

Jeremiah W. (Jay) Nixon  
Governor  
State of Missouri

Jane A. Rackers, Division Director  
DIVISION OF PROFESSIONAL REGISTRATION

Department of Insurance  
Financial Institutions  
and Professional Registration  
John M. Huff, Director

**MISSOURI BOARD OF PRIVATE INVESTIGATOR EXAMINERS**  
3605 Missouri Boulevard  
P.O. Box 1335  
Jefferson City, MO 65102-1335  
573-522-7744  
573-526-0661 FAX  
800-735-2966 TTY Relay Missouri  
800-735-2466 Voice Relay Missouri  
pi@pr.mo.gov

Pamela Groose  
Executive Director

## Meeting Notice

**Board of Private Investigator Examiners  
July 31, 2009  
10:00am  
Division of Professional Registration  
3605 Missouri Blvd  
Jefferson City MO 65109**

Notification of special needs as addressed by the Americans with Disabilities Act should be forwarded to the Board of Private Investigator Examiners, 3605 Missouri Boulevard, P O Box 1335, Jefferson City, MO 65102 or by calling 573-522-7744 to ensure available accommodations. The text telephone for the hearing impaired is 80-735-2966.

Except to the extent disclosure is otherwise required by the law, Board of Private Investigator Examiners is authorized to close meetings, records, votes, to the extent they relate to the following: Sections 610.021 (1), (3), (5), (7), (13) and (14), RSMo, and Section 620.010.14 (7) RSMo.

The Board may go into closed session at any time during the meeting. If the meeting is closed, the appropriate section will be announced to the public with the motion and vote recorded in open session minutes.

Agenda follows.

**Tentative Agenda**  
**BOARD OF PRIVATE INVESTIGATOR EXAMINERS**  
**JULY 31, 2009                      10:00AM**  
**DIVISION OF PROFESSIONAL REGISTRATION**  
**3605 Missouri Blvd., Jefferson City, MO**

**OPEN SESSION**

<b>10:00am Call to Order</b>	<b>Dwight McNeil Chairperson</b>
<b>Roll Call</b>	<b>Pam Groose</b>
<b>Review and Approval of Agenda</b>	<b>TAB 1</b>
<b>Review and Approval of Minutes</b> - March 30, 2009	<b>TAB 2</b>
<b>Small Business Regulatory Fairness Board Training</b>	<b>TAB 3</b>
<b>Update on Proposed Rules</b>	<b>TAB 4</b>
<b>Review of Current Statutes for Revisions</b>	<b>TAB 5</b>
<b>Discussion related to Examination Development</b>	<b>TAB 6</b>
<b>Future Meetings</b> <ul style="list-style-type: none"><li>• August 31, 2009</li><li>• September 28, 2009</li><li>• October 26, 2009</li><li>• November 30, 2009</li><li>• December 21, 2009</li><li>• January 25, 2010</li><li>• February 26, 2010</li></ul>	

**Tentative Agenda**  
**BOARD OF PRIVATE INVESTIGATOR EXAMINERS**  
**JULY 31, 2009**  
**DIVISION OF PROFESSIONAL REGISTRATION**  
**3605 Missouri Blvd., Jefferson City, MO**

**CLOSED SESSION WILL BEGIN FOLLOWING COMPLETION OF OPEN SESSION**

<b>Call to Order</b>	<b>Dwight McNeil</b> <b>Chairperson</b>
<b>Review and Approval of Minutes</b> - March 30, 2009	<b>TAB 7</b>

**BOARD OF PRIVATE INVESTIGATOR EXAMINERS  
DIVISION OF PROFESSIONAL REGISTRATION  
3605 Missouri Blvd  
Jefferson City, MO 65109**

**July 31, 2009 – Open Minutes**

The open session of the Missouri Board of Private Investigators was called to order by Dwight McNeil, Chairperson, at 10:15am on July 31, 2009 at the Division of Professional Registration, 3605 Missouri Boulevard, Jefferson City, MO 65109

**Members Present:**

Dwight McNeil, Chairperson  
Douglas Mitchell, Vice-Chair (left at 3:25pm)  
Francis “Chris” Rey, Member  
Kenneth McGhee, Public Member

**Staff Present:**

Pamela Groose, Executive Director  
Roxy Brockman, Administrative Assistant  
Sarah Ledgerwood, Division Legal Counsel  
Connie Clarkston, Director of Budget and Legislation  
Jeana Groose, Budget Analyst II

**Staff Absent:**

Darcie Rehagen, Administrative Office Assistant

**Visitors Present:**

Thomas E Smith, Jr. Ispirian Computer Forensics  
John Rakonick, USIS

**Review and Approval of Agenda**

A motion was made by Mr. McGhee and seconded by Mr. Rey to approve the open agenda. All approved.

**Review and Approval of Minutes**

A motion was made by Mr. Rey and seconded by Mr. McGhee to approve the March 30, 2009 minutes as amended. All approved.

**Small Business Regulatory Fairness Board Training**

Ms. Clarkston explained the function of the Small Business Regulatory Fairness Board (SBRBF) and that it was important for anyone who participates in the rule making process to understand their function and be able to provide the information required by the SBRFB function when promulgating rules.

A copy of a handout titled Small Business Regulatory Fairness Analysis was included in the agenda items for the board members' review.

**Update on Proposed Rules**

Information was provided to the Board members which outlines the anticipated dates and stages for filing the PI rules. Depending on when the Final Orders are filed will determine the effective date. The earliest the rules would become effective is December 30, 2009 and the latest would be February 28, 2010. Ms. Clarkston explained the acronyms on the document as well as the rule filing process.

The board discussed at length the question of agencies that have a Missouri address as opposed to those agencies that do not have a physical location within the state.

Ms. Groose indicated she thought that would be one of the bigger issues the board would need to address, the requirement for a physical office location. She said there has been an increase in the number of phone calls and 9

out of 10 have been about the concern that a brick and mortar facility must be within the state in order for an agency to get a license. She said Clarence M Kelley & Associates have called and given a lot of feedback. She said they indicated they're licensed in 13 other states, none of which require them to have an actual office in that state. She said they have asked why their office in Overland Park, Kansas, can't be licensed to do business in Missouri. She said they have also indicated that all of their agencies do business in the state of Missouri.

The Board discussed the licensing of agencies and private investigators at length and they indicated that an out of state agency doesn't have to have a Missouri agency license in order to send a private investigator into Missouri but any investigators that do conduct investigations in Missouri have to be licensed as private investigators.

Ms. Goose said the bottom line is "if I have an office in Overland Park, Kansas, and I am a licensed private investigator and have 50 employees. I want to conduct business in Missouri. I want a license for my office from Missouri and I want all my agency employees to have a license in Missouri as well. I don't want to have to go across the line and open up an office in Missouri just so that I can do that." Since it is the board's opinion that an agency that is located in another state doesn't have to have a license, but their employee would be licensed as Private Investigator and that is a big difference for those companies in the fees. Ms. Goose reminded the group the agency employee's fee is \$50 but a private investigator license is \$500 and that is a big difference to those agencies with many employees.

Ms. Clarkston said based on the advertising law that's in place the agency can't be licensed in another state and operate as an agency in Missouri without a having a Missouri agency license because it requires a Missouri address

Ms. Ledgerwood said that is just consistent just for general principles. She said as a state we license people that do things or have a business in the state of Missouri, but individuals are coming in to the state of Missouri as individuals and doing their job. That is why they have to have a Missouri license and why they can have a Missouri license, even if they live on the Kansas side or the Illinois side as it pertains to St Louis. But, she also said, without a location in Missouri the State of Missouri is not going to undertake licensing an out of state agency without it having a place of business in the state of Missouri. She said there is a definitely a distinction between an agency and an individual.

Mr. McNeil requested that Ms. Goose gather information from 4 of the 9 states surrounding Missouri and determine how each state handles licensing out of state agencies. Mr. McNeil said he thought with the exception of Illinois, if we look at 4 or 5 other states surrounding Missouri to see what they require with respect to that and then we come back and with some input from general counsel here, we can make the appropriate clarification and if necessary the appropriate modifications to the statute. If we want to again keep the playing field level. I think what we have inadvertently done is created a problem by saying somehow, and again it is two separate issues. That's one, the licensing issue, then with regard to the advertisement

Ms. Ledgerwood said that if the board's goal is to say to these companies from where ever they are sending investigators that they can only use the address they have on record with the Missouri board in their advertising or in conducting business, then she thought the board would want to consider Ms. Clarkston's suggestion to remove the word 'Missouri' from within statute 324.1132. That portion of the statute would read as follows after the deletion of the word "Missouri" : *...A licensee shall not advertise or conduct business from any address other than that shown on the records of the board as the licensee's principal place of business unless the licensee has received an additional agency license for such location after compliance with the provisions of sections 324.1100 to 324.1148 and such additional requirements necessary for the protection of the public as the board may prescribed by regulation...* The board members agreed with this suggested change of this portion of the statute.

Mr. McNeil said he didn't have a problem with them an agency not having a physical building in Missouri so long as they are not advertising that they have a physical presence in a particular place in Missouri even if it's by generic description "we're located in St Louis, Kansas City, Joplin and Caruthersville." He said he thought that's what the advertisement statute specifically prohibits. Mr. McNeil stated that he thought what the board want wanted to make sure that wherever an agency is based from i.e., if they are from Des Moines Iowa and if someone is sending an investigator into Missouri from their Des Moines, Iowa office that what we are looking for in their advertising is that they have to say we're at 1631 Front Street in Des Moines, Iowa. If a Missouri citizen wants to hire a PI firm in Des Moines, Iowa. We certainly don't want to do anything to restrict their ability to do that but again we want the consumer to be able to know that they're hiring someone from out of state, that's what we were attempting to do.

Ms. Ledgerwood said she didn't get that from the statute and the statute includes both individuals and business and doesn't lay out in intricate detail what the regulation will, but that's the whole purpose of statute and regulation. She said she thought the board would have to figure out how they want to protect the public and how much. She asked "What do you want to require of people who want to come and do business in the state"?

The board broke for lunch at 11:50am and resumed at 1:05pm.

### **Review of Current Statutes for Revisions**

Ms. Clarkston said the copy of the statute given to the board members is a compilation of changes that are from the original legislative proposal before it went through, notes she made throughout travels across the state, through the rulemaking process and things she has heard the board members say. She said anything within the document is not set in stone at this point. She said it is only notes and suggestions. She told the board if they wanted to change anything, to please change it. She also said if they liked the statute the way it is, then to leave it alone. She said this was only a draft. She said the additions to the statute are in bold and anything that is being deleted is in brackets. She said it was only a draft.

Ms. Clarkston went through each section explaining the changes. A copy of the draft document is attached to these minutes. The following is a list of changes discussed.

- Section 324.1102 subsection 3 – Board created, members, qualifications, terms – fund created, use of moneys
  - ◆ A motion was made by Mr. McGee to delete the thirty years of age requirement and keep the 5 years of experience. proposed thirty year and 5 years of experience. Motion was not seconded and did not pass.
  - ◆ The board members indicated wanted to leave the Board comprised of five members instead of changing it to seven members
  - ◆ A motion was made by Mr. Mitchell and seconded by Mr. Rey to amend the sentence that allows for consecutive terms. All approved. Ms. Clarkston said that the proposed language would be removed and from the original language the last sentence in subsection 3 that says "No member may serve consecutive terms" will also be removed.
  - ◆ House Bill 780 and Senate Bill 308 had conflicting statutes and there are two Section 324.1102 and the second one needs to be deleted because it is duplicative.
- 324.1106, subsection 1
  - ◆ Delete this subsection.
- 324.1106, subsection 10
  - ◆ After discussion the subsection reads as follows:  
Employees of **an organization** whether for **profit or** not-for-profit or its affiliate or subsidiary, whether for profit or not-for-profit, whose investigatory activities are limited to making and processing requests for criminal history records and other background information from state, federal, or local databases, including requests for employee background check information under section 660.317, RSMO;
- 324.1106, subsection 13
  - ◆ After discussion the wording was changed to the following:  
"Any person who does not hold themselves out to the public as a private investigator **and** is employed **by** or under **exclusive** contract with a state agency or political subdivision;"
- 324.1106, subsection 14
  - ◆ Remove the word "investigations" and replace with "activities".
- 324.1106, House Bill 780 and Senate Bill 308 had conflicting statutes and there are two Section 324.1106 and the second one needs to be deleted because it is duplicative
- 324.1108, subsection 5
  - ◆ Two recent photographs are required from the applicant.

Mr. McNiel received a call from Sue Baker with the Regional Justice Information System (REJIS). They process and handle all of the inquiries for database. They basically are a conduit for investigators and security personnel in Missouri to be able to access the Missouri Department of Revenue on a real time basis. They also can run criminal history for Missouri and Illinois. Mr. McNiel reported that Ms. Baker had called him in regard to software and hardware they were able to develop due to a grant they received a couple of years ago. They use this system to control all of the licensing process for all of the security personnel in the greater St Louis area, right down to updating their CLE's and issuing identification badges with a photograph and a thumb print. Mr. McNiel said Ms. Baker and/or board member or staff would be willing to conduct a presentation about their system. Mr. McNiel would like an invitation extended to Ms. Baker to meet with the private investigators board possibly at the next

meeting in August. Ms. Groose said that she would have our IT department contact Ms. Baker to determine if their system is compatible with our licensing system, PROMO. Mr. McNiel said he was interested in researching the ability to issue a license with a photograph. Ms. Groose said that the issue would be getting consistently good photographs but it may be possible to work something out.

- Section 324.1112 Subsection (2) (b) –The board members all agreed to the addition but to change the word “felony” to “misdemeanor”.

**Discussion related to Examination Development:**

Ms. Ledgerwood will look at the statute and research what the private investigator examination can encompass.

A motion was made by Mr. McGhee and seconded by Mr. Rey to go into closed session at 3:30pm for #9. Mr. Mitchell, Mr. Rey and Mr. McGhee all approved.

**Future Meetings**

- August 31, 2009
- September 28, 2009
- October 26, 2009
- November 30, 2009
- December 21, 2009
- January 25, 2010
- February 26, 2010

A motion was made by Mr. Rey and seconded by Mr. McGhee to adjourn at 3:40pm. All approved.

*Pamela Groose*

\_\_\_\_\_  
Executive Director Signature

August 31, 2009

\_\_\_\_\_  
Approved by the board

*Pamela Groose*

## MOTIONS

### 1. INVESTIGATIONS / COMPLAINTS / AUDITS

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing investigative reports and/or complaints and/or audits and/or other information pertaining to a licensee or applicant.

### 2. LEGAL ACTIONS / LITIGATIONS / PRIVILEGED COMMUNICATIONS

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (1) RSMo for the purpose of discussing general legal actions, causes of action or litigation and any confidential or privileged communications between this agency and its attorney.

### 3. DISCIPLINE

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (1) RSMo for the purpose of deliberation on discipline.

### 4. PROMOTING / HIRING / DISCIPLINING / FIRING EMPLOYEES

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (3) RSMo for the purpose of discussing hiring, firing, disciplining, or promoting an employee of this agency.

### 5. APPLICATIONS

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (14) and section 620.010.14 subsection (7) RSMo for the purpose of discussing applicants for licensure.

### 6. EMPLOYEE PERFORMANCE RATINGS

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (13) RSMo for the purpose of making performance ratings pertaining to individual employees.

### 7. EXAMINATION MATERIALS

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (7) RSMo for the purpose of discussing and/or reviewing testing and examination materials.

### 8. DIAGNOSIS / TREATMENT OF DISCIPLINED LICENSEES

I move that this meeting be closed, and that all records and votes, to the extent permitted by law, pertaining to and/or resulting from this closed meeting be closed under section 610.021 subsection (5) RSMo for the proceedings required pursuant to a disciplinary order concerning medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or treatment of specific licensees.

### 9. CLOSED MINUTES

I move that this meeting be closed, and that all records and votes pertaining to and/or resulting from this closed meeting be closed, for the purpose of reviewing and approving the closed minutes of one or more previous meetings under the subsections of 610.021 which authorized this agency to go into closed session during those meetings.

**2010 Legislative Proposal**

Department:	Insurance, Financial Institutions and Professional Registration	Proposal #:	
Division:	Professional Registration		
Contact Person:	Connie Clarkston	Phone:	526-6071
Proposal Title:	Private Investigators	Category:	Department

**1. Description of Proposal**

HB780 and SB308 (2008) established licensure for private investigators. The board has been established and has promulgated rules, which are to appear in the August 1, 2009 *Missouri Register*. When the bill was being debated in 2008 and reviewed throughout the rulemaking process, several corrections were noted. This bill would provide clarity to the existing statute and provide consistency similar to other board's within the division.

**2. Department Rationale for Support of Proposal (four-part question)****a. What will you be able to do or do better, that you cannot do now, with this proposed change?**

324.1100 – defines “director” and “division” to clarify terms used in section 324.1100-324.1148, RSMo.

324.1102 –

- Increase board membership from 5 to 7 will allow for a more global perspective of the industry;
- Requires professional members to be residents of the state for at least one year and registered voters; and removes the age requirement necessary for appointment. These requirements are consistent with existing public member requirements;
- Requires public members to be residents of the state of Missouri to be consistent with professional member requirements;
- Increases the board member terms from 2 to 4 years. During the first year members are being educated on their duties, Missouri Sunshine law and the operations of the board office. Boards within the division report that a 4 year term is more beneficial than a shorter term;
- Allows board members to be reappointed for 2 consecutive terms which allows current and future board members to remain on the board for a longer period of time if they so choose. Experienced board members increase efficiencies of board operations. The proposal also requires members who have served 2 complete consecutive terms to wait one year before being appointed for future terms; and
- HB780 and SB308 contained conflicting statutes, which this proposal clarifies.

324.068 – establishes the duties of the division.

324.1106 -

- Clarifies licensure exemptions to include any one who is exclusively employed by a state agency or political subdivision; and
- HB780 and SB308 contained conflicting statutes, which this proposal clarifies.

324.1108 – clarifies that an individual that has a legally lawful presence in the United States can also be considered for licensure.

324.1110 – clarifies that the board is responsible for the review of applicants.

324.1112 – includes a suspended imposition of sentence following a plea of guilty to a felony offense as a cause for denial of licensure.

324.1114 –

- Removes language to prorate fees. SHERRY
- Requires any private investigator conducting an investigation in the State of Missouri to be licensed in Missouri.

324.1118 - HB780 and SB308 contained conflicting statutes, which this proposal clarifies.

324.1124 – clarifies the division is responsible for the form of the license to be consistent with other boards within the division.

324.1126 –

- Amends the renewal section to require a biennial renewal with a common expiration date to allow for consistency within the division. The division's central processing unit receives and processes renewal for 39 boards with approximately 400,000 licenses. In an effort to increase efficiency and reduce the cost of operation the division has established a renewal schedule for all boards; and
- Modifies the renewal statutes to be consistent with other boards within the division related to the mailing, receipt and processing of renewals.

324.1132 –

- Mandates an out of state business conducting business in Missouri to be licensed in Missouri; and
- Allows the board to establish all fees.

324.1134 – adds assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter as cause for discipline.

324.1140 –

- Amends the requirements for trainer licensure to allow non licensed professional individuals to become trainers in an effort to broaden the educational and training opportunities for private investigators; and
- Modifies the training renewal provisions to be consistent with other professions licensed by the division.

**b. What barriers exist that prevent you from making this change administratively?**

The above changes cannot be made administratively and require legislative changes.

**c. Which customers/constituents will be better served by this proposal change?**

Individuals applying for private investigator licensure and individual who provide such training, which could include attorneys and law enforcement personnel are likely to support the changes.

**d. Provide any further information you believe supports your reasons for pursuing this change.**

**3. Complete Legislative History (four-part question)**

**a. Has this issue been previously proposed by the department?**

No.

**b. Have bills/amendments been filed in the General Assembly over the past five years?**

No.

**c. If bills/amendments were offered, who were the sponsors?**

Not applicable.

**d. What happened to these bills/amendments and why?**

Not applicable.

**4. Does this proposal affect any other state departments? Discuss the proposal with all other affected state departments and note the outcome of the department discussion here.**

No.

**5. Do similar laws exist or has legislation been proposed in other states, is this an issue in other states (research the issue and provide detailed information for other states research)?**

**6. Probable Proponents and Opponents (including General Assembly members) (with rationale for opposition)**

**7. Proposed Bill Sponsors and rationale for your selection**

Rep. Jay Wasson prefers to review the proposals and then offers them to committee members to carry. Senate sponsorship is undetermined at this time.

**8. Estimated FY2012 Fiscal Impact, Proposed source(s) of funding total state revenue impact, new FTE required to implement, and other fiscal information. (Identify the amount of new taxes or fees generated by the proposal).**

## **Definitions.**

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

- (1) "Board", the board of private investigator examiners established in section 324.1102;
- (2) "Client", any person who engages the services of a private investigator;
- (3) "Department", the department of insurance, financial institutions and professional registration;
- (4) "Director", the director of the division of professional registration;**
- (5) "Division", the division of professional registration;**
- [(4)] "Law enforcement officer", a law enforcement officer as defined in section 556.061, RSMo;
- [(5)] "Organization", a corporation, trust, estate, partnership, cooperative, or association;
- [(6)] "Person", an individual, [or organization] partnership, corporation, cooperative, association or other entity;
- [(7)] "Private investigator", any person who receives any consideration, either directly or indirectly, for engaging in the private investigator business;
- [(8)] "Private investigator agency", a person who regularly employs any other person, other than an organization, to engage in the private investigator business;
- [(9)] "Private investigator business", the furnishing of, making of, or agreeing to make, any investigation for the purpose of obtaining information pertaining to:
  - (a) Crimes or wrongs done or threatened against the United States or any state or territory of the United States;
  - (b) The identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person;
  - (c) The location, disposition, or recovery of lost or stolen property;
  - (d) Securing evidence to be used before any court, board, officer, or investigating committee;
  - (e) Sale of personal identification information to the public; or
  - (f) The cause of responsibility for libel, losses, accident, or damage or injury to persons or property or protection of life or property.

(L. 2007 H.B. 780 merged with S.B. 308)

## **Board created, members, qualifications, terms--fund created, use of moneys.**

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

2. The board shall be composed of **[five] seven** members, including two public members, appointed by the governor with the advice and consent of the senate. Except for the public members, each member of the board shall be a citizen of the United States, a resident of Missouri **for at least one year, a registered voter, [at least thirty years of age,]** and shall have been actively engaged in the private investigator business for the previous five years. No more than one private investigator board member may be employed by, or affiliated with, the same private investigator agency. The initial private investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public members shall each be **a resident of Missouri**, a registered voter and a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

3. The members shall be appointed for terms of **[two] four** years, except those first appointed, in which case two members, who shall be private investigators, shall be appointed for terms of four years, two members shall be appointed for terms of three years, and one member shall be appointed for a one-year term. Any vacancy on the board shall be filled for the unexpired term of the member and in the manner as the first appointment. No member may serve **more than two** consecutive terms. **Any member who has served two complete consecutive terms shall be ineligible to be reappointed until one year has lapsed.**

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

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. The provisions of section 33.080, RSMo, to the contrary notwithstanding, money in this fund shall not be transferred and placed to the credit of general revenue until the amount in the fund at the end of the biennium exceeds two times the amount of the appropriation from the board's funds for the preceding fiscal year or, if the board requires by rule permit renewal less frequently than yearly, then three times the appropriation from the board's funds for the preceding fiscal year. The amount, if any, in the fund which shall lapse is that amount in the fund which exceeds the appropriate multiple of the appropriations from the board's funds for the preceding fiscal year.

(L. 2007 H.B. 780)

\*This section was enacted by H.B. 780 and S.B. 308 during the First Regular Session of the 94th General Assembly, 2007. Due to possible conflict, both versions of this section are printed here.

## **Board created, members, qualifications, terms--fund created, use of moneys.**

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**2. The board shall be composed of five members, including two public members, appointed by the governor with the advice and consent of the senate. Except for the public members, each member of the**

board shall be a citizen of the United States, a resident of Missouri, at least thirty years of age, and shall have been actively engaged in the private investigator business for the previous five years. No more than one private investigator board member may be employed by, or affiliated with, the same private investigator agency. The initial private investigator board members shall not be required to be licensed but shall obtain a license within one hundred eighty days after the effective date of the rules promulgated under sections 324.1100 to 324.1148 regarding licensure. The public members shall each be a registered voter and a person who is not and never was a member of any profession licensed or regulated under sections 324.1100 to 324.1148 or the spouse of such person; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated by sections 324.1100 to 324.1148, or an activity or organization directly related to any profession licensed or regulated under sections 324.1100 to 324.1148. The duties of the public members shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.

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

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

5. There is hereby created in the state treasury the "Board of Private Investigator Examiners Fund", which shall consist of money collected under sections 324.1100 to 324.1148. The state treasurer shall be custodian of the fund and shall approve disbursements from the fund in accordance with the provisions of sections 30.170 and 30.180, RSMo. Upon appropriation, money in the fund shall be used solely for the administration of sections 324.1100 to 324.1148. Notwithstanding the provisions of section 33.080, RSMo, to the contrary, any moneys remaining in the fund at the end of the biennium shall not revert to the credit of the general revenue fund. The state treasurer shall invest moneys in the fund in the same manner as other funds are invested. Any interest and moneys earned on such investments shall be credited to the fund. ]

(L. 2007 S.B. 308)

\*This section was enacted by H.B. 780 and S.B. 308 during the First Regular Session of the 94th General Assembly, 2007. Due to possible conflict, both versions of this section are printed here.

## **Division of professional registration duties.**

**324.068. For the purpose of sections 324.1100 to 324.1148, the division shall:**

**(1) Employ, within the limits of the appropriations for that purpose, 324.1100 to 324.1148.050 to 324.089;**

**(2) Exercise all administrative functions;**

**(3) Deposit all fees collected pursuant to sections 324.1100 to 324.1148, by transmitting such funds to the department of revenue for deposit to the state treasury to the credit of the Board of Private Investigator Examiners Fund;**

## **Prohibited acts.**

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

- (1) It shall be unlawful for any person to engage in the private investigator business in this state unless such person is licensed as a private investigator under sections 324.1100 to 324.1148;
- (2) It shall be unlawful for any person to engage in business in this state as a private investigator agency unless such person is licensed under sections 324.1100 to 324.1148.

(L. 2007 H.B. 780 merged with S.B. 308)

### **Persons deemed not to be engaging in private investigation business.**

*COMMENT: Consider an exemption for people not in the business of private investigating or people not employed by a private investigator, (i.e., church officials doing background checks).*

*May need to clarify the legal process stops when documents are served; the board noted concerns if there is a vibal case to serve on, the statues may not clearly clarify that individuals couldn't obtain as much information and turn over to an attorney, such information could turn up in discovery.*

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

- (1) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;
- (2) Any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;
- (3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;
- (4) An attorney performing duties as an attorney, or an attorney's paralegal or employee retained by such attorney assisting in the performance of such duties or investigation on behalf of such attorney;
- (5) A collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due, or asserted to be owed or due, or the equivalent thereof;
- (6) Insurers and insurance producers licensed by the state, performing duties in connection with insurance transacted by them;
- (7) Any bank subject to the jurisdiction of the director of the division of finance of the state of Missouri or the comptroller of currency of the United States;
- (8) An insurance adjuster. For the purposes of sections 324.1100 to 324.1148, an "insurance adjuster" means any person who receives any consideration, either directly or indirectly, for adjusting in the disposal of any claim under or in connection with a policy of insurance or engaging in soliciting insurance adjustment business;
- (9) Any private fire investigator whose primary purpose of employment is the determination of the origin, nature, cause, or calculation of losses relevant to a fire;

(10) Employees of a not-for-profit organization or its affiliate or subsidiary, whether for-profit or not-for-profit, whose investigatory activities are limited to making and processing requests for criminal history records and other background information from state, federal, or local databases, including requests for employee background check information under section 660.317, RSMo;

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

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

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

(14) Any person performing duties or conducting investigations relating to serving legal process when such person's investigation is incidental to the serving of legal process; or

(15) A consumer reporting agency is defined in 15 U.S.C. Section 1681(a) and its contract and salaried employees.

(L. 2007 H.B. 780)

\*This section was enacted by H.B. 780 and S.B. 308 during the First Regular Session of the 94th General Assembly, 2007. Due to possible conflict, both versions are printed here.

## **Persons deemed not to be engaging in private investigation business.**

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

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

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

(3) Any employee, agent, or independent contractor employed by any government agency, division, or department of the state whose work relationship is established by a written contract while working within the scope of employment established under such contract;

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

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

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

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

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

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

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

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

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

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

(14) Any person performing duties or conducting investigations relating to serving legal process when such person's investigation is incidental to the serving of legal process;

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

(L. 2007 S.B. 308)

\*This section was enacted by H.B. 780 and S.B. 308 during the First Regular Session of the 94th General Assembly, 2007. Due to possible conflict, both versions are printed here.

## **Application for licensure, contents--qualifications.**

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

- (1) The full name and business address of the applicant;
- (2) The name under which the applicant intends to conduct business;
- (3) A statement as to the general nature of the business in which the applicant intends to engage;
- (4) A statement as to the classification or classifications under which the applicant desires to be qualified;
- (5) Two recent photographs of the applicant, of a type prescribed by the board of private investigator examiners, and two classifiable sets of the applicant's fingerprints processed in a manner approved by the Missouri state highway patrol, criminal records and identification division, under section 43.543, RSMo;
- (6) A verified statement of the applicant's experience qualifications; and

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

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

(1) Be at least twenty-one years of age;

(2) Be a citizen of the United States **or a have legally lawful presence in the United States**;

(3) Provide proof of liability insurance with amount to be no less than two hundred fifty thousand dollars in coverage and proof of workers' compensation insurance if required under chapter 287, RSMo. The board shall have the authority to raise the requirements as deemed necessary; and

(4) Comply with such other qualifications as the board adopts by rules and regulations.

(L. 2007 H.B. 780 merged with S.B. 308)

### **Examination is required--background investigation required--waiver of testing, showing required.**

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

2. The **[department] board** shall conduct a complete investigation of the background of each applicant for licensure as a private investigator to determine whether the applicant is qualified for licensure under sections 324.1100 to 324.1148. The board shall and will outline basic qualification requirements for licensing as a private investigator and agency.

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

(1) Registration and good standing as a business in this state; and

(2) Two hundred fifty thousand dollars in business general liability insurance.

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

(L. 2007 H.B. 780 merged with S.B. 308)

### **Denial of a request for licensure, when.**

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

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

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

- (a) Has been convicted of or entered a plea of guilty or nolo contendere to a **felony offense**, including the receiving of a suspended imposition of sentence following a plea or finding of guilty to a felony offense;
  - (b) Has been convicted of or entered a plea of guilty or nolo contendere to a misdemeanor offense involving moral turpitude, **including receiving a suspended imposition of sentence following a plea of guilty to a felony offense**;
  - (c) Has falsified or willfully misrepresented information in an employment application, records of evidence, or in testimony under oath;
  - (d) Has been dependent on or abused alcohol or drugs; or
  - (e) Has used, possessed, or trafficked in any illegal substance;
- (3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;
- (4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or
- (5) Knowingly made any false statement in the application.

(L. 2007 H.B. 780 merged with S.B. 308)

**Fee required--license for individuals only, agency license must be applied for separately.**

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

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

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

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

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

*COMMENT: Need to amend to allow others to be owners of a business, not always a natural person; also see definition of "person".*

4. A private investigator license shall allow only the individual licensed by the state **of Missouri** to conduct investigations. **An agency license shall be applied for separately and held by an individual who is licensed as a private investigator.** The agency may hire individuals to work for the agency conducting investigations for the agency only. Persons hired shall make application as determined by the board and meet all requirements set forth by the board except that they shall not be required to meet any experience requirements and shall be allowed to begin working immediately upon the agency submitting their applications.

## **Agency hiring criteria.**

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

(1) Is at least twenty-one years of age;

(2) Provides two recent photographs of themselves, of a type prescribed by the board of private investigator examiners;

(3) Has been fingerprinted in a manner approved by the Missouri state highway patrol, criminal records and identification division, under section 43.543, RSMo; and

(4) Complies with any other qualifications and requirements the board adopts by rule.

## **Prohibited acts.**

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

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

(2) Within two years prior to the hiring date:

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

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

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

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

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

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

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

## **Licensure required--prohibited acts**

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

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

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

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

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

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

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

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

(3) Has been refused a license under the provisions of sections 324.1100 to 324.1148 or had a license revoked in this state or in any other state;

(4) While unlicensed, committed or aided and abetted the commission of any act for which a license is required by sections 324.1100 to 324.1148 after August 28, 2007; or

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

(L. 2007 S.B. 308)

\*This section was enacted by H.B. 780 and S.B. 308 during the First Regular Session of the 94th General Assembly, 2007. Due to possible conflict, both versions are printed here.

## **Supervision of agency employees required, when.**

*COMMENT: Need to clarify the employee exemption...PAM do you have notes on this one?*

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

(L. 2007 H.B. 780 merged with S.B. 308)

## **Continuing education requirements.**

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

## **Form of license, contents--posting requirements.**

324.1124. 1. The [board of private investigator examiners shall determine the form of the license which shall include the:] **division.**

[(1) Name of the licensee;

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

(3) Number and date of the license.]

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

## **Expiration of license, when--renewal--licensee responsible for good conduct of employees.**

324.1126. 1. Any license issued under sections 324.1100 to 324.1148 shall **be valid for two years** [expire two years after the date of its issuance. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fee, except that:] **The division shall mail a renewal notice to the last known address of each licensee prior to the renewal date. Failure to provide the division with the proof of compliance with the continuing education requirement and other information required for licensure or to pay the renewal fee after such notice shall effect a revocation of the license after a period of sixty days from the registration renewal date. The license shall be restored if, within two years of the registration renewal date, the applicant provides written application and the payment of the licensure fee and a delinquency fee and proof of compliance with the requirements for continuing education as provided in section 324.1122.**

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

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

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

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

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

3. A license issued under sections 324.1100 to 324.1148 shall not be assignable.

(L. 2007 H.B. 780 merged with S.B. 308)

### **Information regarding criminal offenses, licensee may divulge, when, exceptions--prohibited acts.**

*COMMENT: What if the victim gives consent? May do nothing to protect confidentiality and bind licensees. Consideration for exempting civil processors.*

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

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

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

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

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

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

(5) Manufacture false evidence; or

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

(L. 2007 H.B. 780 merged with S.B. 308)

### **Records to be maintained--required filings.**

*COMMENT: Can we combine with section 324.1136?*

324.1130. Each licensee shall maintain a record containing such information relative to the licensee's employees as may be prescribed by the board of private investigator examiners. Such licensee shall file

with the board the complete address of the location of the licensee's principal place of business. The board may require the filing of other information for the purpose of identifying such principal place of business.

(L. 2007 H.B. 780 merged with S.B. 308)

## **Advertising requirements.**

*COMMENT: Does language encompass business cards?*

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

(L. 2007 H.B. 780 merged with S.B. 308)

## **Licensure sanctions permitted, procedure--complaint may be filed with administrative hearing commission--disciplinary action authorized, when.**

324.1134. 1. The board may suspend or refuse to renew any certificate of registration or authority, permit or license required under sections 324.1100 to 324.1148 for one or any combination of causes stated in subsection 2 of this section. The board shall notify the applicant in writing of the reasons for the suspension or refusal and shall advise the applicant of the applicant's right to file a complaint with the administrative hearing commission as provided by chapter 621, RSMo. As an alternative to a refusal to issue or renew any certificate, registration or authority, the board may, at its discretion, issue a license which is subject to probation, restriction or limitation to an applicant for licensure for any one or any combination of causes stated in subsection 2 of this section. The board's order of probation, limitation or restriction shall contain a statement of the discipline imposed, the basis therefor, the date such action shall become effective, and a statement that the applicant has thirty days to request in writing a hearing before the administrative hearing commission. If the board issues a probationary, limited or restricted license to an applicant for licensure, either party may file a written petition with the administrative hearing commission within thirty days of the effective date of the probationary, limited or restricted license seeking review of the board's determination. If no written request for a hearing is received by the administrative hearing commission within the thirty-day period, the right to seek review of the board's decision shall be considered as waived.

2. The board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered the person's certificate of registration or authority, permit or license for any one or any combination of the following causes:

(1) Making any false statement or giving any false information or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violating any provision of sections 324.1100 to 324.1148;

(3) Violating any rule of the board of private investigator examiners adopted under the authority contained in sections 324.1100 to 324.1148;

(4) Impersonating, or permitting or aiding and abetting an employee to impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(5) Committing, or permitting any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(6) Knowingly violating, or advising, encouraging, or assisting the violation of, any court order or injunction in the course of business as a licensee;

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

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

**(9) Violation of, or assisting or enabling any person to violate, any provision of this chapter, or of any lawful rule or regulation adopted pursuant to this chapter**

**(10)** Committing any act which is grounds for denial of an application for a license under section 324.1112.

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

4. The agency may continue under the direction of another employee if the licensee's license is suspended or revoked by the board. The board shall establish a time frame in which the agency shall identify an acceptable person who is qualified to assume control of the agency, as required by the board.

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

## **Record-keeping requirements--investigatory powers of the board.**

*COMMENT: Possible exemption for federal contract or court order or as by written contract; require contract to be maintained.*

324.1136. 1. Each private investigator or investigator agency operating under the provisions of sections 324.1100 to 324.1148 shall be required to keep a complete record of the business transactions of such investigator or investigator agency for a period of seven years. Upon the service of a court order issued by a court of competent jurisdiction or upon the service of a subpoena issued by the board that is based on a complaint supported by oath or affirmation, which particularly describes the records and reports, any licensed private investigator who is the owner, partner, director, corporate officer, or custodian of business records shall provide an opportunity for the inspection of the same and to inspect reports made. Any information obtained by the board shall be kept confidential, except as may be necessary to commence and prosecute any legal proceedings. The board shall not personally enter a licensee's place of business to inspect records, but shall utilize an employee of the division of professional registration to act as a gatherer of information and facts to present to the board regarding any complaint or inspection under investigation.

2. For the purpose of enforcing the provisions of sections 324.1100 to 324.1148, and in making investigations relating to any violation thereof, the board shall have the power to subpoena and bring before the board any person in this state and require the production of any books, records, or papers which the board deems relevant to the inquiry. The board also may administer an oath to and take the testimony of any person, or cause such person's deposition to be taken, except that any applicant or licensee or officer, director, partner, or associate thereof shall not be entitled to any fees or mileage. A subpoena issued under this section shall be governed by the Missouri rules of civil procedure and shall comply with any confidentiality standards or legal limitations imposed by privacy or open records acts, fair credit reporting acts, polygraph acts, driver privacy protection acts, judicially recognized privileged communications, and the bill of rights of both the United States and Missouri Constitutions. Any person duly subpoenaed who fails to obey such subpoena without reasonable cause, or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's alleged unlawful or deceptive practices or methods, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath.

(L. 2007 H.B. 780 merged with S.B. 308)

## **Rulemaking authority.**

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

2. Any rule or portion of a rule, as that term is defined in section 536.010, RSMo, that is created under the authority delegated in sections 324.1100 to 324.1148 shall become effective only if it complies with and is subject to all of the provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general assembly under chapter 536, RSMo, to review, to delay the effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the grant of rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be invalid and void.

(L. 2007 H.B. 780 merged with S.B. 308)

## **Board to certify persons qualified to train private investigators, qualifications--application procedure--certificate granted, when--expiration of certificate.**

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

[2. In order to be certified as a trainer under this section, a trainer shall:

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

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

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

3.] 2. Persons wishing to become certified trainers shall make application to the board of private investigator examiners on a form prescribed by the board and accompanied by a fee determined by the board. The application shall contain a statement of the plan of operation of the training offered by the applicant and the materials and aids to be used and any other information required by the board.

[4.] 3. A certificate shall be granted to a trainer if the board finds that the applicant:

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

[(2)] (1) Has sufficient knowledge of private investigator business in order to train private investigators sufficiently;

[(3)] (2) Has supplied all [required] information [to] **determined** the board; and

[(4)] (3) Has paid the required fee.

[5.] 4. The certificate issued under this section shall [expire on the third year after the year in which it is issued] **be valid for two years** and shall be renewable [triennially] **biennially** upon application and payment of [a] **the renewal** fee **established by the board**.

(L. 2007 H.B. 780 merged with S.B. 308)

## **Falsification of required information, penalties.**

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

(L. 2007 H.B. 780 merged with S.B. 308)

## **Reciprocity.**

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

## **Licensure of law enforcement officers, qualifications.**

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

- (1) The board may waive testing for law enforcement officers currently certified under existing peace officer standards and training requirements under chapter 590, RSMo;
- (2) Law enforcement officers shall pay the appropriate licensing fees;
- (3) Law enforcement officers shall assume individual liability for their actions while performing private investigations, complying with any insurance or bonding requirements imposed under sections 324.1100 to 324.1148;
- (4) Law enforcement officers shall not utilize their official capacity in the course of a private investigation, including but not limited to:
  - (a) Accessing information intended only for police officials. Law enforcement officers shall comply with the legal limits on access to the information of private citizens;
  - (b) Utilizing any official item, such as a uniform, badge, or vehicle, while performing a private investigation. Law enforcement officers shall provide their own equipment;
  - (c) Utilizing law enforcement officer arrest and use of force standards. Law enforcement officers shall use private citizen arrest and use of force standards while operating as a private investigator;
- (5) Law enforcement officers shall produce evidence of training and experience concerning the legal limits imposed on private investigations or pass a test on such subject produced by the board; and
- (6) The provisions of sections 324.1100 to 324.1148 shall not apply to law enforcement officers who provide only private security services and not private investigator services.

## **Violations, penalty.**

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

*COMMENT: Do we need:*

*If any provisions of sections 324.1100 to 324.1148, or if the application of such provisions to any person or circumstance shall be held invalid, the remainder of this section and the application of such provision*

*of sections 324.1100 to 324.1148 other than those as to which it is held valid, shall not be affected thereby.*

*The provisions of this section shall not be construed to release any person from civil liability or criminal prosecution pursuant to any other law of this state.*

*The board may cause a complaint to be filed for any violation of sections 324.1100 to 324.1148 in any court of competent jurisdiction and perform such other acts as may be necessary to enforce the provisions of sections 324.1100 to 324.1148.*