

SECOND REGULAR SESSION

SENATE BILL NO. 1018

93RD GENERAL ASSEMBLY

INTRODUCED BY SENATORS KENNEDY AND MAYER.

Read 1st time February 7, 2006, and ordered printed.

TERRY L. SPIELER, Secretary.

4729S.02I

AN ACT

To repeal section 621.045, RSMo, and to enact in lieu thereof twenty-six new sections relating to private investigators, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 621.045, RSMo, is repealed and twenty-six new sections
2 enacted in lieu thereof, to be known as sections 324.1100, 324.1102, 324.1104,
3 324.1106, 324.1108, 324.1110, 324.1112, 324.1114, 324.1116, 324.1118, 324.1120,
4 324.1122, 324.1124, 324.1126, 324.1128, 324.1130, 324.1132, 324.1134, 324.1136,
5 324.1138, 324.1140, 324.1142, 324.1144, 324.1146, 324.1148, and 621.045, to read
6 as follows:

324.1100. As used in sections 324.1100 to 324.1148, the following
2 terms mean:

3 (1) "Board", the board of private investigator examiners
4 established in section 324.1102;

5 (2) "Client", any person who engages the services of a private
6 investigator;

7 (3) "Department", the department of economic development;

8 (4) "Law enforcement officer", a law enforcement officer as defined
9 in section 556.061, RSMo;

10 (5) "Organization", a corporation, trust, estate, partnership,
11 cooperative, or association;

12 (6) "Person", an individual or organization;

13 (7) "Private investigator", any person who receives any
14 consideration, either directly or indirectly, for engaging in the private
15 investigator business;

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 (8) "Private investigator agency", a person who regularly employs
17 any other person, other than an organization, to engage in the private
18 investigator business;

19 (9) "Private investigator business", the furnishing of, making of,
20 or agreeing to make, any investigation for the purpose of obtaining
21 information pertaining to:

22 (a) Crimes or wrongs done or threatened against the United
23 States or any state or territory of the United States;

24 (b) The identity, habits, conduct, business, occupation, honesty,
25 integrity, credibility, knowledge, trustworthiness, efficiency, loyalty,
26 activity, movement, whereabouts, affiliations, associations, transactions,
27 acts, reputation, or character of any person;

28 (c) The location, disposition, or recovery of lost or stolen
29 property;

30 (d) Securing evidence to be used before any court, board, officer,
31 or investigating committee;

32 (e) Sale of personal identification information to the public; or

33 (f) The cause of responsibility for libel, losses, accident, or
34 damage or injury to persons or property or protection of life or property.

 324.1102. 1. The "Board of Private Investigator Examiners" is
2 hereby created within the division of professional registration. The
3 board shall be a body corporate and may sue and be sued.

4 2. The board shall be composed of five members, including two
5 voting public members, appointed by the governor with the advice and
6 consent of the senate. Except for the public members, each member of
7 the board shall be a citizen of the United States, a resident of Missouri,
8 at least thirty years of age, and shall have been actively engaged in the
9 private investigator business for the previous five years. No more than
10 one private investigator board member may be employed by, or affiliated
11 with, the same private investigator agency. The initial private
12 investigator board members shall not be required to be licensed but
13 shall obtain a license within one hundred eighty days after the effective
14 date of the rules promulgated pursuant to sections 324.1100 to 324.1148
15 regarding licensure. The public members shall each be a registered
16 voter and a person who is not and never was a member of any profession
17 licensed or regulated pursuant to sections 324.1100 to 324.1148 or the
18 spouse of such person; and a person who does not have and never has

19 had a material, financial interest in either the providing of the
20 professional services regulated by sections 324.1100 to 324.1148, or an
21 activity or organization directly related to any profession licensed or
22 regulated under sections 324.1100 to 324.1148. The duties of the public
23 members shall not include the determination of the technical
24 requirements to be met for licensure or whether any person meets such
25 technical requirements or of the technical competence or technical
26 judgment of a licensee or a candidate for licensure.

27 3. The members shall be appointed for terms of two years, except
28 those first appointed, in which case two members, who shall be private
29 investigators, shall be appointed for terms of four years, two members
30 shall be appointed for terms of three years, and one member shall be
31 appointed for a one-year term. Any vacancy on the board shall be filled
32 for the unexpired term of the member and in the manner as the first
33 appointment. No member may serve consecutive terms.

34 4. The members of the board may receive compensation, as
35 determined by the director for their services, if appropriate, and shall
36 be reimbursed for actual and necessary expenses incurred in performing
37 their official duties on the board.

38 5. There is hereby created in the state treasury the "Board of
39 Private Investigator Examiners Fund", hereafter the fund, which shall
40 consist of money collected pursuant to sections 324.1100 to 324.1148. The
41 fund shall be administered by the board of private investigator
42 examiners, which shall collect the fees authorized by sections 324.1100
43 to 324.1148 and transmit them to the director of revenue for deposit to
44 the state treasury to the credit of the fund. Money in the fund shall be
45 used solely for the purposes of the board of private investigator
46 examiners, as authorized by sections 324.1100 to 324.1148.

47 6. Notwithstanding the provisions of section 33.080, RSMo, no
48 portion of the fund shall be transferred to the general revenue fund, and
49 any appropriation made to the fund shall not lapse. The state treasurer
50 shall invest moneys in the fund in the same manner as other funds are
51 invested. Interest and moneys earned on such investments shall be
52 credited to the fund.

324.1104. Unless expressly exempted from the provisions of
2 sections 324.1100 to 324.1148:

3 (1) It shall be unlawful for any person to engage in the private

4 investigator business in this state unless such person is licensed as a
5 private investigator pursuant to sections 324.1100 to 324.1148;

6 (2) It shall be unlawful for any person to engage in business in
7 this state as a private investigator agency unless such person is licensed
8 pursuant to sections 324.1100 to 324.1148.

324.1106. The following persons shall not be deemed to be
2 engaging in the private investigator business:

3 (1) A person employed exclusively and regularly by one employer
4 in connection only with the affairs of such employer and where there
5 exists an employer-employee relationship;

6 (2) Any officer or employee of the United States, or of this state
7 or a political subdivision thereof while engaged in the performance of
8 the officer's or employee's official duties;

9 (3) A consumer reporting agency as defined in 15 U.S.C. Section
10 1681(a) and its contract and salaried employees;

11 (4) An attorney performing duties as an attorney, or an attorney's
12 paralegal or employee retained by such attorney assisting in the
13 performance of such duties or investigation on behalf of such attorney;

14 (5) A collection agency or an employee thereof while acting within
15 the scope of employment, while making an investigation incidental to
16 the business of the agency, including an investigation of the location of
17 a debtor or a debtor's property where the contract with an assignor
18 creditor is for the collection of claims owed or due, or asserted to be
19 owed or due, or the equivalent thereof;

20 (6) Insurers and insurance producers licensed by the state,
21 performing duties in connection with insurance transacted by them;

22 (7) Any bank subject to the jurisdiction of the director of the
23 division of finance of the state of Missouri or the comptroller of
24 currency of the United States;

25 (8) An insurance adjuster. For the purposes of sections 324.1100
26 to 324.1148, an "insurance adjuster" means any person who receives any
27 consideration, either directly or indirectly, for adjusting in the disposal
28 of any claim under or in connection with a policy of insurance or
29 engaging in soliciting insurance adjustment business;

30 (9) Any private fire investigator whose primary purpose of
31 employment is the determination of the origin, nature, cause, or
32 calculation of losses relevant to a fire;

33 **(10) Employees of a not-for-profit organization or its affiliate or**
34 **subsidiary who makes and processes requests on behalf of health care**
35 **providers and facilities for employee criminal and other background**
36 **information pursuant to section 660.317, RSMo;**

37 **(11) Any real estate broker, real estate salesperson, or real estate**
38 **appraiser acting within the scope of his or her license;**

39 **(12) Expert witnesses who have been certified or accredited from**
40 **a national or state association associated with the expert's scope of**
41 **expertise;**

42 **(13) Any person who does not hold themselves out to the public**
43 **as a private investigator but is under contract with a state agency or**
44 **political subdivision; or**

45 **(14) Any person performing such duties or investigation on behalf**
46 **of serving legal process and such person's investigation is incidental to**
47 **the serving of legal process.**

324.1108. 1. Every person desiring to be licensed in this state as
2 **a private investigator or private investigator agency shall make**
3 **application therefor to the board of private investigator examiners. An**
4 **application for a license pursuant to the provisions of sections 324.1100**
5 **to 324.1148 shall be on a form prescribed by the board of private**
6 **investigator examiners and accompanied by the required application fee. An**
7 **application shall be verified and shall include:**

8 **(1) The full name and business address of the applicant;**

9 **(2) The name under which the applicant intends to do business;**

10 **(3) A statement as to the general nature of the business in which**
11 **the applicant intends to engage;**

12 **(4) A statement as to the classification or classifications under**
13 **which the applicant desires to be qualified;**

14 **(5) Two recent photographs of the applicant, of a type prescribed**
15 **by the board of private investigator examiners, and two classifiable sets**
16 **of the applicant's fingerprints;**

17 **(6) A verified statement of the applicant's experience**
18 **qualifications; and**

19 **(7) Such other information, evidence, statements, or documents**
20 **as may be required by the board of private investigator examiners.**

21 **2. Before an application for a license may be granted, the**
22 **applicant shall:**

- 23 (1) Be at least twenty-one years of age;
- 24 (2) Be a citizen of the United States;
- 25 (3) Provide proof of insurance with amount to be no less than two
26 hundred fifty thousand dollars in coverage for liability and proof of
27 workers' compensation insurance if required in chapter 287, RSMo. The
28 board shall have the authority to raise the requirements as deemed
29 necessary; and
- 30 (4) Comply with such other qualifications as the board adopts by
31 rules and regulations.

324.1110. 1. The board of private investigator examiners shall
2 require as a condition of licensure as a private investigator that the
3 applicant pass a written examination as evidence of knowledge of
4 investigator rules and regulations.

5 2. The department shall conduct a complete investigation of the
6 background of each applicant for licensure as a private investigator to
7 determine whether the applicant is qualified for licensure pursuant to
8 sections 324.1100 to 324.1148. The board will outline basic qualification
9 requirements for licensing as a private investigator and agency.

10 3. In the event requirements have been met so that testing has
11 been waived, qualification is dependent on a showing of, for the two
12 previous years:

- 13 (1) Registration and good standing as a business in this state; and
- 14 (2) Two hundred fifty thousand dollars in business general
15 liability insurance.

16 4. The board may review applicants seeking reciprocity. An
17 applicant seeking reciprocity shall have undergone a licensing
18 procedure similar to that required by this state and shall meet this
19 state's minimum insurance requirements.

324.1112. The board of private investigator examiners may deny
2 a request for a license if the applicant:

3 (1) Has committed any act which, if committed by a licensee,
4 would be grounds for the suspension or revocation of a license pursuant
5 to the provisions of sections 324.1100 to 324.1148;

6 (2) Within two years prior to the application date:

7 (a) Has been convicted of or entered a plea of guilty or nolo
8 contendere to a felony offense, including the receiving of a suspended
9 imposition of sentence following a plea or finding of guilty to a felony

10 offense;

11 (b) Has been convicted of or entered a plea of guilty or nolo
12 contendere to a misdemeanor offense involving moral turpitude;

13 (c) Has falsified or willfully misrepresented information in an
14 employment application, records of evidence, or in testimony under
15 oath;

16 (d) Has been dependent on or abused alcohol or drugs; or

17 (e) Has used, possessed, or trafficked in any illegal substance;

18 (3) Been refused a license pursuant to the provisions of sections
19 324.1100 to 324.1148 or had a license revoked in this state or in any other
20 state;

21 (4) While unlicensed, committed or aided and abetted the
22 commission of any act for which a license is required by sections
23 324.1100 to 324.1148 after the effective date of this section; or

24 (5) Knowingly made any false statement in the application.

324.1114. 1. Every application submitted pursuant to the
2 provisions of sections 324.1100 to 324.1148 shall be accompanied by a fee
3 as determined by the board as follows:

4 (1) For an individual license, agency license and employees being
5 licensed to work under an agency license; or

6 (2) If a license is issued for a period of less than one year, the fee
7 shall be prorated for the months, or fraction thereof, for which the
8 license is issued.

9 2. The board shall set fees as authorized by sections 324.1100 to
10 324.1148 at a level to produce revenue which will not substantially
11 exceed the cost and expense of administering sections 324.1100 to
12 324.1148.

13 3. The fees prescribed by sections 324.1100 to 324.1148 shall be
14 exclusive and notwithstanding any other provision of law. No
15 municipality may require any person licensed pursuant to sections
16 324.1100 to 324.1148 to furnish any bond, pass any examination, or pay
17 any license fee or occupational tax relative to practicing the person's
18 profession.

19 4. A private investigator license shall allow only the individual
20 licensed by the state to conduct investigations. An agency license shall
21 be applied for separately and held by an individual who is licensed as
22 a private investigator. The agency may hire individuals to work for the

23 agency conducting investigations for the agency only. Persons hired
24 shall make application as determined by the board and meet all
25 requirements set forth by the board except that they shall not be
26 required to meet any experience requirements and shall be allowed to
27 begin working immediately upon the agency submitting their
28 applications.

324.1116. A private investigator agency shall not hire any
2 individual as an employee unless the individual:

- 3 (1) Is at least twenty-one years of age;
- 4 (2) Provides two recent photographs of themselves, of a type
5 prescribed by the board of private investigator examiners, and two
6 classifiable sets of their fingerprints; and
- 7 (3) Complies with any other qualifications and requirements the
8 board adopts by rule.

324.1118. A private investigator agency shall not hire an
2 individual, who is not licensed as a private investigator, as an employee
3 if the individual:

- 4 (1) Has committed any act which, if committed by a licensee,
5 would be grounds for the suspension or revocation of a license pursuant
6 to the provisions of sections 324.1100 to 324.1148;
- 7 (2) Within two years prior to the application date:
 - 8 (a) Has been convicted of or entered a plea of guilty or nolo
9 contendere to a felony offense, including the receiving of a suspended
10 imposition of sentence following a plea or finding of guilty to a felony
11 offense;
 - 12 (b) Has been convicted of or entered a plea of guilty or nolo
13 contendere to a misdemeanor offense involving moral turpitude;
 - 14 (c) Has falsified or willfully misrepresented information in an
15 employment application, records of evidence, or in testimony under
16 oath;
 - 17 (d) Has been dependent on or abused alcohol or drugs; or
 - 18 (e) Has used, possessed, or trafficked in any illegal substance;
- 19 (3) Been refused a license pursuant to the provisions of sections
20 324.1100 to 324.1148 or had a license revoked in this state or in any other
21 state;
- 22 (4) While unlicensed, committed or aided and abetted the
23 commission of any act for which a license is required by sections

24 324.1100 to 324.1148 after the effective date of this section; or

25 (5) Knowingly made any false statement in the application.

324.1120. An individual, who is not licensed as a private
2 investigator, hired as an employee by a private investigator agency shall
3 work only under the direct supervision of the agency whose
4 identification number appears on their application and shall only work
5 for one agency at any one time.

324.1122. A licensee shall successfully complete sixteen hours of
2 continuing education units biennially and an individual, who is not
3 licensed as a private investigator, who is hired as an employee by a
4 private investigator agency shall successfully complete eight hours of
5 continuing education units biennially. Such continuing education shall
6 be relevant to the private investigator business and shall be approved
7 by the board as such.

324.1124. 1. The board of private investigator examiners shall
2 determine the form of the license which shall include the:

3 (1) Name of the licensee;

4 (2) Name under which the licensee is to operate; and

5 (3) Number and date of the license.

6 2. The license shall be posted at all times in a conspicuous place
7 in the principal place of business of the licensee. Upon the issuance of
8 a license, a pocket card of such size, design, and content as determined
9 by the division shall be issued without charge to each licensee. Such
10 card shall be evidence that the licensee is licensed pursuant to the
11 provisions of sections 324.1100 to 324.1148. When any person to whom
12 a card is issued terminates such person's position, office, or association
13 with the licensee, the card shall be surrendered to the licensee and
14 within five days thereafter shall be mailed or delivered by the licensee
15 to the board of private investigator examiners for cancellation. Within
16 thirty days after any change of address, a licensee shall notify the board
17 of the address change. The principal place of business may be at a
18 residence or at a business address, but it shall be the place at which the
19 licensee maintains a permanent office.

324.1126. 1. Any license issued pursuant to sections 324.1100 to
2 324.1148 shall expire two years after the date of its issuance. Renewal
3 of any such license shall be made in the manner prescribed for obtaining
4 an original license, including payment of the appropriate fee, except

5 that:

6 (1) The application upon renewal need only provide information
7 required of original applicants if the information shown on the original
8 application or any renewal thereof on file with the board is no longer
9 accurate;

10 (2) A new photograph shall be submitted with the application for
11 renewal only if the photograph on file with the board has been on file
12 more than two years; and

13 (3) The applicant does not have to be tested again but must
14 instead provide proof that the applicant successfully completed sixteen
15 hours of continuing education credits; and

16 (4) Additional information may be required by rules and
17 regulations adopted by the board of private investigator examiners.

18 2. A licensee shall at all times be legally responsible for the good
19 conduct of each of the licensee's employees or agents while engaged in
20 the business of the licensee and the licensee is legally responsible for
21 any acts committed by such licensee's employees or agents which are in
22 violation of sections 324.1100 to 324.1148. A person receiving an agency
23 license shall directly manage the agency and employees.

24 3. A license issued pursuant to the provisions of sections 324.1100
25 to 324.1148 shall not be assignable.

324.1128. 1. Any licensee may divulge to the board, any law
2 enforcement officer, or prosecuting attorney, or such person's
3 representative, any information such person may acquire as to any
4 criminal offense, or instruct his or her client to do so if the client is the
5 victim but such person shall not divulge to any other person, except as
6 he or she may be required by law to do, any information acquired by
7 such person at the direction of the employer or client for whom the
8 information was obtained.

9 2. No licensee or officer, director, partner, associate, or employee
10 thereof shall:

11 (1) Knowingly make any false report to his or her employer or
12 client for whom information was being obtained;

13 (2) Cause any written report to be submitted to a client except by
14 the licensee, and the person submitting the report shall exercise
15 diligence in ascertaining whether or not the facts and information in
16 such report are true and correct;

17 **(3) Use a title, wear a uniform, use an insignia or an identification**
18 **card, or make any statement with the intent to give an impression that**
19 **such person is connected in any way with the federal government, a**
20 **state government, or any political subdivision of a state government;**

21 **(4) Appear as an assignee party in any proceeding involving claim**
22 **and delivery, replevin or other possessory action, action to foreclose a**
23 **chattel mortgage, mechanic's lien, materialman's lien, or any other lien;**

24 **(5) Manufacture false evidence; or**

25 **(6) Create any video recording of an individual in their domicile**
26 **without the individual's permission. Furthermore, if such video**
27 **recording is made, it shall not be admissible as evidence in any civil**
28 **proceeding.**

324.1130. Each licensee shall maintain a record containing such
2 **information relative to the licensee's employees as may be prescribed by**
3 **the board of private investigator examiners. Such licensee shall file**
4 **with the board the complete address of the licensee's principal place of**
5 **business including the name and number of the street. The board may**
6 **require the filing of other information for the purpose of identifying**
7 **such principal place of business.**

324.1132. Every advertisement by a licensee soliciting or
2 **advertising business shall contain the licensee's name, city, and state as**
3 **it appears in the records of the board of private investigator examiners. No**
4 **individual or business can advertise as a private investigator, private**
5 **detective, or private investigator agency without including their state**
6 **private investigator or private investigator agency license number in the**
7 **advertisement. A licensee shall not advertise or conduct business from**
8 **any Missouri address other than that shown on the records of the board**
9 **as the licensee's principal place of business unless the licensee has**
10 **received an additional agency license for such location after compliance**
11 **with the provisions of sections 324.1100 to 324.1148 and such additional**
12 **requirements necessary for the protection of the public as the board may**
13 **prescribe by regulation. A licensee shall notify the board in writing**
14 **within ten days after closing or changing the location of a branch**
15 **office. The fee for the additional license shall be one-half the cost of the**
16 **fee for the agencies original license.**

324.1134. 1. The board of private investigator examiners may
2 **suspend or revoke a license issued pursuant to sections 324.1100 to**

3 324.1148 if, after notice and opportunity for hearing in accordance with
4 the provisions of chapter 621, RSMo, the administrative hearing
5 commission determines that the licensee has:

6 (1) Made any false statement or given any false information in
7 connection with an application for a license or a renewal or
8 reinstatement thereof;

9 (2) Violated any provision of sections 324.1100 to 324.1148;

10 (3) Violated any rule of the board of private investigator
11 examiners adopted pursuant to the authority contained in sections
12 324.1100 to 324.1148;

13 (4) Impersonated, or permitted or aided and abetted an employee
14 to impersonate, a law enforcement officer or employee of the United
15 States of America, or of any state or political subdivision thereof;

16 (5) Committed, or permitted any employee to commit any act,
17 while the license was expired, which would be cause for the suspension
18 or revocation of a license, or grounds for the denial of an application for
19 a license;

20 (6) Knowingly violated, or advised, encouraged, or assisted the
21 violation of, any court order or injunction in the course of business as
22 a licensee;

23 (7) Used any letterhead, advertisement, or other printed matter,
24 or in any manner whatever represented that such person is an
25 instrumentality of the federal government, a state, or any political
26 subdivision thereof;

27 (8) Used a name different from that under which such person is
28 currently licensed in any advertisement, solicitation, or contract for
29 business; or

30 (9) Committed any act which is grounds for denial of an
31 application for a license pursuant to the provisions of section 324.1112.

32 2. The record of conviction, or a certified copy thereof, shall be
33 conclusive evidence of such conviction, and a plea or verdict of guilty is
34 deemed to be a conviction within the meaning thereof.

35 3. The agency may continue under the direction of another
36 employee if the individual holding the license is suspended or revoked
37 as approved by the board. The board shall establish a time frame in
38 which the agency shall identify an acceptable person who is qualified to
39 assume control of the agency, as required by the board.

40 4. After the filing of a complaint before the administrative
41 hearing commission, the proceedings shall be conducted in accordance
42 with the provisions of chapter 621, RSMo. Upon a finding by the
43 administrative hearing commission that the grounds in subsection 1 of
44 this section for disciplinary action are met, the board may singly or in
45 combination censure or place the person named in the complaint on
46 probation pursuant to such terms and conditions as the board deems
47 appropriate for a period not to exceed five years, may suspend for a
48 period not to exceed three years, or revoke the license.

 324.1136. 1. Each private investigator or investigator agency
2 operating pursuant to the provisions of sections 324.1100 to 324.1148
3 shall be required to keep a complete record of the business transactions
4 of such investigator or investigator agency for a period of seven
5 years. Upon the service of a court order issued by a court of competent
6 jurisdiction or upon the service of a subpoena issued by the board which
7 is based on a complaint supported by oath or affirmation, and
8 particularly describing the records and reports, any licensed private
9 investigator who is the owner, partner, director, corporate officer, or
10 custodian of business records shall provide an opportunity for the
11 inspection of the same and to inspect reports made; but any information
12 obtained by the board shall be kept confidential, except as may be
13 necessary to commence and prosecute any legal proceedings. The board
14 shall not personally enter a licensee's place of business to inspect
15 records, but shall utilize an employee of the division of professional
16 registration to act as a gatherer of information and facts to present to
17 the board regarding any complaint or inspection they are looking into.

 2. For the purpose of enforcing the provisions of sections 324.1100
18 to 324.1148, and in making investigations relating to any violation
19 thereof, the board shall have the power to subpoena and bring before the
20 board any person in this state and require the production of any books,
21 records, or papers which the board deems relevant to the inquiry. The
22 board also may administer an oath to and take the testimony of any
23 person, or cause such person's deposition to be taken, except that any
24 applicant or licensee or officer, director, partner, or associate thereof
25 shall not be entitled to any fees or mileage. A subpoena issued pursuant
26 to this section shall be governed by the Missouri rules of civil procedure
27 and shall comply with any confidentiality standards or legal limitations
28

29 imposed by privacy or open records acts, fair credit reporting acts,
30 polygraph acts, driver privacy protection acts, judicially recognized
31 privileged communications, and the bill of rights of both the United
32 States and Missouri Constitutions. Any person duly subpoenaed, who
33 fails to obey such subpoena without reasonable cause or without such
34 cause refuses to be examined or to answer any legal or pertinent
35 question as to the character or qualification of such applicant or
36 licensee or such applicant's alleged unlawful or deceptive practices and
37 methods or such violations, shall be guilty of a class A
38 misdemeanor. The testimony of witnesses in any investigative
39 proceeding shall be under oath.

324.1138. 1. The board shall adopt such rules and regulations as
2 may be necessary to carry out the provisions of sections 324.1100 to
3 324.1148.

4 2. Any rule or portion of a rule, as that term is defined in section
5 536.010, RSMo, that is created under the authority delegated in sections
6 324.1100 to 324.1148 shall become effective only if it complies with and
7 is subject to all of the provisions of chapter 536, RSMo, and, if
8 applicable, section 536.028, RSMo. This section and chapter 536, RSMo,
9 are nonseverable and if any of the powers vested with the general
10 assembly pursuant to chapter 536, RSMo, to review, to delay the effective
11 date, or to disapprove and annul a rule are subsequently held
12 unconstitutional, then the grant of rulemaking authority and any rule
13 proposed or adopted after August 28, 2005, shall be invalid and void.

324.1140. 1. The board of private investigator examiners shall
2 certify persons who are qualified to train private investigators.

3 2. In order to be certified as a trainer pursuant to this section, a
4 trainer shall:

5 (1) Be twenty-one or more years of age;

6 (2) Have a minimum of one-year supervisory experience with a
7 private investigator agency; and

8 (3) Be personally licensed as a private investigator pursuant to
9 sections 324.1100 to 324.1148 and qualified to train private investigators.

10 3. Persons wishing to become certified trainers shall make
11 application to the board of private investigator examiners on a form
12 prescribed by the board and accompanied by a fee determined by the
13 board. The application shall contain a statement of the plan of

14 operation of the training offered by the applicant and the materials and
15 aids to be used and any other information required by the board.

16 4. A certificate shall be granted to a trainer if the board finds that
17 the applicant:

18 (1) Meets the requirements of subsection 2 of this section;

19 (2) Has sufficient knowledge of private investigator business to
20 be a suitable person to train private investigators;

21 (3) Has supplied all required information to the board; and

22 (4) Has paid the required fee.

23 5. The certificate issued pursuant to this section shall expire on
24 the third year after the year in which it is issued and shall be renewable
25 triennially upon application and payment of a fee.

324.1142. Any person who knowingly falsifies the fingerprints or
2 photographs or other information required to be submitted pursuant to
3 sections 324.1100 to 324.1148 is guilty of a class D felony; and any person
4 who violates any of the other provisions of sections 324.1100 to 324.1148
5 is guilty of a class A misdemeanor.

324.1144. The board may negotiate and enter into reciprocal
2 agreements with appropriate officials in other states to permit licensed
3 private investigator agencies and licensed private investigators who
4 meet or exceed the qualifications established in sections 324.1100 to
5 324.1148 to operate across state lines under mutually acceptable terms.

324.1146. Law enforcement officers who perform private
2 investigations shall be licensed pursuant to this chapter subject to the
3 following qualifications and limitations:

4 (1) The board may waive testing for law enforcement officers
5 currently certified pursuant to then existing peace officer standards and
6 training requirements pursuant to chapter 590, RSMo;

7 (2) Law enforcement officers shall pay the appropriate licensing
8 fees;

9 (3) Law enforcement officers shall assume individual liability for
10 their actions while performing private investigations, complying with
11 any insurance or bonding requirements imposed pursuant to sections
12 324.1100 to 324.1148;

13 (4) Law enforcement officers shall not utilize their official
14 capacity in the course of a private investigation, including but not
15 limited to:

16 (a) Accessing information intended only for police officials. Law
 17 enforcement officers shall comply with the legal limits on access to
 18 information by a private citizen;

19 (b) Utilizing any official item, such as a uniform, badge, or
 20 vehicle, while performing a private investigation. Law enforcement
 21 officers shall provide their own equipment;

22 (c) Utilizing law enforcement officer arrest and use of force
 23 standards. Law enforcement officers shall use private person arrest and
 24 use of force standards while operating as a private investigator;

25 (5) Law enforcement officers shall produce evidence of training
 26 and experience concerning the legal limits imposed on private
 27 investigations or pass a test on such subject produced by the board; and

28 (6) The provisions of sections 324.1100 to 324.1148 shall not apply
 29 to law enforcement officers who provide only private security services
 30 and not private investigator services.

324.1148. Any person who violates sections 324.1100 to 324.1148 is
 2 guilty of a class A misdemeanor. Any second or subsequent violation of
 3 sections 324.1100 to 324.1148 is a class D felony.

621.045. 1. The administrative hearing commission shall conduct hearings
 2 and make findings of fact and conclusions of law in those cases when, under the
 3 law, a license issued by any of the following agencies may be revoked or
 4 suspended or when the licensee may be placed on probation or when an agency
 5 refuses to permit an applicant to be examined upon his qualifications or refuses
 6 to issue or renew a license of an applicant who has passed an examination for
 7 licensure or who possesses the qualifications for licensure without examination:

8 Missouri State Board of Accountancy
 9 Missouri Board [of Registration] for Architects, [Professional] Engineers
 10 [and], Land Surveyors **and Landscape Architects**
 11 Board of Barber Examiners
 12 Board of Cosmetology
 13 Board of Chiropody and Podiatry
 14 Board of Chiropractic Examiners
 15 Missouri Dental Board
 16 Board of Embalmers and Funeral Directors
 17 Board of Registration for the Healing Arts
 18 Board of Nursing
 19 Board of Optometry

20 Board of Pharmacy
21 Missouri Real Estate Commission
22 Missouri Veterinary Medical Board
23 Supervisor of Liquor Control
24 Department of Health and Senior Services
25 Department of Insurance
26 Department of Mental Health

27 **Board of Private Investigator Examiners**

28 2. If in the future there are created by law any new or additional
29 administrative agencies which have the power to issue, revoke, suspend, or place
30 on probation any license, then those agencies are under the provisions of this law.

31 3. Notwithstanding any other provision of this section to the contrary,
32 after August 28, 1995, in order to encourage settlement of disputes between any
33 agency described in subsection 1 of this section and its licensees, any such agency
34 shall:

35 (1) Provide the licensee with a written description of the specific conduct
36 for which discipline is sought and a citation to the law and rules allegedly
37 violated, together with copies of any documents which are the basis thereof, or file
38 a contested case against the licensee, at least thirty days prior to offering the
39 licensee a settlement proposal, and provide the licensee with an opportunity to
40 respond to the allegations;

41 (2) If no contested case has been filed against the licensee, allow the
42 licensee at least sixty days, from the date of mailing, during which to consider the
43 agency's initial settlement offer and discuss the terms of such settlement offer
44 with the agency;

45 (3) If no contested case has been filed against the licensee, advise the
46 licensee that the licensee may, either at the time the settlement agreement is
47 signed by all parties, or within fifteen days thereafter, submit the agreement to
48 the administrative hearing commission for determination that the facts agreed to
49 by the parties to the settlement constitute grounds for denying or disciplining the
50 license of the licensee; and

51 (4) In any contact pursuant to this subsection by the agency or its counsel
52 with a licensee who is not represented by counsel, advise the licensee that the
53 licensee has the right to consult an attorney at the licensee's own expense.

54 4. If the licensee desires review by the administrative hearing commission
55 pursuant to subdivision (3) of subsection 3 of this section at any time prior to the
56 settlement becoming final, the licensee may rescind and withdraw from the

57 settlement and any admissions of fact or law in the agreement shall be deemed
58 withdrawn and not admissible for any purposes under the law against the
59 licensee. Any settlement submitted to the administrative hearing commission
60 shall not be effective and final unless and until findings of fact and conclusions
61 of law are entered by the administrative hearing commission that the facts agreed
62 to by the parties to the settlement constitute grounds for denying or disciplining
63 the license of the licensee.

64 5. As to a matter settled prior to August 28, 1995, by consent agreement
65 or agreed settlement, any party to a consent agreement or agreed settlement,
66 other than a state agency, after having received written notice at their last known
67 address known to the agency from the respective licensing agency of a person's
68 rights under this section, shall have six months to file an action in the circuit
69 court of Cole County contesting the authority of any agency described in
70 subsection 1 of this section to enter into such consent agreement or agreed
71 settlement. Any consent agreement or agreed settlement which is not invalidated
72 by the court pursuant to this subsection shall be given full force and effect by all
73 courts and agencies.

Bill ✓

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