

By: Senator(s) Walls

To: Judiciary, Division B

SENATE BILL NO. 2295

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, 2007, 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, 2007.