HOUSE BILL NO. 1321

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

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

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

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

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

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

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

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

(e) "Investigations company" means any person who
engages in the business or accepts employment to obtain or furnish
information with reference to:
(i) Crime or wrongs done or threatened against the United States or any state or territory of the United States;

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

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

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

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

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

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

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

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

(j) "Private investigator" means any person who performs one or more services as described in paragraph (e) of this section.
(k) "Qualifying agent" means a principal corporate officer meeting the qualifications set forth in this act for operating an investigations company.

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

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

(2) A private investigations company license and individual license will be issued to an individual who has been continually engaged in the private investigations or legal investigations business on a full-time basis, as determined by the commission, for the year before July 1, 2000, provided the individual met the requirements set forth in Section 6 of this act.

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

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

(5) Every private investigations or legal investigations company shall maintain errors and omissions insurance coverage and professional liability coverage in the following amounts: Per incident, One Hundred Thousand Dollars ($100,000.00); Total, Five Hundred Thousand Dollars ($500,000.00).
SECTION 4.  (1) An application for an investigations company license shall be filed with the commission on the prescribed form. The application shall include:

(a) The full name and business address of the applicant:

   (i) If the applicant is a partnership, the name and address of each partner; or

   (ii) If the applicant is a corporation, the name and address of the qualifying agent;

(b) The name under which the applicant intends to do business;

(c) The address of the principal place of business and all branch offices of the applicant within this state;

(d) As to each individual applicant; or, if the applicant is a partnership, as to each partner; or, if the applicant is a corporation, as to the qualifying agent, the following information:

   (i) Full name;

   (ii) Date and place of birth;

   (iii) All residences during the immediate past five (5) years;

   (iv) All employment or occupations engaged in during the immediate past five (5) years;

   (v) Three (3) sets of classifiable fingerprints;

   (vi) Three (3) credit references from lending institutions or business firms with whom the subject has established a credit record; and

   (vii) A list of all convictions and pending charges of the commission of a felony or misdemeanor in any jurisdiction;

(e) If the applicant is a corporation, the following information:

   (i) The correct legal name of the corporation;

   (ii) The state and date of incorporation;
(iii) The date the corporation qualified to do business in this state;
(iv) The address of the corporate headquarters, if located outside this state; and
(v) The name of two (2) principal corporate officers other than the qualifying agent, and the business address, residence address and the office held by each in the corporation; and
(f) Such other information as the commission may reasonably require.

(2) The application shall be subscribed and sworn to:
(a) By the applicant, if the applicant is an individual applicant; or
(b) By each partner, if the applicant is a partnership; or
(c) By the qualifying agent, if the applicant is a corporation.

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

SECTION 5. Each individual applicant for an investigations company license; or, if the applicant is a partnership, each partner; or, if the applicant is a corporation, the qualifying agent, must:
(a) Be at least twenty-one (21) years of age;
(b) Be a citizen of the United States or a resident alien;
(c) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared him competent;
(d) Not be suffering from habitual drunkenness or narcotics addiction or dependence;
(e) Be of good moral character; and
(f) Pass an examination to be administered at least twice annually by the commission designed to measure knowledge and competence in the investigation field.

SECTION 6. (1) Each applicant for a private investigator license must:
   (a) Be at least twenty-one (21) years of age;
   (b) Be a citizen of the United States or a resident alien;
   (c) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared him competent;
   (d) Not be suffering from habitual drunkenness or narcotics addiction or dependence;
   (e) Be of good moral character; and
   (f) Possess at least three (3) years' investigative experience satisfactory to the commission, with any federal, United States military, state, county, or municipal law enforcement agency; or possess at least three (3) years of experience as a manager, supervisor, or administrator with an investigations company; or pass an examination to be administered at least twice annually by the commission, designed to measure knowledge and competence in the investigations company business.

(2) Each applicant for a legal investigator license must:
   (a) Be at least twenty-one (21) years of age;
   (b) Be a citizen of the United States or a resident alien;
   (c) Not have been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease unless a court of competent jurisdiction has since declared him competent;
   (d) Not be suffering from habitual drunkenness or narcotics addiction or dependence;
(e) Be of good moral character;

(f) Possess at least five (5) years' investigative experience satisfactory to the commission, with any federal, United States military, state, county, or municipal law enforcement agency; or possess at least five (5) years of experience as a manager, supervisor, or administrator with an investigations company; or pass an examination to be administered at least twice annually by the commission, designed to measure knowledge and competence in the investigations company business;

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

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

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

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

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

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

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

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

(a) Conduct an investigation to determine whether the statements made in the application are true;
(b) Submit the fingerprints to the Federal Bureau of Investigation for a search of its files to determine whether the individual fingerprinted has any recorded convictions; and
(c) Request that the Mississippi Department of Public Safety compare the fingerprints submitted with the application to fingerprints on file with the Mississippi Department of Public Safety. On subsequent applications the Mississippi Department of Public Safety shall, at the request of the commission, review its criminal history files based upon the name, date of birth, sex, race and Social Security number of an applicant for any new information since the date of the fingerprint comparison and shall furnish any information thereby derived to the commission. Such application fee shall be charged and collected by the commission according to the following schedule:

Private investigator license.......................... $ 150.00
Legal investigator license.......................... $ 150.00
Company License:
Number of investigators employed by company:

Sole practitioner investigator ................ $ 250.00
Two to five (2-5) employees ................... $ 500.00
Over five (5) employees ....................... $1,000.00

(2) If an application for license is granted, the commission shall issue a license, in a form which the commission shall prescribe, to qualified applicants upon receipt of a nonrefundable, nonproratable license fee. Such license fee shall be charged and collected by the commission in accordance with the following schedule:

Private investigator license ....................... $ 100.00
Legal investigator license ......................... $ 100.00

Company License:

Number of investigators employed by company:

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

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

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

(a) Name;
(b) Photograph;
(c) Physical characteristics;
(d) Private investigator license number or legal investigator license number; and
(e) Expiration date of license.
(5) The identification card shall be issued in a wallet-sized card and shall be permanently laminated.

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

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

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

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

- Private investigator license.................. $ 100.00
- Legal investigator license.................... $ 100.00
- Company License:
  - Number of investigators employed by company:
    - Sole practitioner investigator.......... $ 250.00
    - Two to five (2-5) employees............. $ 500.00
    - Over five (5) employees............... $1,000.00
- A penalty as prescribed by the commission will be assessed on any renewal application postmarked after the expiration date of the license.

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

(4) A renewal application shall be accompanied by a notarized statement sworn by the applicant as to the identity and
number of investigators employed by or affiliated with such investigations company. Making a false statement shall be punishable by a civil penalty not to exceed One Thousand Dollars ($1,000.00) and assessment of the maximum renewal fee.

SECTION 9. If the qualifying agent of a licensee ceases to perform his duties on a regular basis, the licensee shall:
(a) Within thirty (30) days, notify the commission by certified or registered mail; and
(b) Within three (3) months, obtain a substitute qualifying agent. The commission may, in its discretion, extend the period for obtaining a substitute qualifying agent for a reasonable time.

SECTION 10. A licensee shall notify the commission in writing within fourteen (14) days of:
(a) Any change in the qualifying agent of principal corporate officers identified in its application for license;
(b) Any material change in the information previously furnished or required to be furnished to the commission;
(c) An occurrence which could reasonably be expected to affect the licensee's right to a license under this act, including, but not limited to, any criminal charges placed against any licensee by any person. An investigative company must also within thirty (30) days notify the commission of any criminal charges placed against any investigator employed by or affiliated with such company; or
(d) Any judgment received by any person for punitive damages against any licensee.

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

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

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

(a) Violated any provision of this act, or any rule
promulgated hereunder;
(b) Practiced fraud, deceit, or misrepresentation;
(c) Knowingly and willfully made a material
misstatement in connection with an application for license or
renewal; or
(d) Been convicted by a court of competent jurisdiction
of a felony or a misdemeanor, if the commission finds that such
conviction reflects unfavorably on the fitness for such license.

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

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

SECTION 13. (1) No licensee or registrant shall be required
to obtain any authorization, permit 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 business or
activity regulated under this act.

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

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

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

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

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

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

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

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

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

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

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

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

(b) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating or credit worthiness of persons, or a person who provides consumer reports in connection with:
(i) Credit transactions involving the consumer on whom the information is to be furnished and involving the extensions of credit to the consumer;
(ii) Information for employment purposes; or
(iii) Information for underwriting of insurance involving the consumer.

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

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

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

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

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

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

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

SECTION 19. Any person or company offering private investigator or legal investigator training for a fee must first be certified by the commission. The commission will have the duty to ensure that the instructors employed by the training company possess both the experience and academic credentials to ensure the curriculum and instruction of the training company will be beneficial to those seeking to enter the profession.
The commission shall promulgate such rules as are necessary to carry out this section.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 25. (1) The commission is authorized to investigate either on the basis of complaints filed with it or, on its own initiative, instances of suspected violations of this act. (2) The commission is granted the authority to subpoena for purposes of deposition those persons and documents necessary to any investigation undertaken under this act.

SECTION 26. This act shall take effect and be in force from and after July 1, 2001.