MISSISSIPPI LEGISLATURE                        REGULAR SESSION 2001

By: Senator(s) Walls

To: Judiciary; Appropriations

SENATE BILL NO. 2768

AN ACT TO PROVIDE FOR THE LICENSURE 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 and Legal Investigators Licensure Act."

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

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

(b) "Identification card" means a pocket card issued by
the commission evidencing that the holder has met the
qualifications required by this act for licensure under this act.

(c) "Investigations business" means the business or
employment of obtaining or furnishing 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.

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

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

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

(g) "Private investigator" means any person who performs one or more services as described in paragraph (c) of this section.

SECTION 3. (1) A 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 prior to July 1, 2000, provided the individual met the requirements set forth in Section 4 of this act.

(2) Every private investigator or legal investigator licensed in accordance with this act shall maintain a place of business in this state.

SECTION 4. (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 administered by the commission designed to measure knowledge and competence in the investigations 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 administered by the commission designed to measure knowledge and competence in the investigations business.
commission designed to measure knowledge and competence in the investigations 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.

SECTION 5. (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, at the request of the commission, shall 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.

The 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

(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. The license fee shall
be charged and collected by the commission in accordance with the following schedule:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private investigator license</td>
<td>$ 100.00</td>
</tr>
<tr>
<td>Legal investigator license</td>
<td>$ 100.00</td>
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</tbody>
</table>

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

(6) 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 6. (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:

<table>
<thead>
<tr>
<th>License Type</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Private investigator license</td>
<td>$100.00</td>
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<td>Legal investigator license</td>
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</tr>
</tbody>
</table>

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) The making of a false statement on a renewal application shall be punishable by a civil penalty not to exceed One Thousand Dollars ($1,000.00) and assessment of the maximum renewal fee.

SECTION 7. A licensee shall notify the commission in writing within fourteen (14) days of:

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

(b) 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; or

(c) Any judgment received by any person for punitive damages against any licensee.

SECTION 8. (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 9. (1) No licensee 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 the investigations business.

(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.

SECTION 10. The commission may negotiate and enter into reciprocal agreements with appropriate officials in other states to permit 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 11. (1) 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.

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

SECTION 12. No individual licensed as a 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 13. 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 14. 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 15. (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 are to be of good moral character.
(2) (a) 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-time private or legal investigator prior to the date of their appointment and shall be of recognized business standing. At least three (3) of the six (6) initial appointees shall be selected from candidates who possess either state or national board certification as investigators.

(b) 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.

(3) Initially, the Governor shall appoint two (2) members for a term of three (3) years, two (2) members for a term of one (1) year and three (3) members for a term of three (3) years. Thereafter, all members shall be appointed for a term of three (3) years, and the six (6) professional members shall be required to possess a license under this act.

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

No member shall be appointed to succeed himself 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 16. 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 17. (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.

SECTION 18. (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 the director those activities that will expedite the functions of the board.

SECTION 19. (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 20. This act shall take effect and be in force from and after July 1, 2001.

S. B. No. 2768
01/SS26/R1004
*SS26/R1004*
ST: Investigations; license and regulate private or legal.