

By: Representative Malone

To: Judiciary A;
Appropriations

HOUSE BILL NO. 384

1 AN ACT TO CREATE THE PRIVATE INVESTIGATORS LAW; TO DEFINE
2 TERMS TO BE USED IN THIS ACT; TO CREATE THE MISSISSIPPI STATE
3 BOARD OF PRIVATE INVESTIGATOR EXAMINERS; TO ESTABLISH
4 QUALIFICATIONS OF BOARD MEMBERS; TO PROVIDE POWERS AND DUTIES OF
5 THE BOARD; TO CREATE THE POSITION OF EXECUTIVE DIRECTOR OF THE
6 BOARD; TO PROVIDE THAT THE BOARD ESTABLISH MINIMUM QUALIFICATIONS
7 FOR LICENSING; TO AUTHORIZE THE BOARD TO ISSUE DIFFERENT TYPES OF
8 LICENSES; TO PROVIDE THAT THE BOARD DETERMINE THE SCOPE, FORM AND
9 CONTENT OF EXAMINATIONS FOR LICENSURE; TO PROVIDE THAT THE BOARD
10 ESTABLISH PROCEDURES FOR ACCEPTING OR DENYING APPLICATIONS; TO
11 PROVIDE FOR THE FORM OF THE LICENSE; TO REQUIRE EACH PERSON
12 PERFORMING THE DUTIES OF A PRIVATE INVESTIGATOR SHALL APPLY TO THE
13 BOARD FOR A REGISTRATION CARD; TO PROVIDE THAT THE BOARD APPROVE
14 ALL TRAINING PROGRAMS; TO PROVIDE A SCHEDULE OF FEES; TO PROVIDE
15 AUTHORITY FOR BOARD TO SUSPEND, REVOKE OR IMPOSE PROBATIONARY OR
16 OTHER RESTRICTIONS ON LICENSES; TO PROVIDE FOR UNLAWFUL ACTS; TO
17 PROVIDE PENALTIES FOR UNLAWFUL ACTS; TO AUTHORIZE THE BOARD TO
18 PROVIDE PUNISHMENT FOR UNLAWFUL ACTS; TO CREATE A SPECIAL FUND IN
19 THE STATE TREASURY FOR THE MISSISSIPPI STATE BOARD OF PRIVATE
20 INVESTIGATOR EXAMINERS; TO PROVIDE FOR THE DUTIES OF THE EXECUTIVE
21 DIRECTOR; TO PROVIDE FOR MEETINGS OF THE BOARD; TO PROVIDE FOR
22 STANDING COMMITTEES OF THE BOARD; TO PROVIDE FOR ADDITIONAL FEES;
23 TO PROVIDE FOR INVESTIGATIVE EDUCATIONAL INSTRUCTION; TO PROVIDE
24 FOR THE DUTIES AND RESPONSIBILITIES OF AN INVESTIGATOR; TO PROVIDE
25 FOR THE PROCEDURE FOR HEARING COMPLAINTS BEFORE THE BOARD OF
26 PRIVATE INVESTIGATORS; TO DESCRIBE THE TYPES OF PROFESSIONAL
27 MISCONDUCT FOR INVESTIGATORS; TO PROVIDE FOR PROCEEDINGS TO
28 ADJUDICATE AN ADMINISTRATIVE ENFORCEMENT ACTION; AND FOR RELATED
29 PURPOSES.

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

31 **SECTION 1.** The Legislature of Mississippi declares that it
32 is in the best interest of the citizens of Mississippi to require
33 the licensure of private investigators and businesses.

34 The purpose of this act is to require qualifying criteria in
35 a professional field in which unqualified individuals may injure
36 the public. The requirements of this act shall contribute to the
37 safety, health and welfare of the people of Mississippi.

38 **SECTION 2.** This act shall be known and may be cited as the
39 "Private Investigators Law."

40 **SECTION 3.** As used in this act, the following terms shall
41 have the meanings ascribed to them unless the context clearly
42 requires otherwise:

43 (a) "Applicant" means a person who seeks to be examined
44 for licensure or certification by the board.

45 (b) "Board" means the Mississippi State Board of
46 Private Investigator Examiners within the Department of Public
47 Safety.

48 (c) "Contract private investigator company" means any
49 person engaged in the business of providing, or which undertakes
50 to provide, an investigator on a contractual basis for another
51 person.

52 (d) "Executive director" means the chief administrative
53 officer of the board.

54 (e) "Licensee" means any person to whom a license is
55 granted in accordance with the provisions of this act and who may
56 certify the successful completion of the required minimum training
57 for private investigator apprentices.

58 (f) "Person" means an individual, firm, association,
59 company, partnership, corporation, nonprofit organization or other
60 legal entity.

61 (g) "Principal corporate officer" means the president,
62 treasurer, secretary, or comptroller or any other persons who
63 performs functions for the corporation corresponding to those
64 performed by the foregoing officers.

65 (h) (i) "Private investigator" or "private detective"
66 means any person who holds out to the general public and engages
67 in the business of furnishing or who accepts employment to furnish
68 information or who agrees to make or makes an investigation for
69 the purpose of obtaining information with reference to the
70 following:

71 1. Crimes or wrongs committed.

72 2. Identity, habits, conduct, business,
73 occupations, honesty, integrity, credibility, knowledge,
74 trustworthiness, efficiency, loyalty, activity, movement,
75 whereabouts, affiliations, associations, transactions, acts,
76 reputation or character of any person.

77 3. The location, disposition or recovery of
78 stolen property.

79 4. The cause or responsibility for fires,
80 libels, losses, accidents, damages or injuries to persons or to
81 properties. However, scientific research laboratories, technical
82 experts and licensed engineers shall not be included in this
83 definition.

84 5. Securing evidence to be used before any
85 court, board, officer or investigative committee.

86 (ii) The definition "pi" or "pdetc" shall not
87 include any of the following:

88 1. Insurer employees or agents and insurance
89 adjusters or claims agents who make appraisals for the monetary
90 value or settlement of damages or monetary value or settlement of
91 personal injuries.

92 2. An officer or employee of the United
93 States, this state or any political subdivision of either while
94 such officer or employee is engaged in the performance of his or
95 her official duties within the course and scope of his or her
96 employment with the United States, this state or any political
97 subdivision.

98 3. A person engaged exclusively in the
99 business of obtaining and furnishing information as to the
100 financial rating or credit worthiness of persons.

101 4. An attorney at law licensed to practice in
102 this state and his or her employees.

103 5. Undercover agents working with the United
104 States, this state or any political subdivision while engaged in
105 the performance of their official duties.

106 6. A person primarily engaged in the business
107 of furnishing confidential information for the purposes of a
108 consumer reporting agency, as defined by the Federal Fair Credit
109 Reporting Act, 15 USCS 1681 et seq.

110 7. A person licensed by the Mississippi State
111 Board of Private Security Examiners only when investigating at his
112 or her place of employment during the performance of his or her
113 duties.

114 8. A person or corporation which employs
115 persons who do private investigative work in connection with the
116 affairs of such employer exclusively and who have an
117 employer-employee relationship with such employer. Neither such
118 persons or corporations nor their employees shall be required to
119 register or be licensed under this act.

120 9. A person engaged as a professional
121 employment screening consultant conducting face-to-face interview
122 with an applicant or candidate for employment.

123 10. A certified public accountant licensed to
124 practice in this state and his or her employees.

125 (i) "Registrant" means an individual who holds a valid
126 registration card issued by the board.

127 (j) "Registration card" means the identification card
128 issued by the board to a registrant as evidence that the
129 registrant has met the required minimum qualifications to perform
130 the duties of a private investigator or apprentice.

131 **SECTION 4.** (1) The Mississippi State Board of Private
132 Investigator Examiners is hereby created within the Department of
133 Public Safety. The board shall be a body corporate and may sue
134 and be sued.

135 (2) The board shall be comprised of seven (7) members
136 appointed by the Governor. One (1) member shall be appointed from
137 each of the four (4) congressional districts and one (1) at large
138 as established by law and shall be a resident of the district from
139 which he or she is appointed. The Governor shall appoint one (1)
140 licensed attorney to serve on the board from the state at large
141 and one (1) member from the state at large appointed from a list
142 of names submitted by the Board of Directors of the Mississippi
143 Private Investigators Association. Each member of the board shall
144 be a citizen of the United States of America, a resident of
145 Mississippi, at least twenty-one (21) years of age and, except for
146 the attorney appointed from the state at large, shall have been
147 actively engaged in the private investigator business for the
148 previous five (5) years, earning at least ninety percent (90%) of
149 his or her gross income for the year preceding his or her
150 appointment from the private investigator business. No more than
151 two (2) board members may be employed by or affiliated with the
152 same agency. The initial board members shall not be required to
153 be licensed but shall obtain a license within one hundred eighty
154 (180) days after appointment to the board. Each subsequent member
155 shall be a licensed private investigator.

156 (3) The board shall be domiciled in Jackson, Mississippi,
157 and may meet at such other location in the state as may be
158 determined by the board.

159 (4) Each member shall serve at the pleasure of the Governor.
160 Each appointment by the Governor shall be submitted to the Senate
161 for confirmation.

162 (5) Any vacancy on the board caused by the death,
163 resignation or disability of a member shall be filled by
164 appointment by the Governor. A person appointed to fill a vacancy
165 on the board shall possess the same qualifications and residency
166 requirements as the person whose position on the board is being
167 filled by the appointment.

168 (6) Each member of the board shall receive a certificate or
169 commission from the Governor and before beginning his or her term
170 of office shall file with the Secretary of State a written oath or
171 affirmation for faithful discharge of his or her official duties.

172 (7) (a) No member of the board shall receive a per diem but
173 shall be reimbursed for actual expenses incurred when attending a
174 meeting of the board of any of its committees and for the time
175 spent on behalf of the board on official business, not to exceed
176 ten (10) days in any month.

177 (b) Each member shall be reimbursed, upon approval of
178 the board as evidenced by voucher, for all necessary travel,
179 incidental and clerical expenses incurred in carrying out the
180 provisions of this act.

181 **SECTION 5.** (1) The board shall:

182 (a) Examine all applicants desiring to be licensed as a
183 private investigator or private investigator agency in the State
184 of Mississippi.

185 (b) Administer a written examination for prospective
186 licensees at least twice each year in the City of Jackson.

187 (c) Adopt rules and regulations to govern the practice
188 of a private investigator in the State of Mississippi.

189 (d) Issue, suspend, modify or revoke license
190 certificates to practice as a private investigator or apprentice
191 in the State of Mississippi.

192 (e) Report to the Attorney General of the state all
193 persons violating the provisions of this act.

194 (f) Elect a chairman and vice chairman, each to serve a
195 term of two (2) years.

196 (g) Report, no later than October 1 of each year, to
197 the Governor, the Secretary of State, and the Legislature on its
198 activities.

199 (h) Adopt its official seal.

200 (2) The board may:

201 (a) Adopt and enforce such rules and regulations,
202 bylaws and rules of professional conduct as the board may deem
203 necessary and proper to regulate private investigator businesses
204 in the State of Mississippi, to provide for the efficient
205 operation of the board, and otherwise to discharge its powers,
206 duties and functions under the provisions of this act.

207 (b) Prescribe and adopt regulations, standards,
208 procedures and policies governing the manner and conditions under
209 which credit shall be given by the board for participation in
210 professional education such as the board may consider necessary
211 and appropriate to maintain the highest standards of the private
212 investigator industry in the State of Mississippi.

213 (c) Authorize any member of the board to make any
214 affidavit necessary for the issuance of any injunction or other
215 legal process authorized under this act or under the rules and
216 regulations of the board.

217 (d) Issue subpoenas to require attendance and testimony
218 and the production of documents, for the purpose of enforcing the
219 laws relative to the private investigator industry and securing
220 evidence of violations thereof.

221 (e) Maintain a current list of licensed private
222 investigators.

223 (f) Appoint a qualified executive director.

224 (g) Employ clerical assistance necessary to carry out
225 the administrative work of the board.

226 (h) Employ legal counsel to carry out the provisions of
227 this act. The fees of such counsel and the cost of all
228 proceedings except criminal prosecutions shall be paid by the
229 board from its own funds.

230 (i) Incur all necessary and proper expenses.

231 (3) The chairman and executive director of the board or, in
232 their absence, any other member of the board, may administer oaths
233 in the taking of testimony given before the board.

234 (4) The board shall meet quarterly at regular meetings each
235 year. A special meeting may be held at such time and place as
236 specified by the executive director on call of the chairman or any
237 four (4) members. The executive director shall give written
238 notice of all meetings to the members of the board and to the
239 interested public.

240 (5) Four (4) members of the board shall constitute a quorum
241 for all purposes, including the granting or issuance of licenses
242 and the rulemaking and adjudicative functions of the board.

243 (6) The board shall have the authority to:

244 (a) Request and obtain state and national criminal
245 history record information on any person applying for any license
246 or registration which the board is authorized by law to issue.

247 (b) Require any applicant for any license or
248 registration, which the board is authorized to issue, to submit
249 two (2) full sets of fingerprints, in a form and manner prescribed
250 by the board, as a condition to the board's consideration of his
251 or her application.

252 (c) Charge and collect from an applicant for any
253 license or registration which the board is authorized to issue, in
254 addition to all other applicable fees and costs, such amount as
255 may be incurred by the board in requesting and obtaining criminal
256 history record information on the applicant.

257 **SECTION 6.** (1) The position of executive director of the
258 board is hereby created. The executive director shall be
259 appointed by the board with consent of the Governor and shall
260 serve as the chief administrator of the board. He or she shall
261 not be a member of the board, but shall be a full-time
262 unclassified employee of the board who shall be paid compensation
263 in an amount to be determined by the board which shall not exceed
264 Fifty Thousand Dollars (\$50,000.00) annually. The office,
265 equipment and furnishings of the board and the executive director

266 shall be initially furnished by the Department of Public Safety
267 and Corrections.

268 (2) The executive director shall perform such duties as may
269 be prescribed by the board. He or she shall have no financial or
270 business interests, contingent dealings or otherwise, in the
271 private investigator industry while so employed or for a period of
272 two (2) years after termination of employment.

273 **SECTION 7.** (1) The board shall base the determination of
274 the satisfactory minimum qualifications for licensing on whether
275 or not the applicant satisfies the following criteria:

276 (a) Is of legal age.

277 (b) Is a citizen of the United States or a resident
278 alien holding proper documentation to work in the United States.

279 (c) Has not been convicted in any jurisdiction of any
280 felony or of any crime involving moral turpitude.

281 (d) Has not been declared by any court of competent
282 jurisdiction to be incompetent by reason of mental defect or
283 disease which has not been restored.

284 (e) Is not a practicing alcoholic or drug addict.

285 (f) If a corporation, shall be incorporated under the
286 laws of this state or shall be duly qualified to do business
287 within the state with a valid certificate of authority issued by
288 the Secretary of State, and shall have an agent for service of
289 process designated as required by law.

290 (2) If, in the discretion of the board, the applicant
291 provides inadequate information to allow the board to ascertain
292 whether the applicant satisfies the qualifications for licensure,
293 the applicant shall be required to provide additional information
294 for the purpose of the application, or may be required to present
295 himself or herself for an interview for this purpose.

296 (3) An applicant for licensing shall file with the board an
297 application form provided by the board. The form shall require
298 such relevant information about the applicant's character,

299 experience and background as the board may determine and the
300 following:

301 (a) If the applicant is an individual, the application
302 shall be subscribed and sworn to by such person before a notary
303 and two (2) witnesses.

304 (b) If the applicant is a partnership, the application
305 shall be subscribed and sworn to by each partner before a notary
306 and two (2) witnesses.

307 (c) If the applicant is a corporation, it shall be
308 subscribed and sworn to by at least two (2) principal corporate
309 officers before a notary and two (2) witnesses.

310 (d) Any individual signing a license application shall
311 submit with the license application classifiable impressions of
312 his fingerprints on a form approved by the board.

313 (4) Every person covered by this act within the state on
314 July 1, 2005, shall have one hundred eighty (180) days after the
315 board is duly constituted to apply to the board for a license to
316 operate. Any such person filing a timely application may continue
317 to engage in business pending a final determination of his
318 application.

319 **SECTION 8.** (1) As used in this section the following terms
320 shall have the following meaning:

321 (a) "Bureau" means the Mississippi Bureau of Criminal
322 Identification and Information of the office of state police
323 within the Department of Public Safety and Corrections.

324 (b) "Criminal history record information" means
325 information collected by state and federal criminal justice
326 agencies on individuals consisting of identifiable descriptions
327 and notations of arrests, detentions, indictments, bills of
328 information or any formal criminal charges, and any disposition
329 arising therefrom, including sentencing and criminal correctional
330 supervision and release, but does not include intelligence for
331 investigatory purposes, nor does it include any identification

332 information which does not indicate involvement of the individual
333 in the criminal justice system.

334 (c) "FBI" means the Federal Bureau of Investigation of
335 the United States Department of Justice.

336 (d) "Licensure" means any license or registration which
337 the board is authorized to issue.

338 (2) In addition to any other requirements established by law
339 or board rules, the board shall require an applicant, as a
340 condition for eligibility for licensure, to submit two (2) full
341 sets of fingerprints, on a form and in a manner prescribed by the
342 board, to permit the board to request and obtain state and
343 national criminal history record information on the applicant and
344 to charge and collect from the applicant, in addition to all other
345 applicable fees and costs, such amount as may be incurred by the
346 board in requesting and obtaining state and national criminal
347 history record information on the applicant.

348 (3) In accordance with the provisions and procedures
349 prescribed by this section, the board shall request and obtain
350 state and national criminal history record information from the
351 bureau within the FBI relative to any applicant for licensure
352 whose fingerprints the board has obtained pursuant to this section
353 for the purpose of determining the applicant's suitability and
354 eligibility for licensure.

355 (4) Upon request by the board and upon the board's
356 submission of an applicant's fingerprints, and such other
357 identifying information as may be required, the bureau shall
358 conduct a search of its criminal history record information
359 relative to the applicant and report the results of its search to
360 the board within sixty (60) days after receipt of any such
361 request. The bureau may charge the board a reasonable processing
362 fee for conducting and reporting the results of any such search.

363 (5) The board shall also forward the applicant's
364 fingerprints and such other identifying information as may be

365 required to the FBI with a request for a search of national
366 criminal history record information relative to the applicant.

367 (6) Any and all state or national criminal history record
368 information obtained by the board from the bureau or FBI which is
369 not already a matter of public record shall be deemed nonpublic
370 and confidential information restricted to the exclusive use of
371 the board, its members, officers, investigators, agents and
372 attorneys in evaluating the applicant's eligibility or
373 disqualification for licensure. No such information or records
374 related thereto shall, except with the written consent of the
375 applicant or by order of a court of competent jurisdiction, be
376 released or otherwise disclosed by the board to any other person
377 or agency.

378 **SECTION 9.** (1) The board is authorized to issue the
379 following types of licenses to qualified applicants:

380 (a) (i) "Private investigation agency license" issued
381 to any person or entity, where the individual seeking license or
382 the partner of the partnership seeking license or the principal
383 corporate officer of the corporation seeking license:

384 1. Has at least three (3) years experience
385 within the last ten (10) years either working as a private
386 investigator or in an investigative capacity; and

387 2. Satisfies all other requirements for
388 licensing.

389 (ii) The provisions of this paragraph requiring
390 investigative experience for licensing as a private investigator
391 agency shall not apply to any person or entity licensed as a
392 private investigator agency on July 1, 2005.

393 (b) "Private investigator license" issued to any
394 person, who satisfies the requirements for licensing and is
395 employed by a licensed private investigator agency.

396 (c) "Apprentice license" issued to any person who
397 satisfies the minimum requirements for licensing as an apprentice,
398 as established by rules and regulations promulgated by the board.

399 (2) The individual or the partner of the partnership or the
400 principal corporate officer of the corporation with the requisite
401 experience licensed to operate as a "private investigator agency"
402 may operate as a private investigator and hire others licensed as
403 a "private investigator."

404 (3) The individual licensed as a "private investigator" may
405 only operate as a private investigator if employed by a licensed
406 private investigator agency.

407 **SECTION 10.** (1) After receipt of an application for a
408 license, the board shall conduct an investigation to determine
409 whether the facts set forth in the application are true.

410 (2) Within sixty (60) days after receipt of an application,
411 the board shall either issue a license to the applicant or notify
412 him or her of a denial of the license application.

413 (3) If the board requires additional information from the
414 applicant to complete its investigation or otherwise to satisfy
415 the requirements of this act, or if the applicant has not
416 submitted all required information, the sixty-day period for
417 action by the board shall commence when the board has received all
418 such information.

419 (4) The board shall deny the application for a license if it
420 finds that the applicant, or the qualifying agent, or any of the
421 applicant's owners, partners or principal corporate officers have
422 committed any of the following:

423 (a) Violated any of the provisions of this act or the
424 rules and regulations promulgated by the board.

425 (b) Practiced fraud, deceit or misrepresentation.

426 (c) Knowingly made a material misstatement in the
427 application for a license.

428 (d) Failed to meet the qualifications of this act.

429 (e) Been convicted of a felony.

430 (5) The board may refuse to issue a license for good cause
431 shown.

432 **SECTION 11.** (1) The board shall determine the scope, form
433 and content of the examinations for licensure. The examination,
434 which shall be written, shall test the applicant's knowledge of
435 the private investigator business and his or her ability to apply
436 that knowledge and to assume responsible charge in the practice of
437 private investigator.

438 (2) The examination shall include such subject areas as
439 general federal and state constitutional principles and court
440 decisions related to activities which could result in liability
441 for invasion of privacy or other activities, search and seizure
442 laws in general, state criminal laws and related procedures, and
443 general weapons use and concealed weapons laws. The board shall
444 review and make use of nationally accepted and appropriate
445 examinations to the extent practical.

446 (3) The board shall conduct or contract for the conduct of a
447 forty-hour training class covering the subject areas of the
448 licensing examination and shall require completion of an approved
449 training class for a licensed applicant prior to the taking of the
450 examination.

451 **SECTION 12.** (1) The procedure of the board in approving or
452 denying an application shall be as follows:

453 (a) If the application is approved, the board shall
454 notify the applicant in writing that a license shall be issued.

455 (b) If the application is denied, the board shall
456 notify the applicant in writing and shall set forth the grounds
457 for denial.

458 (c) (i) If the grounds for denial are subject to
459 correction by the applicant, the notice of denial shall so state
460 and the applicant shall be given ten (10) days after receipt of

461 such notice, or, upon application, a reasonable additional period
462 of time within which to make the required correction.

463 (ii) If the application is denied, the applicant,
464 within thirty (30) days after receipt of notice of denial from the
465 board, may request a hearing on the denial. Within ten (10) days
466 after the filing of such request for hearing by the applicant, the
467 board shall schedule a hearing to be held after due notice to the
468 applicant. The hearing shall be conducted in accordance with the
469 Administrative Procedures Act.

470 (2) The board shall issue a license as a private
471 investigator to each applicant who meets the requirements of this
472 act, passes satisfactorily the examination administered by the
473 board and pays the required fee.

474 (3) Any applicant who fails an examination may be reexamined
475 upon expiration of at least thirty (30) days and upon filing a new
476 application and payment of the reexamination fee.

477 (4) A qualified agency or company in existence on July 1,
478 2005, may be licensed without an examination, upon approval of the
479 board, if application is made to the board before January 1, 2006.
480 In determining the qualifications of an applicant for licensing
481 under this subsection, an affirmative vote of at least four (4)
482 members of the board is required.

483 (5) Upon satisfactorily passing the examination administered
484 by the board and paying the required fee the following persons, if
485 otherwise qualified, may be licensed without the necessity of
486 taking the training course:

487 (a) Any person who was a commissioned law enforcement
488 officer in this state as of July 1, 2005, and who has a valid
489 certificate from a law enforcement training center accredited by
490 the Council on Peace Officer Standards and Training.

491 (b) Any person who was a commissioned law enforcement
492 officer prior to July 1, 2005, and who was certified under the
493 provisions of Section 45-6-11.

494 (c) Any person who was a commissioned law enforcement
495 officer in another state as of July 1, 2005, and who holds a
496 certificate from a law enforcement training center in that state
497 which meets the requirements that are comparable to that of
498 Mississippi.

499 **SECTION 13.** (1) The license, when issued, shall be in a
500 form prescribed by the board and shall include the following:

501 (a) Name of licensee.

502 (b) Business name under which the licensee is to
503 operate.

504 (c) Addresses of the locations where the licensee is
505 operating or will operate.

506 (d) Number and date of the license and its date of
507 expiration.

508 (2) No license shall be assigned or transferred either by
509 operation of law or otherwise.

510 (3) If a sale, assignment, transfer, merger or consolidation
511 of a business licensed under this act is completed, the purchaser,
512 assignee, transferee or surviving or new corporation, who is not
513 already a licensee, shall immediately apply for a license on a
514 form prescribed by the board which shall include the general
515 information required by this act.

516 (4) The purchaser, assignee, transferee or surviving or new
517 corporation shall be subject to the same general requirements and
518 procedures set forth in this act to the extent such sections are
519 applicable, and may continue the operation of that licensed
520 business until notified by the board of its final decision on the
521 new application for a license.

522 (5) For good cause shown, the board may extend the period
523 of time for filing the application required.

524 **SECTION 14.** (1) (a) Within seventy-two (72) hours after
525 receipt of the license certificate, the licensee shall cause the
526 license certificate to be posted and to be displayed at all times

527 in a conspicuous place in the principal office of the licensee
528 within the state.

529 (b) Copies of the license certificate shall be
530 displayed at all times in any other office within the state where
531 the licensee transacts business.

532 (c) Such license certificates, or copies thereof, shall
533 be subject to inspection at all reasonable times by the board.

534 (2) It shall be unlawful for any person holding such a
535 license certificate knowingly and willfully to post or to permit
536 the posting of the license certificate upon premises other than
537 those described in the license certificate, or knowingly and
538 willfully to alter such license certificate.

539 (3) (a) Each license certificate shall be surrendered to
540 the board within seventy-two (72) hours after it has been revoked
541 or after the licensee ceases to do business.

542 (b) If the board or a court of competent jurisdiction
543 has pending before it any matter relating to the renewal,
544 revocation or transfer of a license, the licensee shall not be
545 required to surrender the license certificate until the matter has
546 been adjudicated and all appeals have been exhausted.

547 (c) When the licensee receives final notice that its
548 license has been revoked, a copy of such notice shall be displayed
549 and posted in close proximity to the license certificate until the
550 licensee terminates operations.

551 **SECTION 15.** The licensee shall notify the board within
552 thirty (30) days of any changes in its officers, directors or
553 material change in the information previously furnished or
554 required to be furnished to the board, or of any occurrence which
555 could reasonably be expected to affect the licensee's right to a
556 license under this act.

557 **SECTION 16.** (1) (a) Each person who in performing the
558 functions and duties of a private investigator in this state on
559 July 1, 2005, shall have one hundred eighty (180) days after the

560 board is duly constituted to apply to the board for a registration
561 card.

562 (b) A registration card may be issued to an apprentice
563 by the board pending issuance of a permanent registration card.
564 The registration card for the apprentice shall be valid for not
565 more than one (1) year.

566 (c) Individuals required to obtain a registration card
567 under the provisions of this act shall request an application form
568 from this board and upon completion thereof shall immediately
569 forward the sworn application to the board.

570 (d) (i) The board shall prescribe by rule the form for
571 such applications and procedures for their submission,
572 consideration and disposition, including the fee to accompany the
573 application.

574 (ii) To be eligible to apply for a registration
575 card, an individual shall have the same qualifications required of
576 an applicant listed under Section 7 of this act.

577 (2) Each investigator shall carry his or her registration
578 card whenever he or she is performing the duties of a private
579 investigator, and it shall be exhibited upon request. The
580 registration card shall entitle the registrant to perform the
581 duties of a private investigator as long as the registrant
582 maintains his or her eligibility under the provisions of this act.

583 (3) The registration card shall bear the name of the
584 employer, an identifying number, photograph and any other
585 identifying data required by the board.

586 (4) After receipt of an application for a registration card,
587 the board shall conduct an investigation to determine whether the
588 facts set forth in the application are true. Actions by the board
589 to approve or deny an application for a registration card shall be
590 the same as that action taken to deny or approve an application
591 for license as provided under Section 12 of this act.

592 (5) (a) In the event that the board denies, suspends or
593 revokes a registration card, the cardholder, upon receipt of the
594 notice of denial, suspension or revocation, shall immediately
595 cease to perform the duties of a private investigator, unless
596 specifically authorized to continue work by order of the board or
597 by a court of competent jurisdiction within the state.

598 (b) Both the cardholder and the employer shall be
599 notified by the board of its final action to deny, suspend or
600 revoke a registration card.

601 (6) (a) Registration cards issued by the board shall be
602 valid for one (1) year. The registrant shall be required to
603 advise the board of any changes in his or her status or permanent
604 address during that period. The cardholder shall file a
605 registration card renewal form with the board not less than thirty
606 (30) days prior to the expiration of the card, together with the
607 fee for renewal. The renewal application shall include a
608 statement by the registrant that he or she continues to meet the
609 qualifications for a private investigator as set forth by the
610 board. The renewal application shall be accompanied by a
611 statement from the licensee that the registrant has satisfactorily
612 completed the required training as prescribed by the board.

613 (b) The board may refuse to renew a registration card
614 and shall promptly notify the cardholder of its intent to refuse.
615 The cardholder, within fifteen (15) days after receipt of such
616 notice, may request a hearing on the refusal, in the same manner
617 and in accordance with the same procedure as that provided in
618 Section 56 of this act.

619 (c) A licensee or employer shall notify the board
620 within ten (10) days after the death or termination of employment
621 of any of its employees who are registrants. Licensees or
622 employers subject to this act shall notify the board within ten
623 (10) days upon receipt of information relating to a registrant's
624 loss of eligibility to hold such a card.

625 (7) (a) Any individual who changes his or her permanent
626 residence to this state from any other state which the board
627 determines has selection, training and similar requirements at
628 least equal to those required under this act, and who holds a
629 valid registration, commission, identification or similar card
630 issued by the other state through the licensee, may apply for a
631 registration card on a form prescribed by the board upon the
632 payment of a transfer fee. Upon certification by the licensee
633 that the individual has completed the training prescribed by the
634 other state, the board shall issue the individual a registration
635 card.

636 (b) In the event that a person who holds a registration
637 card terminates employment with one (1) employer and is reemployed
638 within five (5) calendar days as an investigator with another
639 employer, the new employer, within seventy-two (72) hours of such
640 reemployment, shall submit to the board a notice of the change on
641 a form prescribed by the board, together with a transfer fee. The
642 board shall then issue a new registration card reflecting the name
643 of the new employer.

644 (c) Upon receipt of that new card, the cardholder shall
645 immediately return the old card to the board. The holder may
646 continue to work as an investigator for the new employer while the
647 board is processing the change in application. The holder of a
648 registration card who terminates employment and who is not
649 reemployed as an investigator within five (5) calendar days, shall
650 surrender, within twenty-four (24) hours of the fifth calendar
651 day, the registration card to the former employer. The employer
652 shall return the cancelled registration card to the board within
653 five (5) business days after receiving it.

654 (8) A registration card shall be subject to expiration and
655 renewal during the period in which the holder of the card is
656 subject to an order of suspension.

657 **SECTION 17.** (1) The board shall approve all training
658 programs.

659 (2) All training required by this act shall be administered
660 by a licensee who:

661 (a) Is approved by the board.

662 (b) Meets the qualifications of an applicant required
663 by Sections 7 and 8 of this act.

664 (c) Has a minimum of three (3) years supervisory
665 experience with a contract investigator company or proprietary
666 investigator organization.

667 **SECTION 18.** (1) The board shall assess the following
668 schedule of fees which shall not be refundable:

669 (a) Private investigator agency:

670 (i) Application fee..... \$ 25.00

671 (ii) Examination fee..... \$ 50.00

672 (iii) Reexamination fee..... \$ 25.00

673 (iv) Initial license fee..... \$200.00

674 (v) Annual renewal license fee..... \$200.00

675 (vi) Replacement fee for a lost, destroyed or
676 mutilated license..... \$ 25.00

677 (b) Private investigator or apprentice investigator:

678 (i) Application fee..... \$ 25.00

679 (ii) Examination fee..... \$ 50.00

680 (iii) Reexamination fee..... \$ 25.00

681 (iv) Initial license fee per investigator or
682 apprentice..... \$ 50.00

683 (v) Annual renewal license fee..... \$ 50.00

684 (c) The board shall assess a reasonable training class
685 fee not greater than an amount necessary to cover the actual costs
686 for the conduct of the training class.

687 (2) All fees shall be paid by check or money order made
688 payable to the board.

689 (3) Any fees payable by a registrant under this act, or paid
690 by a licensee on the registrant's behalf, or any deposits which
691 may be required by a licensee from a registrant under this act,
692 may be deducted from any wages payable to the registrant by the
693 licensee. However, no such deduction shall reduce the hourly wage
694 of the registrant below that required by the applicable minimum
695 wage law.

696 **SECTION 19.** (1) A license shall expire annually on the date
697 of issuance unless renewed by payment of the required renewal fee
698 at least thirty (30) days prior to its expiration. The board
699 shall notify the licensee of the renewal at his or her last known
700 address at least sixty (60) days in advance of the expiration and
701 on the expiration date. If a license is not renewed within thirty
702 (30) days after the expiration date, it shall be deemed to have
703 lapsed and to be invalid. The delinquent private investigator
704 business or the private investigator shall apply again for initial
705 licensure. If the license renewal is made prior to the thirty-day
706 grace period but after the expiration date, the private
707 investigator business shall pay a fine of Thirty-five Dollars
708 (\$35.00) and an additional Twenty Dollars (\$20.00) per
709 investigator.

710 (2) The board shall use the same license number when issuing
711 a renewed license as that issued for the original license or shall
712 deny renewal within thirty (30) days. The board shall promptly
713 notify the licensee if it refuses to renew the license.

714 (3) The licensee, within fifteen (15) days after receipt of
715 the board's notice of refusal, shall cease engaging in the private
716 investigator business.

717 **SECTION 20.** (1) A person holding a license to engage in the
718 private investigator business issued to him or her by a proper
719 authority of any state, territory or possession of the United
720 States, or the District of Columbia, which has licensing
721 requirements comparable to Mississippi, and who in the opinion of

722 the board otherwise meets the requirements of this act, upon
723 application, may be licensed without further examination.

724 (2) The board shall have the power to enter into an
725 agreement with other states or territories or possessions of the
726 United States or with the District of Columbia for reciprocity or
727 recognition of private investigators duly licensed by such states,
728 territories or possessions or the District of Columbia. The
729 agreements shall allow those investigators to provide and perform
730 private investigative work in Mississippi upon such terms as set
731 forth in the agreement.

732 **SECTION 21.** (1) The board may refuse to issue or may
733 suspend, revoke or impose probationary or other restrictions on
734 any license issued under this act for good cause shown which shall
735 include the following:

736 (a) Conviction of a felony or entry of a plea of guilty
737 or nolo contendere to a felony charge under the laws of the United
738 States or of any state.

739 (b) Deceit or perjury in obtaining any certificate or
740 license issued under this act.

741 (c) Providing false testimony before the board.

742 (d) Efforts to deceive or defraud the public.

743 (e) Professional incompetency or gross negligence.

744 (f) Rendering, submitting, subscribing or verifying
745 false, deceptive, misleading or unfounded opinions or reports.

746 (g) The refusal of the licensing authority of another
747 state to issue or renew a license, permit or certificate to
748 practice in that state, or the revocation of, suspension of, or
749 other restriction imposed on a license, permit or certificate
750 issued by such licensing authority.

751 (h) Aiding or abetting a person to evade the provisions
752 of this act or knowingly combining or conspiring with an
753 unlicensed person, or acting as an agent, partner, associate or

754 otherwise, of an unlicensed person with intent to evade provisions
755 of this act.

756 (i) Violation of any provision of this act or any rules
757 and regulations of the board or rules of professional conduct
758 promulgated by the board.

759 (2) The board, as a probationary condition or as a condition
760 of the reinstatement of any license suspended or revoked
761 hereunder, may require the holder to pay all costs of the board
762 proceedings, including investigators', stenographers' and
763 attorneys' fees.

764 (3) A majority vote of the board shall be required for the
765 revocation of any license. A majority vote of the board shall be
766 required for suspension of any license or the imposition of costs
767 or fines in excess of Five Hundred Dollars (\$500.00).

768 (4) Any license certificate suspended, revoked or otherwise
769 restricted by the board may be reinstated by majority vote of the
770 board.

771 **SECTION 22.** (1) It shall be unlawful for any person
772 knowingly to commit any of the following acts:

773 (a) Provide contract or private investigator service
774 without possessing a valid license.

775 (b) Employ an individual to perform the duties of a
776 private investigator who is not the holder of a valid registration
777 card.

778 (c) Designate an individual other than a private
779 investigator to circumvent the requirements of this act.

780 (d) Knowingly make any false statement or material
781 omission in any application filed with the board.

782 (e) Falsely represent that a person is the holder of a
783 valid license or registration.

784 (f) Violate any provision of this act or any rule or
785 regulation of the board.

786 (2) It shall be unlawful for any private investigator
787 knowingly to commit any of the following:

788 (a) Make any statement which would reasonably cause
789 another person to believe that the private investigator functions
790 as a sworn peace officer, or other official of the state or of any
791 of its political subdivisions, or an agency of the federal
792 government.

793 (b) Fail to comply with the regulations issued by the
794 board or with any other requirements under the provisions of the
795 act.

796 (c) Divulge to anyone, other than his or her employer,
797 or to such persons as his or her employer may direct, or as may be
798 required by law, any information acquired during such employment
799 that may compromise the employer or assignment to which he or she
800 has been assigned by such employer.

801 (d) Possess a license or registration card issued to
802 another person.

803 **SECTION 23.** (1) No person shall engage in the business of
804 providing private investigators except in accordance with the
805 provisions of this act and the rules and regulations adopted by
806 the board hereunder.

807 (2) Whoever willfully violates any provisions of this act
808 shall be fined not less than One Thousand Dollars (\$1,000.00), nor
809 more than Five Thousand Dollars (\$5,000.00) or imprisoned for not
810 less than three (3) months nor more than one (1) year, or both.

811 **SECTION 24.** (1) In addition to or in lieu of the criminal
812 penalties and administrative sanctions provided in this act, the
813 board is empowered to issue an order to any person or firm engaged
814 in any activity, conduct or practice constituting a violation of
815 any provision of this act, directing such person or firm to
816 forthwith cease and desist from such activity, conduct or
817 practice. Such order shall be issued in the name of the State of
818 Mississippi under the official seal of the board.

819 (2) If the person or firm to whom the board directs a cease
820 and desist order does not cease and desist the prohibited
821 activity, conduct or practice within two (2) days from service of
822 such cease and desist order by certified mail, the board may seek,
823 in any court of competent jurisdiction and proper venue, a writ of
824 injunction enjoining such person or firm from engaging in the
825 activity, conduct or practice.

826 (3) (a) Upon proper showing of the board that such person
827 or firm has engaged in any activity, conduct or practice
828 prohibited by this act, the court shall issue a temporary
829 restraining order restraining the person or firm from engaging in
830 unlawful activity, conduct or practices pending the hearing on a
831 preliminary injunction, and in due course a permanent injunction
832 shall be issued after a hearing, commanding the cessation of the
833 unlawful activity, conduct, practices complained of, all without
834 the necessity of the board having to give bond as usually required
835 in such cases.

836 (b) A temporary restraining order, preliminary
837 injunction or permanent injunction issued hereunder shall not be
838 subject to being released upon bond.

839 **SECTION 25.** (1) All fees and funds collected by the board
840 from every source shall be paid into the State Treasury and shall
841 be credited to a special fund hereby created in the State Treasury
842 and designated as the fund for the Mississippi State Board of
843 Private Investigator Examiners.

844 (2) The monies in the fund shall be used solely to
845 effectuate the provisions of this act and only in the amounts
846 appropriated each year by the Legislature to the board.

847 (3) All unexpended and unencumbered monies in the fund at
848 the end of the fiscal year shall remain in the fund. The monies
849 in the fund shall be invested by the Treasurer in the same manner
850 as monies in the State General Fund. All interest earned on
851 monies invested by the Treasurer shall be deposited in the fund.

852 **SECTION 26.** The adoption of any rule or regulation,
853 guideline, substantive procedure or code of conduct by the board
854 shall be subject to the provisions of the Administrative
855 Procedures Act; however, such rules shall be subject to
856 legislative oversight by the House Judiciary B Committee and
857 Senate Business and Financial Institution Committee.

858 **SECTION 27.** The chairperson (chair) of the Board of Private
859 Investigator Examiners (board) shall exercise general supervision
860 of the board's affairs, shall preside at all meetings when
861 present, shall appoint the committees within the board and shall
862 perform all other duties pertaining to the office as deemed
863 necessary and appropriate.

864 The vice chairperson shall perform the duties of the chair in
865 his or her absence or such other duties as may be assigned by the
866 chair.

867 **SECTION 28.** (1) The executive director shall be the chief
868 administrative officer and shall serve at the pleasure of the
869 board.

870 (2) Subject to the supervision of and direction of the
871 board, the executive director shall:

872 (a) Act as the board's recording and corresponding
873 secretary and shall have custody and maintain the records of the
874 board;

875 (b) Cause written minutes of every meeting to be taken
876 and maintained;

877 (c) Arrange the order of business of all meetings and
878 notify all persons who are to appear at such meeting;

879 (d) Act as treasurer and receive and deposit all funds,
880 and keep the records and books of account of the board's financial
881 affairs;

882 (e) Attest all itemized vouchers for payment of
883 expenses of the board;

884 (f) Prepare such reports to the Governor and
885 Legislature as required by law or as requested by same;
886 (g) Keep the board's seal and affix it to such
887 instruments and matters that require attest and approval of the
888 board; and
889 (h) Perform such other duties as directed by the board.

890 (3) The executive director may spend up to Five Hundred
891 Dollars (\$500.00) for board purchases without prior approval by
892 the board or the chair.

893 **SECTION 29.** (1) Meetings shall be announced and held in
894 accordance with the Administrative Procedures Act. A quorum to
895 transact any business of the board shall not be less than four (4)
896 of its members.

897 (2) The executive director shall give a written notice to
898 all interested members of the public who make a timely written
899 request for notice of any board meeting.

900 (3) Minutes of meetings will be made available upon written
901 request to the board and a monetary fee will be assessed in
902 accordance with the Division of Administration rules and
903 regulations governing public records of any individual or company
904 requesting such minutes.

905 (4) Each board member shall have one (1) vote on all matters
906 before the board. Proxy voting is not allowed. A majority vote
907 of the members at any meeting shall be required for any board
908 actions.

909 **SECTION 30.** (1) The official seal of the board consists of
910 the Mississippi state seal with the title of the board in the
911 outer circle.

912 (2) No person or licensee shall use any facsimile
913 reproduction or pictorial portion of the seal of the State of
914 Mississippi on any badge, credentials, identification card or
915 other means of identification used in connection with any activity
916 regulated under this act.

917 **SECTION 31.** (1) Standing committees of the board are:

918 (a) General committee, whose duties include special
919 projects as authorized by the chair;

920 (b) Finance committee, whose duties include periodic
921 review of the budget, recommendations regarding the establishment
922 of fees charged by the board and recommendations to the board
923 regarding all expenditures in excess of Five Hundred Dollars
924 (\$500.00); and

925 (2) The chair shall appoint members to any committees as
926 needed to fulfill the duties of the board.

927 **SECTION 32.** Any complaint to the board must be in writing,
928 signed by the individual making said complaint and include an
929 appropriate means by which to contact said individual for
930 investigative purposes.

931 **SECTION 33.** A public comment period shall be held at or near
932 the beginning of each board meeting. Persons desiring to present
933 public comments shall notify the board chairman or the executive
934 director no later than the beginning of the meeting. However, to
935 assure that an opportunity is afforded all persons who desire to
936 make public comments, the chairman shall inquire at the beginning
937 of the meeting if there are additional persons who wish to
938 comment. The chairman shall allot the time available for the
939 public comments in an equitable manner among those persons
940 desiring to comment, limiting each person to a maximum of three
941 (3) minutes, with the total comment period not to exceed thirty
942 (30) minutes. Each person making public comments shall identify
943 himself or herself and the group, organization or company he or
944 she represents, if any.

945 **SECTION 34.** In addition to the definitions set forth in
946 Section 3 of this act, the following terms shall have the meanings
947 ascribed unless the context clearly requires otherwise:

948 (a) "Branch office" means a separate office which is
949 part of a company licensed by the Board of Private Investigator
950 Examiners.

951 (b) "Branch manager" means the individual having prima
952 facie responsibility and liability for a branch office.

953 (c) "Personal service" means process served on any
954 person, when required, may be made by the board mailing, by
955 certified or registered mail, to the person's last known address.

956 (d) "Qualifying agent" means a responsible officer or
957 executive employee of an investigative company.

958 (e) "Rule" means any agency statement of general
959 applicability that implements, interprets or prescribes law or
960 policy, or describes the procedure or practice requirements of the
961 board. It does not include statements concerning only the
962 internal management or organization and not affecting private
963 rights or procedures.

964 **SECTION 35.** (1) The board shall issue a two-part
965 application:

966 (a) Part I shall be designated for investigative
967 agencies; and

968 (b) Part II shall be designated for individual
969 investigators.

970 (2) Application shall be sent to all persons requesting
971 application for licensing in the State of Mississippi.

972 (3) The application shall contain the following information:

973 (a) Minimum statutory requirements for obtaining a
974 license in the State of Mississippi;

975 (b) Instructions explaining requirements of the
976 application; and

977 (c) A schedule of licensing fees for an agency and
978 individual.

979 (4) Information requested on the application shall include
980 the following:

- 981 (a) Company, partnership or corporation history;
982 (b) Personal history;
983 (c) Marital status;
984 (d) Education;
985 (e) Military service;
986 (f) Employment history;
987 (g) Character references;
988 (h) Investigative history;
989 (i) Miscellaneous questions regarding:
990 (i) Involvement of overthrow by force of our
991 government;
992 (ii) Crimes involving moral turpitude;
993 (iii) Felony convictions;
994 (iv) Any unfavorable background incidents the
995 applicant should share with the board;
996 (j) Consent for service of process (out-of-state
997 licensees only); and
998 (k) Notarized statement confirming the accuracy of the
999 information contained in the application.

1000 (5) If the applicant is a sole proprietor, he or she must
1001 furnish a copy of his or her occupational license with the
1002 application.

1003 (6) Applicants must submit appropriate fees along with the
1004 application. An administration fee of Twenty-five Dollars
1005 (\$25.00) made payable to the board will be assessed on all checks
1006 returned from the bank and deemed nonsufficient funds.

1007 (7) No person shall make an application to the board as
1008 qualifying agent unless that person intends to maintain and does
1009 maintain that supervisory position on a regular, full-time basis.

1010 **SECTION 36.** In addition to the requirements for licensing
1011 renewal set forth in Section 19 of this act, applicants for
1012 licensing renewal shall be required to submit a certification to
1013 the board that the applicant for license renewal has not been

1014 convicted of a felony during the past year. The fee notice sent
1015 out for licensing renewal shall contain this certification.

1016 **SECTION 37.** (1) A qualified school may be approved to
1017 conduct forty-hour training classes required for licensing by
1018 submitting a letter of request for approval by the board. The
1019 request shall include the following:

1020 (a) Name and location of school;

1021 (b) Owner of school;

1022 (c) Copy of occupational license;

1023 (d) List of course of study;

1024 (e) Name, address, profession and educational and
1025 investigative experience of each instructor teaching a private
1026 investigation course; and

1027 (f) Notarized statement that each instructor has a
1028 minimum of three (3) years supervisory experience with a contract
1029 investigator company or proprietary investigator organization.

1030 (2) Course instructors may invite a licensed attorney at law
1031 or licensed Mississippi private investigator to supplement lesson
1032 plans regarding the course taught by the instructor.

1033 (3) Course instructors, whether full or part time, shall
1034 apply for a license and take the written examination prior to
1035 conducting any private investigation classes.

1036 **SECTION 38.** (1) To be licensed, an applicant must pass a
1037 written examination, unless exempt by the grandfather clause,
1038 state statute or board resolution. The passing grade of the
1039 examination shall be as established by the board.

1040 (2) A person who has not successfully passed the examination
1041 can reapply to take the examination twice within a twelve-month
1042 period. If, after two (2) attempts, the individual has not
1043 successfully passed the examination as required, appropriate board
1044 action will be taken.

1045 **SECTION 39.** (1) Licenses, when issued, shall be in the form
1046 of a wall certificate no larger than eight and one-half (8-1/2)

1047 inches by eleven (11) inches in size. The certificate shall
1048 contain the following information:

1049 (a) Name of licensee and/or agency name under whose
1050 authority the license is granted;

1051 (b) Addresses of the agency location(s) (main office
1052 and branch offices) responsible for licensee;

1053 (c) Number of license;

1054 (d) Date of issue;

1055 (e) Date of expiration (to be issued every year and may
1056 be affixed to certificate in lieu of issuing a new certificate);

1057 (f) The official state insignia;

1058 (g) Agency and qualifying agent if licensee;

1059 (h) Private investigator and agency under whose
1060 authority he or she is assigned;

1061 (i) Signature of executive director;

1062 (j) Signature of chairman of the board; and

1063 (k) The official Board of Private Investigator

1064 Examiners seal.

1065 (2) The license certificate shall remain the property of the
1066 board and will be surrendered upon written request from the board.

1067 (3) Licenses issued by the board shall be valid for a
1068 one-year period to begin from the date application was approved by
1069 the board.

1070 **SECTION 40.** (1) Companies wishing to do business in
1071 Mississippi must either incorporate here or be duly qualified to
1072 do business within this state with a valid certificate of
1073 authority issued by the Secretary of State, and shall have an
1074 agent for service of process designated as required by law.

1075 (2) Out-of-state companies, or individuals wishing to do
1076 business in Mississippi, who satisfied all the licensing
1077 requirements outlined by Sections 7 and 8, may do so without
1078 examination if the state under which it holds a valid license has
1079 licensing requirements comparable to those of Mississippi.

1080 Verification of satisfactory completion of such other state's
1081 examination must be submitted to the board. If the out-of-state
1082 company or individual is licensed by a state that does not have
1083 licensing requirements comparable to those of Mississippi, then
1084 the company or individual must satisfy all the licensing
1085 requirements outlined in Sections 7 and 8.

1086 (3) Fees for out-of-state companies are the same as for
1087 in-state companies except that an out-of-state company shall be
1088 required to pay the board for the cost of transportation, lodging
1089 and meals at the Mississippi state rate when an examination of
1090 records is performed if those records are kept out of state.

1091 **SECTION 41.** (1) A licensed agency with its principal place
1092 of business in the State of Mississippi and a previously
1093 unlicensed individual domiciled and residing in the State of
1094 Mississippi may apply for the licensing of the previously
1095 unlicensed individual as an apprentice as follows:

1096 (a) A letter of intent to sponsor shall be sent to the
1097 board by the licensed agency, along with the apprentice
1098 application, indicating the agency's intent to accept the
1099 sponsorship and responsibility for the apprentice applicant.

1100 (b) Upon receipt of a letter of intent to sponsor and
1101 the completed application from the apprentice candidate, the
1102 chairman of the board shall issue a letter acknowledging the
1103 receipt of same, provided the apprentice license applicant
1104 satisfies the requirements promulgated by the board and all fees
1105 required by law have been paid. The letter shall serve as a
1106 temporary apprentice registration card until the board meets to
1107 consider the application and the issuance of the official
1108 apprentice registration card.

1109 (c) No agency may sponsor any more than six (6)
1110 apprentice investigators at any one time, and no person shall be
1111 licensed as an apprentice if he or she has been licensed as an
1112 apprentice before.

1113 (2) An apprentice license shall be effective for one (1)
1114 year only; and the apprentice shall operate as a private
1115 investigator only under the immediate direction, control and
1116 supervision of the sponsoring agency during that time.

1117 (3) (a) The sponsoring agency shall be directly responsible
1118 for the supervising and training of the apprentice.

1119 (b) In addition, the sponsoring agency shall be
1120 responsible for educating the apprentice in the following areas:

1121 (i) Knowledge of the private investigator business
1122 and the laws regulating same and the rules and regulations
1123 regulating the practice as a private investigator in this state;

1124 (ii) General federal and state constitutional
1125 principles;

1126 (iii) General information regarding invasion of
1127 privacy laws, search and seizure laws and related procedures and
1128 state concealed weapons law;

1129 (iv) Surveillance techniques;

1130 (v) Photograph principles: video and still; and

1131 (vi) General information regarding the assembling
1132 of public information from clerk of court offices and court
1133 records.

1134 (4) (a) The apprentice registration card shall remain valid
1135 for only one (1) year from the date of the letter serving as the
1136 temporary registration card or issuance of the official apprentice
1137 registration card, whichever is first, and only so long as the
1138 apprentice is working under the supervision of a licensed sponsor
1139 agency.

1140 (b) During the apprenticeship period, the apprentice
1141 must attend the forty-hour training course approved by the board.

1142 (c) An apprentice license may be transferred to another
1143 agency provided the other agency meets all the requirements of law
1144 and this section of the rules and regulations, particularly the
1145 filing of the letters of intent, regarding sponsorship.

1146 **SECTION 42.** Notification required by Section 15 of this act
1147 of changes in information to be furnished by a licensee shall
1148 include:

- 1149 (a) Termination of a branch manager;
- 1150 (b) Change of agency name;
- 1151 (c) Change of agency address;
- 1152 (d) Change of agency telephone number; and
- 1153 (e) Change of ownership if agency is sole
1154 proprietorship.

1155 **SECTION 43.** The registration card shall be no larger than
1156 two and one-fourth (2-1/4) inches by four (4) inches in size. The
1157 registration card shall contain the following information:

- 1158 (a) Name of investigator;
- 1159 (b) Name of agency under whose authority license is
1160 issued;
- 1161 (c) Date of expiration;
- 1162 (d) Current two (2) inches by two (2) inches color
1163 photograph;
- 1164 (e) Driver's license number;
- 1165 (f) Company name;
- 1166 (g) Company address (city and state);
- 1167 (h) License number;
- 1168 (i) Signature of executive director;
- 1169 (j) Signature of license holder;
- 1170 (k) State insignia; and
- 1171 (l) Board seal.

1172 **SECTION 44.** In addition to the fees provided by Section 18
1173 of this act, the following schedule of fees shall be assessed:

- 1174 (a) For licensee or any business entity employing more
1175 than one (1) investigator:
 - 1176 (i) Renewal within thirty (30) days after
1177 expiration of license..... \$200.00
 - 1178 (ii) Late fee..... \$ 35.00

1179 (iii) Per investigator..... \$ 20.00
 1180 (iv) Transfer of agent..... \$ 25.00
 1181 (b) For private investigator employed by a company or
 1182 corporation, or apprentice investigator:
 1183 (i) Annual renewal license fee..... \$ 50.00
 1184 (ii) Replacement fee for a lost, destroyed or
 1185 mutilated license..... \$ 25.00
 1186 (iii) Renewal within thirty (30) days after
 1187 expiration of license..... \$ 50.00
 1188 (iv) Late fee..... \$ 35.00
 1189 (v) Transfer of agency..... \$ 25.00
 1190 (c) Any individual, partnership or corporation actively
 1191 operating in the private investigation business since July 1,
 1192 2005, who did not apply to the board for a license, will be
 1193 assessed an administrative fee in the amount of the yearly renewal
 1194 fee as prescribed by law, per year for each year past July 1,
 1195 2005.

1196 **SECTION 45.** (1) Each licensed private investigator is
 1197 required to complete a minimum of eight (8) hours of approved
 1198 investigative educational instruction within the one-year period
 1199 immediately prior to renewal in order to qualify for a renewal
 1200 license.

1201 (2) Each licensed private investigator is required to
 1202 complete and return the Mississippi State Board of Private
 1203 Investigative Examiners (MSBPIE) continuing educational compliance
 1204 form with the request for license renewal each year. The form
 1205 shall be signed under penalty of perjury and shall include
 1206 documentation of each hour of approved investigation educational
 1207 instruction completed.

1208 (3) Any licensee who wishes to apply for an extension of
 1209 time to complete educational instruction requirements must submit
 1210 a letter of request setting forth reasons for the extension
 1211 request to the Executive Director of the Mississippi State Board

1212 of Private Investigative Examiners (MSBPIE) thirty (30) days prior
1213 to license renewal. The training committee shall rule on each
1214 request. If an extension is granted, the investigator shall be
1215 granted thirty (30) days to complete the required hours. Hours
1216 completed during a thirty-day extension shall only apply to the
1217 previous year.

1218 **SECTION 46.** An investigator shall provide competent
1219 representation to a client. Competent representation requires the
1220 legal knowledge, skill, thoroughness and preparation reasonably
1221 necessary for the investigation.

1222 **SECTION 47.** (1) Both investigator and client have authority
1223 and responsibility in the objectives of the investigation. The
1224 client has ultimate authority to determine the purposes to be
1225 served by the investigation, within the limits imposed by law and
1226 the investigator's professional obligations.

1227 (2) An investigator may limit the objectives of the
1228 representation if the client consents after consultation.

1229 (3) An investigator shall not encourage a client to engage
1230 or assist a client, in conduct that the investigator knows is
1231 criminal or fraudulent. An investigator, however, may discuss the
1232 legal consequences of any proposed course of conduct with a client
1233 and may advise a client to seek legal counsel for assistance in
1234 making a good faith effort to determine the validity, scope,
1235 meaning or application of the law.

1236 (4) When an investigator knows that a client expects
1237 assistance prohibited by the Rules of Professional Conduct or
1238 other law, the investigator shall consult with the client
1239 regarding the relevant limitations of the investigator's lawful
1240 conduct.

1241 **SECTION 48.** An investigator shall act with reasonable
1242 diligence and promptness in representing a client.

1243 **SECTION 49.** (1) An investigator shall keep a client
1244 reasonably informed about the status of a matter and promptly
1245 comply with a reasonable request for information.

1246 (2) The investigator shall give the client sufficient
1247 information to participate intelligently in decisions concerning
1248 the objectives or the representation and the means by which they
1249 are to be pursued, to the extent the client is willing and able to
1250 do so.

1251 **SECTION 50.** (1) An investigator shall not reveal
1252 information relating to representation of a client unless the
1253 client consents after consultation, except for disclosures that
1254 are impliedly authorized in order to carry out the representation,
1255 and except as stated in subsection (2).

1256 (2) An investigator may reveal such information to the
1257 extent the investigator reasonably believes necessary:

1258 (a) To prevent the client from committing a criminal
1259 act that the investigator believes is likely to result in imminent
1260 death or substantial bodily harm; or

1261 (b) To establish a claim or defense on behalf of the
1262 investigator in a controversy between the investigator and the
1263 client, to establish a defense to a criminal charge or civil claim
1264 against the investigator based upon conduct in which the client
1265 was involved, or to respond to allegations in any proceeding
1266 concerning the investigator's representation of the client.

1267 **SECTION 51.** Loyalty is an essential element in the
1268 investigator's relationship to a client. Therefore:

1269 (a) An investigator shall not represent a client if the
1270 representation of that client will be directly adverse to the
1271 representations of another client, unless:

1272 (i) The investigator reasonably believes the
1273 representation will not adversely affect the relationship with the
1274 other client; and

1275 (ii) Each client consents after consultation.

1276 (b) An investigator shall not represent a client if the
1277 representation of that client may be materially limited by the
1278 investigator's responsibilities to another client or to a third
1279 person, or by the investigator's own interest, unless:

1280 (i) The investigator reasonably believes the
1281 representation will not be adversely affected; and

1282 (ii) The client consents after consultation. When
1283 representation of multiple clients in a single matter is
1284 undertaken, the consultation shall include explanation of the
1285 implications of the common representation and the disadvantages
1286 and risks involved.

1287 **SECTION 52.** As a general principle, all transactions between
1288 client and investigators should be fair and reasonable to the
1289 client. Furthermore, an investigator may not exploit the
1290 representation of a client or information relating to the
1291 representation to the client's disadvantage. Examples of
1292 violations include, but are not limited to, the following:

1293 (a) An investigator shall not enter into a business
1294 transaction with a client or knowingly acquire an ownership,
1295 possessory, security or other pecuniary interest adverse to a
1296 client unless:

1297 (i) The transaction and terms on which the
1298 investigator acquires the interest are fair and reasonable to the
1299 client and are fully disclosed and transmitted in writing to the
1300 client in a manner which can be reasonably understood by the
1301 client;

1302 (ii) The client is given a reasonable opportunity
1303 to seek the advice of independent counsel in the transactions; and

1304 (iii) The client consents in writing thereto;

1305 (b) An investigator shall not use information relating
1306 to representation of a client to the disadvantage of the client
1307 unless the client consents after consultation.

1308 **SECTION 53.** An investigator who has formerly represented a
1309 client in a matter shall not thereafter:

1310 (a) Represent another person in the same or a
1311 substantially related matter in which that person's interests are
1312 materially adverse to the interests of the former client unless
1313 the former client consents after consultation; or

1314 (b) Use information relating to the representation to
1315 the disadvantage of the former client except when the information
1316 derived from independent sources has become generally known.

1317 **SECTION 54.** (1) Upon initial contact from a private
1318 citizen, a contract may be offered on all matters.

1319 (2) The contract shall contain, but may not be limited to,
1320 the following information:

1321 (a) Name, address and phone number of investigative
1322 agency;

1323 (b) Name, address and phone number of private
1324 investigator responsible for case work;

1325 (c) Schedule of fees to be charged;

1326 (d) Purpose and scope of investigation;

1327 (e) Limitations of responsibility to investigative
1328 agency;

1329 (f) Limitations of responsibility to client;

1330 (g) Signature of client;

1331 (h) Signature of two (2) witnesses;

1332 (i) Date agreement was signed; and

1333 (j) Contracts shall be made in duplicate:

1334 (i) One (1) copy for the client;

1335 (ii) One (1) copy shall be retained in the

1336 investigative case file for a period of three (3) years.

1337 **SECTION 55.** The use of a private investigator badge shall be
1338 optional. Should the investigator choose to carry a badge and
1339 display it, he or she shall be obligated to identify himself or

1340 herself as a private investigator at such times as the badge is
1341 displayed.

1342 **SECTION 56.** A request for a hearing on a complaint before
1343 the Board of Private Investigator Examiners shall contain the
1344 following:

1345 (a) The full name, address and telephone number of the
1346 person requesting the hearing;

1347 (b) The full name, address and telephone number of any
1348 person whose interest could be affected by the hearing;

1349 (c) A plain and concise statement of the complaint;

1350 (d) A receipt showing a copy of the complaint has been
1351 sent to the person or a statement from the executive director
1352 stating that a copy of said complaint had been delivered to the
1353 person named in the complaint;

1354 (e) All complaints or requests for a hearing before the
1355 Private Investigator Examiners Board must be made by certified or
1356 registered mail to the executive director or the Private
1357 Investigator Examiners Board.

1358 **SECTION 57.** In the course of representing a client, an
1359 investigator shall not knowingly:

1360 (a) Make a false statement of material fact or law to a
1361 third person; or

1362 (b) Fail to disclose a material fact to a third person
1363 when disclosure is necessary to avoid assisting a criminal or
1364 fraudulent act by a client, unless disclosure is otherwise
1365 prohibited by this act.

1366 **SECTION 58.** It is professional misconduct for an
1367 investigator to:

1368 (a) Violate or attempt to violate the Rules of
1369 Professional Conduct or to knowingly assist or induce another to
1370 do so, or do so through the acts of another;

1371 (b) Commit a criminal act or any other act that
1372 reflects adversely on the investigator's honesty, trustworthiness
1373 or fitness as an investigator in other respects;

1374 (c) Engage in conduct involving dishonesty, fraud,
1375 deceit or misrepresentation;

1376 (d) Except upon the expressed assertion of a
1377 constitutional privilege, to fail to cooperate with the Ethics
1378 Committee in its investigation of alleged misconduct, or

1379 (e) Threaten to file criminal charges solely to obtain
1380 an advantage in a civil matter.

1381 **SECTION 59.** An investigative agency must apply and pay all
1382 occupational fees required to conduct business in the jurisdiction
1383 which he or she is to conduct business.

1384 **SECTION 60.** Any licensed private investigator may
1385 voluntarily inform the board by mail of a substance abuse problem
1386 without adverse action taken by the board. In doing so, the
1387 private investigator is subject to the board's recommendation to
1388 enter a substance abuse facility, and upon completion of
1389 successful treatment, shall furnish proof of completion from said
1390 facility. Failure to successfully complete a substance abuse
1391 program will subject the investigator to disciplinary action by
1392 the board.

1393 **SECTION 61.** (1) An investigator shall, when advertising
1394 years of experience, clearly state the actual years of experience
1395 within the private investigative industry.

1396 (2) When advertising years of experience in the private
1397 investigative industry, the ad must indicate if it is a total
1398 number of years for one (1) certain investigator or a combined
1399 total of all investigators.

1400 (3) An investigator shall, prior to advertising a
1401 certification designation furnish the Board of Private
1402 Investigators with a copy of their certificate and the certificate
1403 number.

1404 (4) When using the term certification in advertising, the
1405 certified investigator's name must accompany the designation.

1406 **SECTION 62.** These rules govern the board's imitation,
1407 consideration and adjudication of administrative complaints
1408 providing cause under law for denial, modification, suspension or
1409 revocation of a license, imposition of probation on, or other
1410 disciplinary action against any person requesting or holding a
1411 license, permit, certification or registration issued by the board
1412 or any applicant therefor.

1413 **SECTION 63.** (1) Proceedings to adjudicate an administrative
1414 enforcement action shall be initiated by the filing of a written
1415 complaint with the board. It shall be signed by a member of the
1416 board appointed and designated by it as investigatory officer with
1417 respect to the subject matter of the complaint. The accused
1418 licensee shall be named as respondent in the proceedings.

1419 (2) The complaint shall set forth, in separately numbered
1420 paragraphs, a concise statement of the material facts and matters
1421 alleged and to be proven by the investigating officer including
1422 the facts giving rise to the board's jurisdiction over respondent,
1423 the facts constituting legal cause for the administrative action,
1424 and the statutory, regulatory or other provision alleged to have
1425 been violated by the respondent. The complaint shall conclude
1426 with a request for the administrative sanction or other relief
1427 sought by the investigating officer and shall bear the name,
1428 address and telephone number of counsel engaged by the board to
1429 present the case at evidentiary hearing before the board.

1430 **SECTION 64.** (1) Upon the filing of an administrative
1431 complaint under Section 56, the board shall docket the complaint
1432 and schedule it for hearing before the board not less than
1433 forty-five (45) days nor more than one hundred eighty (180) days
1434 thereafter. For good cause, the time may be lengthened or
1435 shortened as the board determines may be necessary or appropriate
1436 to protect the public interest or upon the motion of the

1437 investigating officer of respondent. In the event that the
1438 respondent's license, permit, certification or registration has
1439 been suspended by the board pending hearing, under Section 21,
1440 evidentiary hearing on the complaint shall be noticed and
1441 scheduled not more than forty-five (45) days after the filing of
1442 the complaint.

1443 (2) A written notice of the complaint and the time, date and
1444 place of the scheduled hearing thereon shall be served upon the
1445 respondent by registered, return receipt requested mail, as well
1446 as by regular first class mail at the most current address for the
1447 respondent as reflected in the official records of the board or by
1448 personal delivery of the complaint to the respondent. The date of
1449 service shall be the day of personal service or the third business
1450 day after the date of posting the registered or certified notice.
1451 The notice shall include a statement of the legal authority and
1452 jurisdiction under which the hearing is to be conducted and shall
1453 be accompanied by a certified copy of the administrative
1454 complaint.

1455 **SECTION 65.** (1) Within fifteen (15) days of service of the
1456 complaint or such longer time as the board, on motion of the
1457 respondent, may permit, the respondent may answer the complaint
1458 admitting or denying each of the separate allegations of fact and
1459 of law set forth therein. Any matter admitted by respondent shall
1460 be deemed proven and established for purposes of adjudication. In
1461 the event that the respondent does not file a response to the
1462 complaint, all allegations therein asserted shall be deemed
1463 denied.

1464 (2) Any respondent may be represented in an adjudication
1465 proceeding before the board by an attorney at law duly admitted to
1466 practice in this state. Upon receipt of service of a complaint
1467 pursuant, or thereafter, a respondent who is represented by legal
1468 counsel with respect to the proceeding shall, personally or
1469 through such counsel, give written notice to the board of the

1470 name, address and telephone number of such counsel. Following
1471 receipt of proper notice of representation, any further notice,
1472 complaint, subpoena, order or other process related to the
1473 proceeding shall be served on the respondent through his or her
1474 designated counsel of record.

1475 **SECTION 66.** (1) Any pleading, motion or other paper
1476 permitted or required to be filed with the board in connection
1477 with a pending adjudication proceeding shall be filed by personal
1478 delivery at or by mail to the office of the board. Any such
1479 writing shall likewise be concurrently served upon complaint
1480 counsel, if filed by or on behalf of respondent, or upon
1481 respondent, through counsel of record, if any, if filed by
1482 complaint counsel.

1483 (2) All such pleadings, motion or other papers shall be
1484 submitted on plain white letter-size (eight and one-half (8-1/2)
1485 inches by eleven (11) inches) bond, with margins of at least one
1486 (1) inch on all sides and text double spaced except as to
1487 quotations and other matter customarily single spaced. Such
1488 documents shall bear the caption and docket number of the case and
1489 shall include the certificate of the attorney or person making the
1490 filing that service of a copy has been effected in the manner
1491 prescribed by subsection (1) of this section.

1492 (3) The board may refuse to accept for filing any pleading,
1493 motion or other paper not conforming to the requirements of this
1494 section.

1495 **SECTION 67.** Motions for continuance of any hearing, for
1496 dismissal of the proceeding and all other prehearing motions shall
1497 be filed not later than thirty (30) days following service of the
1498 complaint on the respondent or fifteen (15) days prior to the
1499 hearing, whichever is earlier. Each prehearing motion shall be
1500 accompanied by a memorandum which shall set forth a concise
1501 statement of the grounds upon which the relief sought is based and
1502 the legal authority therefor. A motion may be accompanied by an

1503 affidavit as necessary to establish facts alleged in support of
1504 the motion. Within ten (10) days of the filing of any such motion
1505 and memorandum or such shorter time as the board may order, the
1506 investigating officer, through complaint counsel, may file a
1507 memorandum in opposition to or otherwise setting forth the
1508 investigating officer's position with respect to the motion.

1509 **SECTION 68.** (1) A motion for continuance of hearing shall
1510 be filed within the delay prescribed by Section 67 of this act,
1511 provided that the board may accept the filing of a motion for
1512 continuance at any time before a hearing upon a showing of good
1513 cause not discoverable within the time otherwise provided for the
1514 filing of a prehearing motion.

1515 (2) A scheduled hearing may be continued by the board only
1516 upon a showing by respondent or complaint counsel that there are
1517 substantial legitimate grounds that the hearing should be
1518 continued, balancing the right of respondent to a reasonable
1519 opportunity to prepare and present a defense to the complaint and
1520 the board's responsibility to protect the public health, welfare
1521 and safety. Except in extraordinary circumstances evidenced by
1522 verified motion or accompanying affidavit, the board will not
1523 ordinarily grant a motion to continue a hearing that has been
1524 previously continued upon motion of the same party.

1525 (3) If an initial motion for continuance is not opposed, it
1526 may be granted by the executive director. Any motion for
1527 continuance of hearing which is opposed shall be referred for
1528 decision to the presiding officer of the hearing panel designated
1529 with respect to the proceeding, who shall rule upon such motion on
1530 the papers filed, without hearing. The presiding officer, in his
1531 discretion, may refer any motion for continuance to the entire
1532 panel for disposition, and any party aggrieved by the decision of
1533 a presiding officer on a motion for continuance may request that
1534 the motion be reconsidered by the entire panel. In any such case,

1535 the panel shall rule on such motion on the papers filed, without
1536 hearing.

1537 **SECTION 69.** (1) Upon request of the respondent or complaint
1538 counsel and in compliance with the requirements of this section,
1539 the executive director shall sign and issue subpoenas in the name
1540 of the board requiring the attendance and giving of testimony by a
1541 witness and the production of books, papers and other documentary
1542 evidence at an adjudication hearing.

1543 (2) No subpoena shall be issued unless and until the party
1544 who wishes to subpoena the witness first deposits with the board a
1545 sum of money sufficient to pay all fees and expenses to which a
1546 witness in a civil case is entitled. Witnesses subpoenaed to
1547 testify before the board only to an opinion founded on special
1548 study or experience in any branch of science, or to make
1549 scientific or professional examinations and to state the results
1550 thereof, shall receive such additional compensation from the party
1551 who wishes to subpoena such witnesses as may be fixed by the board
1552 with reference to the value of the time employed and the degree or
1553 skill required.

1554 **SECTION 70.** (1) Unless otherwise requested by the
1555 respondent, the adjudication hearing shall be conducted in closed
1556 session.

1557 (2) At an adjudication hearing, opportunity shall be
1558 afforded to complaint counsel and respondent to present evidence
1559 on any issue of fact and argument on any issue of law and policy
1560 involved, to call, examine and cross-examine any witness and to
1561 offer and introduce documentary evidence and any exhibit required
1562 for a full and true disclosure of the facts and disposition of the
1563 complaint.

1564 (3) Unless stipulation is made between the parties, and
1565 approved by the hearing panel, providing for other means of
1566 recordation, all testimony and other proceedings of an
1567 adjudication shall be recorded by a certified stenographer who

1568 shall be retained by the board to prepare a written transcript of
1569 such proceedings.

1570 (4) During evidentiary hearing, the presiding officer shall
1571 rule upon any evidentiary objection and other procedure question,
1572 but in his discretion may consult with the entire panel in
1573 executive session. At any hearing, the board may be assisted by
1574 legal counsel, retained by the board for such purpose, who is
1575 independent of complaint counsel and who has not participated in
1576 the investigation or prosecution of the case. If the board or
1577 panel is attended by such counsel, the presiding officer may
1578 delegate to such counsel ruling on any evidentiary objection and
1579 other procedural issue raised during the hearing.

1580 (5) The record in a case of adjudication shall include:

1581 (a) The administrative complaint and notice of hearing,
1582 respondent's response to the complaint, if any, subpoenas issued
1583 in connection with discovery in the case or hearing of the
1584 adjudication, and all pleadings, motions and intermediate rulings;

1585 (b) Evidence received or considered at the hearing;

1586 (c) A statement of matters officially noticed except
1587 matters so obvious that statement of them would serve no useful
1588 purpose;

1589 (d) Offers of proof, objections and rulings thereon;

1590 (e) Proposed findings and exceptions, if any;

1591 (f) The decision, opinion, report or other disposition
1592 of the case made by the board.

1593 (6) Findings of fact shall be based exclusively on the
1594 evidence and on matters officially noticed.

1595 **SECTION 71.** (1) In an adjudication hearing, the board or
1596 the designated hearing panel thereof, may give probative effect to
1597 evidence which possesses probative value commonly accepted by
1598 reasonably prudent men in conduct of their affairs. Effect shall
1599 be given to the rules of privilege recognized by law. The board
1600 or panel may exclude incompetent, irrelevant, immaterial and

1601 unduly repetitious evidence. Objections to evidentiary offers may
1602 be made and shall be noted in the record. Subject to these
1603 requirements, when a hearing will be expedited and the interests
1604 of the parties will not be prejudiced substantially, any part of
1605 the evidence may be received in written form.

1606 (2) All evidence, including records and documents in the
1607 possession of the board which complaint counsel desires the board
1608 to consider, shall be offered and made part of the record, and all
1609 such documentary evidence may be received in the form of copies or
1610 excerpts, or by incorporation by reference. In case of
1611 incorporation by reference, the materials so incorporated shall be
1612 available for examination by the respondent before being received
1613 in evidence.

1614 (3) Notice may be taken of judicially cognizable facts and
1615 of generally recognized technical or scientific facts within the
1616 board's knowledge. Parties shall be notified either before or
1617 during the hearing of the material noticed or sought by a party to
1618 be noticed and they shall be afforded an opportunity to contest
1619 the material so noticed. The board's experience, technical
1620 competence and knowledge may be utilized in the evaluation of the
1621 evidence.

1622 (4) Any member of the board serving as presiding officer in
1623 an adjudication hearing shall have the power to and shall
1624 administer oaths or affirmations to all witnesses appearing to
1625 give testimony, shall regulate the course of the hearing, set the
1626 time and place for continued hearings, fix the time for the filing
1627 of briefs and other documents, if they are required or requested,
1628 and may direct the parties to appear and confer to consider
1629 simplification of the issues.

1630 (5) Except as otherwise governed by the provisions of these
1631 rules, adjudication hearings before the board shall be governed by
1632 the Mississippi Code of Evidence, insofar as the same may be
1633 applied.

1634 **SECTION 72.** The board may make informal disposition, by
1635 default, consent order, agreement, settlement, or otherwise, of
1636 any adjudication pending before it.

1637 **SECTION 73.** (1) The final decision of the board in an
1638 adjudication proceeding shall, if adverse to the respondent, be in
1639 writing and shall include findings of fact and conclusions of law.
1640 It shall be signed by the presiding officer of the hearing panel
1641 on behalf and in the name of the board.

1642 (2) Upon issuance of a final decision, a certified copy
1643 thereof shall promptly be served upon respondent's counsel of
1644 record, or upon respondent personally in absence of counsel, in
1645 the same manner of service prescribed with respect to service of
1646 complaints.

1647 **SECTION 74.** (1) A decision by the board in a case of
1648 adjudication shall be subject to rehearing, reopening or
1649 reconsideration by the board pursuant to written motion filed with
1650 the board within ten (10) days from service of the decision on
1651 respondent. A motion for rehearing, reopening or reconsideration
1652 shall be made and served in the form and manner prescribed by
1653 Section 66 above and shall set forth the grounds upon which such
1654 motion is based.

1655 (2) The board may grant rehearing, reopening or
1656 reconsideration if it is shown that:

1657 (a) The decision is clearly contrary to law and the
1658 evidence;

1659 (b) The respondent has discovered since the hearing
1660 evidence important to the issues which he or she could not have
1661 with due diligence obtained before or during the hearing;

1662 (c) Other issues not previously considered ought to be
1663 examined in order properly to dispose of the matter; or

1664 (d) There exists other good grounds for further
1665 consideration of the issues and the evidence in the public
1666 interest.

1667 **SECTION 75.** (1) The executive director of the board shall
1668 transmit notice of all final license revocations and suspensions
1669 to the licensing agency of every other jurisdiction in which the
1670 respondent is licensed.

1671 (2) Public notice of discipline imposed. The executive
1672 director of the board shall cause notices of all final license
1673 suspensions and revocations to be published in a newspaper of
1674 general circulation in each parish in which the private
1675 investigator maintained an office.

1676 (3) The notice shall:

1677 (a) State the statute or rule or regulation found to
1678 have been violated and which resulted in the suspension or
1679 revocation;

1680 (b) State the penalty imposed for the violation; and

1681 (c) Request members of the public to notify the board
1682 if the disciplined individual is operating as a private
1683 investigator without a license.

1684 (4) These publication requirements are mandatory and will
1685 not be waived.

1686 **SECTION 76.** This act shall take effect and be in force from
1687 and after July 1, 2006.