

1 State of Arkansas
2 90th General Assembly
3 Third Extraordinary Session, 2016
4

A Bill

Call Item 7

HOUSE BILL 1004

5 By: Representatives Vines, Branscum
6 By: Senators E. Williams, G. Stubblefield, J. English, B. Sample
7

For An Act To Be Entitled

9 AN ACT CONCERNING THE QUALIFICATIONS OF PROFESSIONALS
10 UNDER THE PRIVATE SECURITY AGENCY, PRIVATE
11 INVESTIGATOR, AND SCHOOL SECURITY LICENSING AND
12 CREDENTIALING ACT; TO DECLARE AN EMERGENCY; AND FOR
13 OTHER PURPOSES.
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Subtitle

16 CONCERNING THE QUALIFICATIONS OF
17 PROFESSIONALS UNDER THE PRIVATE SECURITY
18 AGENCY, PRIVATE INVESTIGATOR, AND SCHOOL
19 SECURITY LICENSING AND CREDENTIALING ACT;
20 AND TO DECLARE AN EMERGENCY.
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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26 SECTION 1. Arkansas Code § 17-40-301(a), concerning unlawful acts, is
27 amended to read as follows:

28 (a) ~~It~~ Except as provided under § 17-40-325, it is unlawful for a
29 person to knowingly:

30 (1) Perform any service as a private investigator unless the
31 person has obtained a credential to perform the services of a private
32 investigator under this chapter;

33 (2) Perform any service as or engage in the business or business
34 activity of a security services contractor or alarm systems company unless
35 the person has obtained a license as a securities services contractor or
36 alarm systems company under this chapter; ~~or~~



1 (3) Engage in an operation outside the scope of the person's
2 license or credential; or

3 (4) Perform any service that requires a license, credential, or
4 commission under this subchapter without having first been issued that
5 license, credential, or commission.

6
7 SECTION 2. Arkansas Code § 17-40-306(d), concerning the issuance of a
8 license or credential for security officers and other professionals, is
9 amended to read as follows:

10 (d)(1) ~~The~~ Except as provided in subdivision (d)(2) of this section,
11 the director shall not issue a license or credential nor renew an existing
12 license or credential of a person who has been found guilty of or pleaded
13 guilty or nolo contendere to one (1) or more of the following in any court in
14 the State of Arkansas or to a comparable offense in another state, or in a
15 military or federal court for which a pardon has not been granted:

16 (A) A felony;

17 (B) A Class A misdemeanor involving theft, sexual
18 offenses, violence, an element of dishonesty, or a crime against a person as
19 determined by the department under subsection (e) of this section; or

20 (C) ~~A crime involving violence; or~~ An attempted felony or
21 solicitation or conspiracy to commit a felony that is classified as a Class A
22 misdemeanor.

23 ~~(D) A crime involving moral turpitude.~~

24 (2) An individual shall not be denied issuance of a license or
25 credential or renewal of an existing license or credential if the individual
26 by any court has been found guilty of or pleaded guilty or nolo contendere to
27 any misdemeanor if the person was found guilty of or pleaded guilty or nolo
28 contendere to the misdemeanor ten (10) or more years before the date of the
29 application for issuance or renewal.

30 (3) For purposes of this subsection, the state and national
31 criminal background check shall include a record of all offenses that have
32 been previously sealed or expunged by any court.

33
34 SECTION 3. Arkansas Code § 17-40-306, concerning the issuance of a
35 license or credential for security officers and other professionals, is
36 amended to add an additional subsection read as follows:

1 (e) The department shall promulgate rules within ninety (90) days of
 2 the effective date of this act that determine the offenses under subdivision
 3 (d)(1)(B) of this section that constitute a Class A misdemeanor involving
 4 theft, sexual offenses, violence, an element of dishonesty, or a crime
 5 against a person.

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 7 SECTION 4. Arkansas Code § 17-40-325 is amended to read as follows:
 8 17-40-325. Credential License or credential application.

9 (a) Every A person who is employed as a private investigator, a
 10 manager, a private security officer, an alarm systems technician, an alarm
 11 systems monitor, an alarm systems apprentice, or an alarm systems agent and
 12 who is required to be licensed or credentialed under this chapter shall
 13 submit a properly completed application for the license or credential to the
 14 Director of the Department of Arkansas State Police within fourteen (14)
 15 calendar days after the commencement of employment.

16 (b) While the application for the license or credential is pending, an
 17 applicant may perform the services of a private investigator, a manager, a
 18 private security officer, an alarm systems technician, an alarm systems
 19 monitor, an alarm systems apprentice, or an alarm systems agent if the
 20 applicant is under the supervision of a person who holds a license or
 21 credential for which the applicant applied.

22
 23 SECTION 5. Arkansas Code § 17-40-337 is amended to read as follows:
 24 17-40-337. Commission – Applicant qualifications.

25 (a) A Except as provided in subsection (b) of this section, commission
 26 as a commissioned security officer or a commissioned school security officer
 27 shall not be issued under this chapter to an individual who:

- 28 (1) Is under twenty-one (21) years of age;
 29 (2) Has been found guilty of or who has pleaded guilty or nolo
 30 contendere to any of the following offenses, whether or not those offenses
 31 have been sealed or expunged:

- 32 (A) ~~an~~ An offense listed under § 17-40-306(d);
 33 (B) A crime involving the use of a firearm; or
 34 (C) A crime involving the use of alcohol while in
 35 possession of a firearm;

- 36 (3) Has committed an act that would be grounds for suspension or

1 revocation under this chapter;

2 (4) Does not meet the qualifications for a commission as
3 determined by the Director of the Department of Arkansas State Police;

4 (5) May not lawfully possess a firearm;

5 (6)(A) Has not successfully completed a state and national
6 criminal background check to be conducted by the Department of Arkansas State
7 Police and the Federal Bureau of Investigation.

8 (B) Criminal history records from the Arkansas Crime
9 Information Center shall be available to the director for review of the
10 applicant's qualifications.

11 (C) The state and national criminal background check shall
12 conform to applicable federal standards and shall include the taking of
13 fingerprints.

14 (D) The individual applicant shall sign a release of
15 information to the director and shall make payment of any fee associated with
16 the state and national criminal background check;

17 (7) Has been adjudicated as mentally incompetent or has been
18 involuntarily committed to a mental institution or mental health treatment
19 facility;

20 (8) Is a registered sex offender or required to be registered as
21 a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901
22 et seq.;

23 (9) Is suffering from habitual drunkenness or from narcotics
24 addiction or dependence;

25 (10) Has been discharged from the United States Armed Forces
26 under dishonorable conditions; or

27 (11) Is not in compliance with any other reasonable
28 qualification that the director may set by rule; ~~or~~

29 ~~(12) Has been found guilty of or who has pleaded guilty or nolo~~
30 ~~contendere by any court to any felony, Class A misdemeanor, crime involving~~
31 ~~an act of violence, any crime involving use of a firearm, any crime involving~~
32 ~~the use of alcohol while in possession of a firearm, any crime involving~~
33 ~~moral turpitude, or a comparable offense in another state, including a~~
34 ~~previously sealed or expunged offense, by any court.~~

35 (b) An individual shall not be denied issuance of a commission as a
36 commissioned security officer or a commissioned school security officer if

1 the individual by any court has been found guilty of or pleaded guilty or
2 nolo contendere to any misdemeanor if the person was found guilty of or
3 pleaded guilty or nolo contendere to the misdemeanor ten (10) or more years
4 before the date of the application for issuance of a commission.

5 (c) The director shall not issue a commission as a commissioned
6 security officer or as a commissioned school security officer to an applicant
7 employed by a licensee or the security department of a private business
8 unless the applicant submits evidence satisfactory to the director that he or
9 she meets all qualifications established by this chapter and by the rules of
10 the director.

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12 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the
13 General Assembly of the State of Arkansas that many individuals became
14 ineligible for licensure due to unintended consequences of the enactment of
15 the Private Security Agency, Private Investigator, and School Security
16 Licensing and Credentialing Act, § 17-40-101 et seq.; that this ineligibility
17 resulted from the commission of minor offenses or offenses from many years
18 earlier; and that this act is immediately necessary to ensure that qualified
19 individuals are able to practice their livelihood and receive licensure under
20 the Private Security Agency, Private Investigator, and School Security
21 Licensing and Credentialing Act, § 17-40-101 et seq. Therefore, an emergency
22 is declared to exist, and this act being immediately necessary for the
23 preservation of the public peace, health, and safety shall become effective
24 on:

25 (1) The date of its approval by the Governor;

26 (2) If the bill is neither approved nor vetoed by the Governor,
27 the expiration of the period of time during which the Governor may veto the
28 bill; or

29 (3) If the bill is vetoed by the Governor and the veto is
30 overridden, the date the last house overrides the veto.

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