision of this state to engage in any business or
385 activity regulated under this act.

386 (2) Notwithstanding subsection (1) of this section, a
387 municipality, county or other political subdivision of this state
388 may impose a bona fide business tax upon a licensee or registrant.

389 SECTION 14. The commission may negotiate and enter into
390 reciprocal agreements with appropriate officials in other states
391 to permit licensed investigations companies, private investigators
392 and legal investigators who meet or exceed the qualifications
393 established in this act to operate across state lines under

394 mutually acceptable terms.

395 SECTION 15. The commission shall provide a copy of this act
396 and any rules promulgated hereunder as may be amended to each
397 licensee every two (2) years at no charge and any other person,
398 upon request, for such reasonable fee as the commission may fix.

399 SECTION 16. No individual licensed as an investigations
400 company, private investigator or legal investigator in Mississippi
401 shall:

402 (a) In order to obtain employment, knowingly make a
403 material misrepresentation as to his ability to perform the
404 investigation required by a potential client;

405 (b) Make unsubstantiated monetary charges to a client
406 for services not rendered or transportation not utilized;

407 (c) Knowingly make a false report to a client in
408 relation to the investigation performed for such client;

409 (d) Continue an investigation for a client when it
410 becomes obvious to the investigator that a successful completion
411 of an investigation is unlikely without first so advising the
412 client and obtaining the client's approval for continuation of the
413 investigation; or

414 (e) Reveal information obtained for a client during an
415 investigation to another individual, except as required by law.

416 SECTION 17. (1) The provisions of this act shall not apply
417 to a public accountant or a certified public accountant, or the
418 agent of either, performing duties relating to public accountancy.

419 (2) The provisions of this act shall not apply to:

420 (a) A governmental officer or employee performing
421 official duties;

422 (b) A person engaged exclusively in the business of
423 obtaining and furnishing information as to the financial rating or
424 credit worthiness of persons, or a person who provides consumer
425 reports in connection with:

426 (i) Credit transactions involving the consumer on

427 whom the information is to be furnished and involving the
428 extensions of credit to the consumer;

429 (ii) Information for employment purposes; or

430 (iii) Information for underwriting of insurance
431 involving the consumer.

432 (c) An attorney at law, or his agent, performing duties
433 relating to the attorney's practice of law. An investigator
434 claiming any exemption under this paragraph must be regularly and
435 exclusively employed by one (1) law firm in connection with the
436 affairs of that law firm.

437 (d) Insurance adjusters legally employed, as defined in
438 IRS Publication 937, Page 3, who engage in no other investigative
439 activities other than those connected with adjustment of claims
440 against an insurance company by whom they are employed.

441 (e) A private business employee conducting
442 investigations relating to the internal affairs of such business.

443 (f) The agent of a lienholder solely in the business of
444 repossessing items encumbered by liens.

445 (g) A person engaged in the service of legal process
446 for a court of competent jurisdiction in Mississippi.

447 SECTION 18. Each individual licensee is required to complete
448 twelve (12) hours of continuing professional education acceptable
449 to the commission in each calendar year.

450 The commission shall promulgate such rules as are necessary
451 to carry out this section.

452 SECTION 19. Any person or company offering private
453 investigator or legal investigator training for a fee must first
454 be certified by the commission. The commission will have the duty
455 to ensure that the instructors employed by the training company
456 possess both the experience and academic credentials to ensure the
457 curriculum and instruction of the training company will be
458 beneficial to those seeking to enter the profession.

459 The commission shall promulgate such rules as are necessary

460 to carry out this section.

461 SECTION 20. Any person violating the provisions of this act,
462 or any rule promulgated hereunder, is guilty of a misdemeanor.

463 SECTION 21. (1) There is hereby created the Mississippi
464 Private and Legal Investigations Commission, hereinafter referred
465 to as the commission, which consists of seven (7) members
466 appointed by the Governor with the advice and consent of the
467 Senate, each of whom shall possess good moral character.

468 (2) Six (6) of the members shall each have been principally
469 engaged as private investigators or legal investigators in this
470 state for at least five (5) years prior to the date of their
471 appointment and shall be of recognized business standing.

472 (3) (a) The remaining one (1) member of the commission
473 shall be a person who is not engaged in or conducting the business
474 or acting in the capacity of a private or legal investigator.

475 (b) Initially, the Governor shall appoint one (1) such
476 member for a term of three (3) years. Thereafter, all such
477 members shall be appointed for terms as provided in subsection
478 (4).

479 (4) All members of the commission shall be appointed for a
480 term of five (5) years.

481 Any vacancy occurring on the commission shall be filled by
482 the Governor for the unexpired term.

483 No member shall be appointed to succeed himself or herself
484 for more than one (1) full term.

485 The Governor may remove any member of the commission for
486 misconduct, incompetency or willful neglect of duty.

487 In making appointments to the commission, the Governor shall
488 strive to ensure that at least one (1) person serving on the
489 commission is sixty (60) years of age or older and that at least
490 one (1) person serving on the commission is a member of a racial
491 minority.

492 SECTION 22. The commission is declared to be a judicial body

493 and the members and its employees are hereby granted immunity from
494 any civil liability when acting in good faith in the performance
495 of their duties under this act.

496 Should litigation be filed against members of the commission
497 arising from the performance of their duties under this act, the
498 members shall be defended by the Attorney General of the State of
499 Mississippi.

500 SECTION 23. (1) Upon qualification of the members
501 appointed, the commission shall organize itself by selecting from
502 its members a chairman and a vice-chairman, and shall have the
503 power to do all things necessary and proper for carrying out the
504 provisions of this act not inconsistent with the laws of this
505 state. The commission may promulgate and adopt such bylaws, rules
506 and regulations as are reasonably necessary for such purpose.

507 (2) The commission's rules and regulations may incorporate
508 and establish canons of ethics and minimum acceptable standards of
509 practice for licensees.

510 (3) The commission, or any committee thereof, shall be
511 entitled to the services of the Attorney General in connection
512 with the affairs of the commission.

513 SECTION 24. (1) The commission may hold such meetings as it
514 may deem necessary for the purpose of transacting such business as
515 may properly come before it. All members of the commission shall
516 be duly notified of the time and place of each meeting.

517 (2) A majority of the commission constitutes a quorum at any
518 meeting of the commission.

519 (3) The commission is authorized to appoint and employ a
520 qualified person who shall not be a member of the commission to
521 serve as executive director, define the duties, fix the
522 compensation and delegate to him those activities that will
523 expedite the functions of the board.

524 SECTION 25. (1) The commission is authorized to investigate
525 either on the basis of complaints filed with it or, on its own

526 initiative, instances of suspected violations of this act.

527 (2) The commission is granted the authority to subpoena for
528 purposes of deposition those persons and documents necessary to
529 any investigation undertaken under this act.

530 SECTION 26. This act shall take effect and be in force from
531 and after July 1, 1999.