

By: Walls

To: Judiciary

SENATE BILL NO. 2715

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
39 lost or stolen property;

40 (iv) The cause or responsibility for fires,
41 libels, losses, accidents, damages or injuries to persons or to
42 property; 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, 2000, 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 minimum amounts:
92 Per incident, One Hundred Thousand Dollars (\$100,000.00); Total,
93 Five 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
100 and 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
114 five (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
122 charges of the commission of a felony or misdemeanor in any
123 jurisdiction;
124 (e) If the applicant is a corporation, the following
125 information:
126 (i) The correct legal name of the corporation;
127 (ii) The state and date of incorporation;
128 (iii) The date the corporation qualified to do
129 business in this state;

130 (iv) The address of the corporate headquarters, if
131 located outside this state; and

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

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

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

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

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

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

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

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

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

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

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

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

160 (e) Be of good moral character; and

161 (f) Pass an examination administered by the commission
162 designed to measure knowledge and competence in the investigation

163 field.

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

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

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

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

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

175 (e) Be of good moral character; and

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

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

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

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

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

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

194 (e) Be of good moral character;

195 (f) Possess at least five (5) years' investigative

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

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

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

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

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

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

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

229 shall be in such form as may be required by the commission, but
230 shall include as a minimum the following:

- 231 (a) The inclusive dates of the apprenticeship;
- 232 (b) A narrative explaining the primary duties, types of
233 experiences gained, and the scope of the training received,
234 including attendance at nationally recognized investigative
235 seminars; and
- 236 (c) An evaluation of the performance of the apprentice
237 and a recommendation regarding future licensing.

238 SECTION 7. (1) Upon receipt of an application for a
239 license, accompanied by a nonrefundable, nonproratable application
240 fee, the commission shall:

- 241 (a) Conduct an investigation to determine whether the
242 statements made in the application are true;
- 243 (b) Submit the fingerprints to the Federal Bureau of
244 Investigation for a search of its files to determine whether the
245 individual fingerprinted has any recorded convictions; and
- 246 (c) Request that the Mississippi Department of Public
247 Safety compare the fingerprints submitted with the application to
248 fingerprints on file with the Mississippi Department of Public
249 Safety. On subsequent applications the Mississippi Department of
250 Public Safety shall, at the request of the commission, review its
251 criminal history files based upon the name, date of birth, sex,
252 race and social security number of an applicant for any new
253 information since the date of the fingerprint comparison and shall
254 furnish any information thereby derived to the commission.

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

257	Private investigator license.....	\$ 150.00
258	Legal investigator license.....	\$ 150.00
259	Company License:	
260	Number of investigators employed 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 nonrefundable, nonproratable license fee. The license fee shall
268 be charged and collected by the commission in accordance with the
269 following schedule:

270 Private investigator license.....\$ 100.00
271 Legal investigator license.....\$ 100.00
272 Company License:

273 Number of investigators employed by company:
274 Sole practitioner investigator.....\$ 125.00
275 Two to five (2-5) employees.....\$ 250.00
276 Over five (5) employees.....\$ 500.00

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

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

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

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

294 (6) The identification card shall be carried on the person

295 of the licensee when engaged in the activities of the licensee.

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

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

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

309 Private investigator license.....\$ 100.00
310 Legal investigator license.....\$ 100.00
311 Company License:

312 Number of investigators employed by company:
313 Sole practitioner investigator.....\$ 250.00
314 Two to five (2-5) employees.....\$ 500.00
315 Over five (5) employees.....\$1,000.00

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

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

323 (4) A renewal application shall be accompanied by a
324 notarized statement sworn by the applicant as to the identity and
325 number of investigators employed by or affiliated with such
326 investigations company. Making a false statement shall be
327 punishable by a civil penalty not to exceed One Thousand Dollars

328 (\$1,000.00) and assessment of the maximum renewal fee.

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

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

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

337 SECTION 10. A licensee shall notify the commission in
338 writing within fourteen (14) days of:

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

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

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

350 (d) Any judgment received by any person for punitive
351 damages against any licensee.

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

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

364 (a) Violated any provision of this act, or any rule
365 promulgated hereunder;

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

367 (c) Knowingly and willfully made a material
368 misstatement in connection with an application for license or
369 renewal; or

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

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

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

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

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

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

392 SECTION 15. (1) The commission shall provide a copy of this
393 act and any rules promulgated hereunder as may be amended to each

394 licensee every two (2) years at no charge and any other person,
395 upon request, for such reasonable fee as the commission may fix.

396 (2) The commission shall administer an exam designed to
397 measure knowledge and competence in the investigations company
398 business at least twice annually.

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 as a full private or legal
471 investigator prior to the date of their appointment and shall be
472 of recognized business standing.

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

476 (b) Initially, the Governor shall appoint one (1) such
477 member for a term of three (3) years. Thereafter, all such
478 members shall be appointed for terms as provided in subsection
479 (4).

480 (4) All members of the commission shall be appointed for a
481 term of three (3) years.

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

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

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

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

493 SECTION 22. The commission is declared to be a judicial body
494 and the members and its employees are hereby granted immunity from
495 any civil liability when acting in good faith in the performance
496 of their duties under this act.

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

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

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

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

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

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

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

525 SECTION 25. (1) The commission is authorized to investigate

526 either on the basis of complaints filed with it or, on its own
527 initiative, instances of suspected violations of this act.

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

531 SECTION 26. This act shall take effect and be in force from
532 and after July 1, 2000.