APIB Housekeeping Legislation for 2019 Legislative Session

The APIB will be introducing housekeeping legislation in this year's legislative session. After our first five years of operation, the APIB (like most newly established Boards) has found some language that needs to be updated as well as discovered areas that need to be included in our statute. Please find below the legislation to be filed in the 2019 Legislative Session (convening on March 5, 2019) and a summary of "What This Bill Does" for your review. Many of you will recognize that this is the exact same legislation as presented last year and reflects all amendments and agreements with all interested parties. Your feedback as a licensee is welcomed. Please contact the APIB office at apib@leadership-alliance.org with any questions, comments, concerns, etc. about this legislation.

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APIB Housekeeping Legislation for 2019 Session

Sponsor: Representative Mooney

WHAT THIS BILL DOES

Summary and Purpose: Housekeeping Legislation for the newly established Alabama Private Investigation Board. After five years of operation, these amendments to the original enabling statute are needed to administer the Alabama Private Investigation Board more efficiently and effectively for the purpose of completing our mandate of public protection. This bill addresses limitations found in the course of our brief history and includes standard language updates through-out the bill.

Clarify Renewal Period and CE Requirements – CE to be acquired over renewal period rather than calendar year due to a biennial licensure; and licenses to be renewed two years from the month of issuance, rather than date of issuance, to provide administrative relief to the Board; Provide that licensees are to keep their address current with the Board and renewal notices shall be sent to this address of record.

Board Terms – for appointing authorities to coordinate appointments for the purpose of inclusivity; and define clearly a full term for a Board seat as four years.

Examination – provide that the licensure examination approved by the Board may be given more often as a service to applicants.

Grandfathering – Eliminate expired grandfathering language.

Reduction of Costs to the State – Provide that the Law and Rules and Regulations are available on the web site free and not mailed to applicants and licensees for the purpose of reducing printing costs to the Board; the Board not to provide CE's to licensees to keep costs of administering the program low; and eliminate the requirement for the Governor's Office to issue Certificates of Appointment to save the State money.

Criminal Background Checks – provide the Board with options in approving criminal background check providers to assist the Board in providing faster application turn-around time for background checks; and update ABI language that is now outdated.

Fine for Unlicensed Practice – provide for an administrative fine for up to $1,000 a day for practicing without a license.

Duty to Report – Licensees to report arrests to the Board within seventy- two (72) hours.

Provide Inactive Status – authorize the Board to provide an inactive status to licensees. This will provide relief for current licensees who may want an option of not renewing their license and provide a more expedited path to returning to full licensure.

Provide for a Reinstatement Process – Provide a path to licensure for those who may have missed their renewal deadline or have placed their license on inactive status without having to take another examination.

Clarifies Fees – The board currently has the authority to charge fees for applications, licenses, renewals, and late renewals. However, standard fees of change of information, replacement license fee, and any reasonable administrative fees that reflect the actual costs of services are needed which are standard for most licensure boards in Alabama. With the proposed inactive status and reinstatement process in this bill, the board is asking for an inactive status fee and reinstatement fee. All fees would be advertised for public comment through the rule making process.

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SYNOPSIS: Under existing law, the Alabama Private Investigation Board is responsible for the licensing and regulation of private investigators in the state.

This bill would clarify those fees collected by the board that must be deposited into the Board of Private Investigation Fund.

This bill would provide further for the qualifications for licensure as a private investigator.

This bill would provide further for criminal history background checks for applicants for licensure.

This bill would authorize the board to grant inactive status to licensees and to provide, by rule, for a procedure and fee to reinstate an inactive license.

This bill would provide for administrative penalties against any person practicing without a license.

This bill would require licensees to report arrests to the board within 72 hours.

This bill would also clarify that the number of hours of continuing education required to maintain licensure is 16 hours during the two-year license period.

A BILL

TO BE ENTITLED

AN ACT

To amend Sections 34-25B-4, 34-25B-7, 34-25B-11, 34-25B-12, 34-25B-13, 34-25B-17, 34-25B-18, 34-25B-21, 34-25B-22, and 34-25B-26 of the Code of Alabama 1975, relating to the Alabama Private Investigation Regulatory Act; to clarify those fees collected by the board that must be deposited into the Board of Private Investigation Fund; to provide further for the qualifications for licensure as a private investigator; to provide further for criminal history background checks for applicants for licensure; to authorize the board to grant inactive status to licensees and to provide, by rule, for a procedure and fee to reinstate an inactive license; to provide for administrative penalties against any person practicing without a license; to require licensees to report arrests to the board within 72 hours; and to clarify that the number of hours of continuing education

required to maintain licensure is 16 hours during the two-year license period.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-25B-4, 34-25B-7, 34-25B-11, 34-25B-12, 34-25B-13, 34-25B-17, 34-25B-18, 34-25B-21, 34-25B-22, and 34-25B-26 of the Code of Alabama 1975, are amended to read as follows:

"§34-25B-4.

"(a) There is created the Alabama Private Investigation Board. The appointing authorities shall coordinate their appointments to assure the membership of the board ~~shall reflect~~ is inclusive and reflects the racial, gender, geographic, urban and rural, and economic diversity of the state.

"(b) Private investigator members provided for herein shall have had five years of experience as an investigator prior to his or her appointment. Beginning on August 1, 2018, private investigator members who are appointed to the board shall have been licensed pursuant to this chapter as a private investigator for a period of at least five years prior to his or her appointment.

"(c) The following members shall be appointed to the board:

"(1) Three persons appointed by the Governor, two of whom shall be private investigators in this state and one of whom shall be a consumer who will represent the public at large. The Governor shall appoint the three members to initial

terms of three years. Thereafter, successor members shall be appointed for terms of four years each.

"(2) One person appointed by the Lieutenant Governor, who must be a private investigator. The Lieutenant Governor shall appoint the member for an initial term of two years. Thereafter, successor members shall be appointed for terms of four years.

"(3) One person appointed by the Speaker of the House of Representatives who must be a private investigator. The Speaker of the House of Representatives shall appoint the member for an initial term of two years. Thereafter, successor members shall be appointed for terms of four years.

"(4) One person appointed by the Attorney General who must be a private investigator. The Attorney General shall appoint the member for an initial term of two years. Thereafter, successor members shall be appointed for terms of four years.

"(5) One person appointed by the Alabama State Bar Association who must be a member in good standing for an initial term of four years. Thereafter, successor members shall be appointed for terms of four years.

"(6) One person appointed by the Alabama Private Investigators Association who must be a private investigator. The association shall appoint the member for an initial term of four years. Thereafter, successor members shall be appointed for terms of four years.

"(d) Following the initial appointments, all successor members of the board shall be appointed for a term of four years and shall serve until their successors are appointed and qualified by subscribing to the constitutional oath of office~~, which shall be filed with the Secretary of State~~.

"(e) Any vacancy occurring on the board shall be filled by the appointing authority of the vacating member for the unexpired term.

"(f) No member may be appointed to succeed himself or herself for more than one full four-year term.

"(g) The appointing authority may remove a member of the board for misconduct, incompetency, or willful neglect of duty. The board may recommend to the appointing authority suggested administrative actions that may be taken against a board member for missing an excessive amount of meetings.

"~~(h) Each member of the board shall receive a certificate of appointment from the Governor before entering upon the discharge of the duties of office.~~

"§34-25B-7.

"(a) There is hereby created in the State Treasury for the use of the Alabama Private Investigation Board a fund to be known as the Alabama Private Investigation Board Fund. All application and license fees, penalties, fines, and any other funds collected by the board under ~~the provisions of~~ this chapter are to be deposited in this fund and used only to carry out the operations of the board. Fees that the board may

charge, collect, and deposit into the fund shall include, but not be limited to, all of the following:

"(1) An application fee for an original license and an inactive status certificate.

"(2) A renewal fee for a license and an inactive status certificate.

"(3) A reinstatement application fee.

"(4) A late renewal fee.

"(5) A change of information fee.

"(6) A replacement license fee.

"(7) An inactive license fee.

"(8) Reasonable and necessary administrative fees that reflect the actual costs of services provided.

"(b) No monies shall be withdrawn or expended from the fund for any purpose unless the monies have been appropriated by the Legislature and allocated pursuant to this chapter. Any monies appropriated shall be budgeted and allotted pursuant to the Budget Management Act in accordance with Article 4 (commencing with Section 41-4-80) of Chapter 4 of Title 41, and only in the amounts provided by the Legislature in the general appropriations act or other appropriations act. There is hereby appropriated to the Alabama Private Investigation Board the sum of all monies collected and deposited into the Alabama Private Investigation Board Fund for each of the fiscal years ending September 30, 2013, and September 30, 2014, to be used for the operations of the board. All expenses incurred by the board in implementing

and administering this chapter shall be paid out of the fund, provided that the expenses of the board shall not exceed the amount of monies in the fund.

"§34-25B-11.

"An application and all information on an application for licensure as a private investigator shall be treated as confidential and shall be filed with the board on forms prescribed by the board. The application shall include all of the following information of the applicant:

"(1) His or her full name.

"(2) His or her date and place of birth.

"(3) All residences during the immediate past five years.

"(4) All employment or occupations engaged in during the immediate past five years.

"(5) Three sets of classifiable fingerprints or criminal history background information, or both, as approved by the board for initial licensure.

"(6) A list of convictions and pending charges involving a felony or misdemeanor in any jurisdiction.

"§34-25B-12.

"~~(a)~~ Each individual applicant for licensure as a private investigator shall meet all of the following criteria that he or she:

"(1) Is at least 21 years of age.

"(2) Has not been declared by any court of competent jurisdiction incompetent by reason of mental defect or disease

unless a court of competent jurisdiction has subsequently declared the applicant competent.

"(3) Has not been convicted of a crime of moral turpitude, with the board having the final determination on the interpretation of moral turpitude.

"(4) Has not been convicted of a felony crime.

"(5) Has passed an examination to be administered at least twice annually and approved by the board designed to measure knowledge and competence in the investigation field.

"~~(b) A study guide shall be provided to any applicant seeking to obtain an initial or renewal license under this chapter.~~

"~~(c) Any investigator currently holding a business license in the State of Alabama shall not have to meet the initial application requirements of this chapter, but shall be issued a license pursuant to this chapter upon application.~~

"§34-25B-13.

"(a) Upon receipt of an application for a license pursuant to this chapter, nonrefundable, nonprorateable application fees shall be submitted to the board by the applicant for the following services:

"(1) A request that ~~the Alabama Bureau of Investigation compare the fingerprints submitted with the application to fingerprints filed with the Alabama Bureau of Investigation~~ a criminal background check be obtained as approved by the board. On subsequent applications, the Alabama ~~Bureau of Investigation~~ State Law Enforcement Agency,

successor organization, or other criminal history background provider approved by the board, at the request of the board, shall review its criminal history files based upon the name, date of birth, sex, race, and Social Security number of an applicant whose ~~fingerprints have~~ criminal history information has previously been submitted ~~to the bureau~~ for any new information since the date of the original fingerprint or criminal history background check comparison, and shall furnish any information thereby derived to the board.

"(2) A request to submit the fingerprints to the ~~Federal Bureau of Investigation~~ Alabama State Law Enforcement Agency, successor organization, or other approved provider of criminal history background information for a search of its files to determine whether an individual ~~fingerprinted~~ has any recorded convictions.

"(b) After the approval of the application by the board, the board shall issue a license in a form prescribed by the board to each qualified applicant upon its receipt of a nonrefundable, nonprorateable private investigator license fee as set by the board.

"(c)(1) If an application for a license is denied, the board shall notify the applicant in writing and specify the grounds for denial. If the grounds are subject to correction by the applicant, the notice shall so state and specify a reasonable period of time within which the applicant shall make the required correction.

"(2) The applicant may submit an application for reconsideration to the board within 30 days from the date of receipt of denial.

"(d) The board shall issue a license to all private investigator licensees that shall be at least 8" x 10" in size and shall be displayed on a wall of the workplace of the licensee. ~~This license~~ All licenses and identification cards issued by the board shall be deemed property of the State of Alabama and subject to forfeiture to the state upon revocation.

"§34-25B-17.

"(a) All private investigator licenses issued or renewed under this chapter shall be valid for a period of two years from the ~~date~~ month of issuance. The board shall ~~provide each licensee with~~ mail to each licensee, at his or her address of record, a renewal application at least 60 days prior to the expiration of the license. A licensee shall report any change of address to the board.

"(b) Each application for renewal shall be reviewed for criminal convictions and civil fraud findings.

"(c) An administrative late fee not exceeding two hundred dollars ($200) as prescribed by the board shall be assessed on any renewal application postmarked after the expiration date of the license.

"(d) No renewal application may be accepted more than 30 days after the expiration date of the license.

"(e) Any person licensed by the board may elect inactive status by notifying the board in writing. The fee for the issuance and renewal of an inactive status certificate shall be established by rule of the board. The board shall provide by rule for those activities which an inactive status certificate holder may engage in, and for a procedure and fee for the reinstatement to an active license.

"§34-25B-18.

"(a) The board may suspend, revoke, or refuse to issue or renew any private investigator license issued by it upon finding that the holder or applicant has committed any of the following acts:

"(1) A violation of this chapter or any rule promulgated pursuant to this chapter.

"(2) Fraud, deceit, or misrepresentation regarding an application or license.

"(3) Knowingly and willfully making a material misstatement in connection with an application for a license or renewal.

"(4) A conviction by a court of competent jurisdiction of a felony.

"(5) A conviction by a court of competent jurisdiction of a Class A misdemeanor, if the board finds that the conviction reflects unfavorably on the fitness of the person for the license.

"(6) The commission of any act which would have been cause for refusal to issue the license or identification card

had it existed and been known to the board at the time of issuance.

"(b) In addition to, or in lieu of, any other lawful disciplinary action under this section, the board may assess a civil penalty not exceeding two thousand dollars ($2,000) for each violation.

"(c) A license may be suspended for the remaining license period and renewed during any period in which the license was suspended.

"(d) Any entity or person found to be providing private investigator services without a license as required by this chapter shall be subject to an administrative fine of up to one thousand dollars ($1,000) per day that services are provided without a license, and may be administratively enjoined by the board from providing services until such time as the entity or person complies with this chapter.

"§34-25B-21.

"The board shall provide a copy of this chapter and any rules promulgated under this chapter ~~to the following:~~ on the website of the board.

~~"(1) Each licensee, upon issuance of an original license, and every two years thereafter upon license renewal.~~

~~"(2) Any other person, upon request, for a reasonable fee established by the board.~~

"§34-25B-22.

"(a) The following acts when committed by an individual licensed as a private investigator in Alabama shall constitute a violation punishable as a Class A misdemeanor:

"(1) To knowingly make a material misrepresentation as to the ability of the individual to perform the investigation required by a potential client in order to obtain employment.

"(2) To make unsubstantiated monetary charges to a client for services not rendered or transportation not utilized.

"(3) To knowingly make a false report to a client in relation to the investigation performed for a client.

"(4) To continue an investigation for a client when it becomes obvious to the investigator that a successful completion of an investigation is unlikely without first advising the client and obtaining the approval of the client for continuation of the investigation.

"(5) To reveal information obtained for a client during an investigation to another individual except as required by law.

"(b) Persons licensed pursuant to this chapter shall report any suspected instances of child abuse or neglect to a local law enforcement agency or the Department of Human Resources, or both.

"(c) Persons licensed pursuant to this chapter shall report any arrest to the board within 72 hours.

"§34-25B-26.

"(a) Each licensee shall complete ~~eight~~ 16 hours of continuing professional education acceptable to the board in each ~~calendar year~~ renewal period.

~~(b) The board shall make every effort to ensue at least one seminar per year will be held in each congressional district of the state providing an opportunity to fulfill the continuing professional education requirements of this section, which shall include at least one hour per year on ethics.~~

"~~(c)~~ (b) The board shall promulgate rules necessary to carry out this section."

Section 2. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.