

By: Senator(s) Walls

To: Judiciary, Division B;
Appropriations

SENATE BILL NO. 2495

1 AN ACT TO PROVIDE FOR THE LICENSURE OF PRIVATE AND LEGAL
2 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 and Legal Investigators Licensure Act."

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

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

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

21 (c) "Investigations business" means the business or
22 employment of obtaining or furnishing information with reference
23 to:

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

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

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

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

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

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

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

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

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

50 **SECTION 3.** (1) A license will be issued to an individual
51 who has been continually engaged in the private investigations or
52 legal investigations business on a full-time basis, as determined
53 by the commission, for the year prior to July 1, 2005, provided
54 the individual met the requirements set forth in Section 4 of this
55 act.

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

59 **SECTION 4.** (1) Each applicant for a private investigator
60 license must:

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

62 (b) Be a citizen of the United States or a resident
63 alien;

64 (c) Not have been declared by any court of competent
65 jurisdiction incompetent by reason of mental defect or disease
66 unless a court of competent jurisdiction has since declared him
67 competent;

68 (d) Not be suffering from habitual drunkenness or
69 narcotics addiction or dependence;

70 (e) Be of good moral character; and

71 (f) Possess at least three (3) years' investigative
72 experience satisfactory to the commission, with any federal,
73 United States military, state, county or municipal law enforcement
74 agency; or possess at least three (3) years of experience as a
75 manager, supervisor or administrator with an investigations
76 company; or pass an examination administered by the commission
77 designed to measure knowledge and competence in the investigations
78 business.

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

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

81 (b) Be a citizen of the United States or a resident
82 alien;

83 (c) Not have been declared by any court of competent
84 jurisdiction incompetent by reason of mental defect or disease
85 unless a court of competent jurisdiction has since declared him
86 competent;

87 (d) Not be suffering from habitual drunkenness or
88 narcotics addiction or dependence;

89 (e) Be of good moral character;

90 (f) Possess at least five (5) years' investigative
91 experience satisfactory to the commission, with any federal,
92 United States military, state, county or municipal law enforcement
93 agency; or possess at least five (5) years of experience as a
94 manager, supervisor or administrator with an investigations
95 company; or pass an examination administered by the commission

96 designed to measure knowledge and competence in the investigations
97 business;

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

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

104 **SECTION 5.** (1) Upon receipt of an application for a
105 license, accompanied by a nonrefundable, nonproratable application
106 fee, the commission shall:

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

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

112 (c) Request that the Mississippi Department of Public
113 Safety compare the fingerprints submitted with the application to
114 fingerprints on file with the Mississippi Department of Public
115 Safety. On subsequent applications the Mississippi Department of
116 Public Safety, at the request of the commission, shall review its
117 criminal history files based upon the name, date of birth, sex,
118 race and social security number of an applicant for any new
119 information since the date of the fingerprint comparison and shall
120 furnish any information thereby derived to the commission.

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

123 Private investigator license..... \$ 150.00;
124 Legal investigator license..... \$ 150.00.

125 (2) If an application for license is granted, the commission
126 shall issue a license, in a form which the commission shall
127 prescribe, to qualified applicants upon receipt of a
128 nonrefundable, nonproratable license fee. The license fee shall

129 be charged and collected by the commission in accordance with the
130 following schedule:

131 Private investigator license..... \$ 100.00;
132 Legal investigator license..... \$ 100.00.

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

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

- 142 (a) Name;
- 143 (b) Photograph;
- 144 (c) Physical characteristics;
- 145 (d) Private investigator license number or legal
146 investigator license number; and
- 147 (e) Expiration date of license.

148 (5) The identification card shall be issued in a
149 wallet-sized card and shall be permanently laminated. The
150 identification card shall be carried on the person of the licensee
151 when engaged in activities of the investigations business.

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

158 **SECTION 6.** (1) A license, or renewal thereof, issued under
159 this act shall be valid for a period of two (2) years from the
160 date of issuance. The commission shall provide each licensee with

161 a renewal application form sixty (60) days prior to the expiration
162 of the license.

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

165 Private investigator license..... \$ 100.00;
166 Legal investigator license..... \$ 100.00.

167 A penalty as prescribed by the commission will be assessed on
168 any renewal application postmarked after the expiration date of
169 the license.

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

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

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

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

181 (b) An occurrence which could reasonably be expected to
182 affect the licensee's right to a license under this act,
183 including, but not limited to, any criminal charges placed against
184 any licensee by any person; or

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

187 **SECTION 8.** (1) The commission may suspend, revoke or refuse
188 to issue or renew any license hereunder upon finding that the
189 holder or applicant has:

190 (a) Violated any provision of this act or any rule
191 promulgated hereunder;

192 (b) Practiced fraud, deceit or misrepresentation;

193 (c) Knowingly and willfully made a material
194 misstatement in connection with an application for license or
195 renewal; or

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

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

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

204 **SECTION 9.** (1) No licensee shall be required to obtain any
205 authorization, permit or license from, or pay any other fee or
206 post a bond in any municipality, county or other political
207 subdivision of this state to engage in the investigations
208 business.

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

212 **SECTION 10.** The commission may negotiate and enter into
213 reciprocal agreements with appropriate officials in other states
214 to permit private investigators and legal investigators who meet
215 or exceed the qualifications established in this act to operate
216 across state lines under mutually acceptable terms.

217 **SECTION 11.** (1) The commission shall provide a copy of this
218 act and any rules promulgated hereunder as may be amended to each
219 licensee every two (2) years at no charge and any other person,
220 upon request, for such reasonable fee as the commission may fix.

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

224 **SECTION 12.** No individual licensed as a private investigator
225 or legal investigator in Mississippi shall:

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

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

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

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

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

240 **SECTION 13.** Each individual licensee is required to complete
241 twelve (12) hours of continuing professional education acceptable
242 to the commission in each calendar year.

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

245 **SECTION 14.** Any person or company offering private
246 investigator or legal investigator training for a fee must first
247 be certified by the commission. The commission will have the duty
248 to ensure that the instructors employed by the training company
249 possess both the experience and academic credentials to ensure the
250 curriculum and instruction of the training company will be
251 beneficial to those seeking to enter the profession.

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

254 **SECTION 15.** (1) There is hereby created the Mississippi
255 Private and Legal Investigations Commission, hereinafter referred
256 to as the commission, which consists of seven (7) members
257 appointed by the Governor with the advice and consent of the
258 Senate, each of whom are to be of good moral character.

259 (2) (a) Six (6) of the members shall each have been
260 principally engaged as private investigators or legal
261 investigators in this state for at least five (5) years as a
262 full-time private or legal investigator prior to the date of their
263 appointment and shall be of recognized business standing. At
264 least three (3) of the six (6) initial appointees shall be
265 selected from candidates who possess either state or national
266 board certification as investigators.

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

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

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

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

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

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

287 **SECTION 16.** The commission is declared to be a judicial body
288 and the members and its employees are hereby granted immunity from
289 any civil liability when acting in good faith in the performance
290 of their duties under this act.

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

295 **SECTION 17.** (1) Upon qualification of the members
296 appointed, the commission shall organize itself by selecting from
297 its members a chairman and a vice chairman, and shall have the
298 power to do all things necessary and proper for carrying out the
299 provisions of this act not inconsistent with the laws of this
300 state. The commission may promulgate and adopt such bylaws, rules
301 and regulations as are reasonably necessary for such purpose.

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

305 **SECTION 18.** (1) The commission may hold such meetings as it
306 may deem necessary for the purpose of transacting such business as
307 may properly come before it. All members of the commission shall
308 be duly notified of the time and place of each meeting.

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

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

316 **SECTION 19.** (1) The commission is authorized to investigate
317 either on the basis of complaints filed with it or, on its own
318 initiative, instances of suspected violations of this act.

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

322 **SECTION 20.** This act shall take effect and be in force from
323 and after July 1, 2005.