

By: Banks, Fleming, Straughter

To: Judiciary A

HOUSE BILL NO. 1204

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 lost
39 or stolen property;

40 (iv) The cause or responsibility for fires, libels,
41 losses, accidents, damages or injuries to persons or to property;
42 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, 1999, 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 amounts: Per
92 incident, One Hundred Thousand Dollars (\$100,000.00); Total, Five
93 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 and
100 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 five
114 (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 charges
122 of the commission of a felony or misdemeanor in any jurisdiction;
123 (e) If the applicant is a corporation, the following
124 information:
125 (i) The correct legal name of the corporation;
126 (ii) The state and date of incorporation;
127 (iii) The date the corporation qualified to do
128 business in this state;
129 (iv) The address of the corporate headquarters, if

130 located outside this state; and

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

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

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

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

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

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

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

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

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

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

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

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

159 (e) Be of good moral character; and

160 (f) Pass an examination to be administered at least
161 twice annually by the commission designed to measure knowledge and
162 competence in the investigation field.

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

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

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

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

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

174 (e) Be of good moral character; and

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

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

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

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

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

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

193 (e) Be of good moral character;

194 (f) Possess at least five (5) years' investigative
195 experience satisfactory to the commission, with any federal,

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

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

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

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

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

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

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

229 shall include as a minimum the following:

230 (a) The inclusive dates of the apprenticeship;

231 (b) A narrative explaining the primary duties, types of
232 experiences gained, and the scope of the training received,
233 including attendance at nationally recognized investigative
234 seminars; and

235 (c) An evaluation of the performance of the apprentice
236 and a recommendation regarding future licensing.

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

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

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

245 (c) Request that the Mississippi Department of Public
246 Safety compare the fingerprints submitted with the application to
247 fingerprints on file with the Mississippi Department of Public
248 Safety. On subsequent applications the Mississippi Department of
249 Public Safety shall, at the request of the commission, review its
250 criminal history files based upon the name, date of birth, sex,
251 race and Social Security number of an applicant for any new
252 information since the date of the fingerprint comparison and shall
253 furnish any information thereby derived to the commission.

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

256 Private investigator license.....\$ 150.00
257 Legal investigator license.....\$ 150.00

258 Company License:

259 Number of investigators employed by company:

260 Sole practitioner investigator.....\$ 250.00

261 Two to five (2-5) employees.....\$ 500.00

262 Over five (5) employees.....\$1,000.00

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

269 Private investigator license.....\$ 100.00

270 Legal investigator license.....\$ 100.00

271 Company License:

272 Number of investigators employed by company:

273 Sole practitioner investigator.....\$ 125.00

274 Two to five (2-5) employees.....\$ 250.00

275 Over five (5) employees.....\$ 500.00

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

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

285 (a) Name;

286 (b) Photograph;

287 (c) Physical characteristics;

288 (d) Private investigator license number or legal
289 investigator license number; and

290 (e) Expiration date of license.

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

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

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

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

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

| | | |
|-----|--|------------|
| 308 | Private investigator license..... | \$ 100.00 |
| 309 | Legal investigator license..... | \$ 100.00 |
| 310 | Company License: | |
| 311 | Number of investigators employed by company: | |
| 312 | Sole practitioner investigator..... | \$ 250.00 |
| 313 | Two to five (2-5) employees..... | \$ 500.00 |
| 314 | Over five (5) employees..... | \$1,000.00 |

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

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

322 (4) A renewal application shall be accompanied by a
323 notarized statement sworn by the applicant as to the identity and
324 number of investigators employed by or affiliated with such
325 investigations company. Making a false statement shall be
326 punishable by a civil penalty not to exceed One Thousand Dollars
327 (\$1,000.00) and assessment of the maximum renewal fee.

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

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

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

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

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

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

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

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

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

359 For good cause, the commission may extend the period of
360 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. The commission shall provide a copy of this act
393 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 SECTION 16. No individual licensed as an investigations
397 company, private investigator or legal investigator in Mississippi
398 shall:

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

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

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

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

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

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

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

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

419 (b) A person engaged exclusively in the business of
420 obtaining and furnishing information as to the financial rating or
421 credit worthiness of persons, or a person who provides consumer
422 reports in connection with:

423 (i) Credit transactions involving the consumer on
424 whom the information is to be furnished and involving the
425 extensions of credit to the consumer;

426 (ii) Information for employment purposes; or

427 (iii) Information for underwriting of insurance
428 involving the consumer.

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

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

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

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

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

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

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

449 SECTION 19. Any person or company offering private
450 investigator or legal investigator training for a fee must first
451 be certified by the commission. The commission will have the duty
452 to ensure that the instructors employed by the training company
453 possess both the experience and academic credentials to ensure the
454 curriculum and instruction of the training company will be
455 beneficial to those seeking to enter the profession.

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

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

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

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

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

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

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

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

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

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

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

490 SECTION 22. The commission is declared to be a judicial body
491 and the members and its employees are hereby granted immunity from
492 any civil liability when acting in good faith in the performance

493 of their duties under this act.

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

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

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

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

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

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

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

522 SECTION 25. (1) The commission is authorized to investigate
523 either on the basis of complaints filed with it or, on its own
524 initiative, instances of suspected violations of this act.

525 (2) The commission is granted the authority to subpoena for

526 purposes of deposition those persons and documents necessary to
527 any investigation undertaken under this act.

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