

1 State of Arkansas
2 89th General Assembly
3 Regular Session, 2013
4

As Engrossed: H4/12/13

A Bill

HOUSE BILL 1809

5 By: Representatives Lowery, Linck
6

For An Act To Be Entitled

8 AN ACT TO AMEND THE LAW CONCERNING THE LICENSING OF
9 VOICE STRESS ANALYSIS EXAMINERS; AND FOR OTHER
10 PURPOSES.
11

Subtitle

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13
14 TO AMEND THE LAW CONCERNING THE LICENSING
15 OF VOICE STRESS ANALYSIS EXAMINERS.
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18 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
19

20 SECTION 1. Arkansas Code § 17-39-301 is amended to read as follows:

21 17-39-301. Definitions.

22 As used in this subchapter:

23 (1) "Administrator" means the Administrator of the Arkansas
24 Board of Private Investigators and Private Security Agencies;

25 (2) "Board" means the Arkansas Board of Private Investigators
26 and Private Security Agencies created by § 17-40-201;

27 ~~(1)~~(3) "Voice stress analysis" means the procedure for analyzing
28 the responses of an individual to a specific set of questions;

29 ~~(2)~~(4) "Voice stress analysis examiner" means an individual who
30 has been trained in the operation of a voice stress analysis machine and who
31 maintains a current certificate from a recognized training facility; and

32 ~~(3)~~(5) "Voice stress analysis machine" means a device which has
33 the ability to electronically analyze the responses of an individual to a
34 specific set of questions and to record the analysis, both digitally and on a
35 graph.
36



1 SECTION 2. Arkansas Code § 17-39-304 is amended to read as follows:

2 17-39-304. Application for license – Proof and fee.

3 ~~(a)~~ Any person desiring to be licensed as a voice stress analysis
4 examiner shall make application for licensure to the ~~Arkansas Board of~~
5 ~~Private Investigators and Private Security Agencies~~ administrator of the
6 Board of the Arkansas Board of Private Investigators and Private Security
7 Agencies and shall submit with the application proof satisfactory to the
8 board that the applicant:

9 (1) Is at least twenty-one (21) years of age;

10 (2) Is an Arkansas resident;

11 ~~(2)(3)~~ Is a person of honesty, truthfulness, integrity, and
12 moral fitness;

13 ~~(3)(4)~~ Has not ~~been convicted of a~~ pleaded guilty or “nolo
14 contendere” to or been found guilty of a felony or a misdemeanor involving
15 moral turpitude;

16 ~~(4)(A)(5)~~ Holds a baccalaureate degree from a college or
17 university accredited by the American Association of Collegiate Registrars
18 and Admissions or, in lieu thereof, has had five (5) years of investigative
19 experience with a law enforcement agency.

20 ~~(B) However, any person who was employed as a voice stress~~
21 ~~analyst on July 1, 1987, shall not be required to meet the requirements of~~
22 ~~this subdivision (a)(4);~~

23 ~~(5)(6)~~ Has completed a course of training offering a
24 certification in the operation of the voice stress analysis machine that has
25 been approved by the board and submits a copy of the certification with the
26 application; and

27 ~~(6)(7)~~ Has posted a surety bond or insurance policy in the
28 amount of ~~one thousand dollars (\$1,000)~~ five thousand dollars (\$5,000) or
29 proof that the individual is covered by a business insurance policy.

30 ~~(b) Each application shall be accompanied by an examination or~~
31 ~~qualification fee of twenty dollars (\$20.00), which shall be credited against~~
32 ~~the license fee of the applicant if the applicant is issued a license.~~

34 SECTION 3. Arkansas Code § 17-39-305 is amended to read as follows:

35 17-39-305. Fees.

36 ~~(a)(1) The Arkansas Board of Private Investigators and Private~~

1 ~~Agencies shall collect~~ Except as provided under subdivision (a)(2) of this
 2 section, the applicant for licensure under this subchapter shall pay the
 3 following fees:

4 ~~(1) For an examination or qualification, twenty dollars~~
 5 ~~(\$20.00);~~

6 ~~(2)(A)~~ (A) For an original two-year voice stress analysis examiner's
 7 license, ~~sixty dollars (\$60.00)~~ one hundred twenty dollars (\$120.00);

8 ~~(3)(B)~~ (B) For the ~~annual~~ a two-year renewal of a voice stress
 9 analysis examiner's license, ~~twenty five dollars (\$25.00)~~ fifty dollars
 10 (\$50.00);

11 (C) For the issuance of an optional wallet-sized voice stress
 12 analysis license photo identification card, fifteen dollars (\$15.00); and

13 (D) For the issuance of a duplicate voice stress analysis
 14 examiner's license, ten dollars (\$10.00).

15 (2) A certified law enforcement officer who is a full-time
 16 employee of a law enforcement agency and who is applying for his or her
 17 license for the purpose of full-time employment is not required to pay the
 18 fee under subdivisions (a)(1)(A) and (B) of this section.

19 (b) All fees collected under this subchapter shall be deposited into
 20 the State Treasury to the credit of the Department of Arkansas State Police
 21 Fund.

22 (c)(1) All funds received by the board shall be deposited into the
 23 State Treasury as special revenues to the credit of the fund.

24 (2) Money remaining at the end of the fiscal year shall not
 25 revert to any other fund but shall carry over to the next fiscal year.

26
 27 SECTION 4. Arkansas Code § 17-39-306 is amended to read as follows:

28 17-39-306. Grounds for ~~refusing to issue~~ denial, suspending, or
 29 revoking licenses.

30 ~~The Arkansas Board of Private Investigators and Private Security~~
 31 ~~Agencies board~~ board may ~~refuse to issue or may deny~~, suspend, or revoke a license
 32 on any ~~one (1) or more~~ of the following grounds:

33 (1) For failing to inform a subject to be examined as to the
 34 nature of the examination;

35 (2) For failing to inform a subject to be examined that his or
 36 her participation in the examination is voluntary;

1 (3) Any material misstatement in the application for original
2 license or in the application for any renewal license under this subchapter;

3 (4) Any willful disregard or violation of this subchapter or of
4 any ~~regulation or~~ rule issued pursuant to this subchapter, including, but not
5 limited to, willfully making a false report concerning an examination for
6 voice stress analysis examination purposes;

7 (5) If the holder of any license has been adjudged guilty of the
8 commission of a felony or a misdemeanor involving moral turpitude;

9 (6) For making any willful misrepresentation or false promises
10 or causing to be printed any false or misleading advertisement for the
11 purpose of directly or indirectly obtaining business or trainees;

12 (7) For having demonstrated unworthiness or incompetency to act
13 as a voice stress analysis examiner ~~as defined by § 17-39-301~~;

14 (8) For allowing one's license under this subchapter to be used
15 by any ~~unlicensed other~~ person ~~in violation of the provisions of this~~
16 ~~subchapter~~;

17 (9) For willfully aiding or abetting another in the violation of
18 this subchapter or any regulation or rule issued pursuant to this subchapter;

19 (10) ~~Where the license holder has been adjudged an habitual~~
20 ~~drunkard or mentally incompetent as provided in the Probate Code~~ For failing
21 to maintain the requirements for licensure with the board;

22 (11) For failing, within a reasonable time, to provide
23 information requested by the Secretary of the ~~Arkansas Board of Private~~
24 ~~Investigators and Private Security Agencies~~ board as the result of a formal
25 complaint to the Board which would indicate a violation of this subchapter;
26 or

27 (12) For failing to inform the subject of the voice stress
28 analysis of the results of the examination if so requested.

29
30 SECTION 5. Arkansas Code § 17-39-307 is amended to read as follows:

31 17-39-307. ~~Information furnished on equipment~~ Rules.
32 ~~In order to ensure that the equipment to be used meets the minimum~~
33 ~~requirements, each person or entity using or proposing to use a voice stress~~
34 ~~analysis machine shall furnish to the Arkansas Board of Private Investigators~~
35 ~~and Private Security Agencies:~~

36 (1) ~~The make and model of the machine; and~~

1 ~~(2) The serial number of the particular machine.~~
2 The board may promulgate rules to permit the efficient administration
3 of this subchapter.
4

5 SECTION 6. Arkansas Code § 17-39-308 is amended to read as follows:

6 17-39-308. Conduct of voice stress analysis.

7 (a) A voice stress analysis shall be conducted only in person ~~or from~~
8 ~~a legally recorded conversation.~~

9 (b)~~(1)~~ ~~If the~~ The test is to be conducted through an in-person
10 interview, written permission for the test must be obtained from the person
11 to be tested.

12 ~~(2) If the test is to be conducted from a recorded conversation,~~
13 ~~the conversation may either be recorded with the individual present or by use~~
14 ~~of a recorded telephone conversation.~~

15 (c)(1) ~~In either event, the~~ The examiner shall obtain the permission
16 of the individual to be tested to interview and record the responses of the
17 individual and to analyze the individual responses.

18 (2) In each case, the individual's verbal permission shall be
19 *recorded as a part of the interview.*

20 (d)(1) A certified law enforcement officer who is a full-time employee
21 of a law enforcement agency and who is acting in the course of his or her
22 employment for the law enforcement agency may conduct a voice stress analysis
23 from a legally recorded conversation.

24 (2) If the test is conducted under subdivision (d)(1) of this
25 section:

26 (A) The recorded conversation may be recorded:

27 (i) In person; or

28 (ii) By telephone; and

29 (B) The examiner shall comply with subsection (c) of this
30 section.

31
32 SECTION 7. Arkansas Code Title 17, Chapter 39, Subchapter 3, is
33 amended to add additional sections to read as follows:

34 17-39-309. Background checks.

35 (a) Each first-time applicant and each applicant for license renewal
36 shall be required to apply to the Identification Bureau of the Department of

1 Arkansas State Police for a state and national criminal background check to
2 be conducted by the Identification Bureau and the Federal Bureau of
3 Investigation.

4 (b) The check shall conform to applicable federal standards and shall
5 include the taking of fingerprints.

6 (c) The applicant shall sign a release of information to the board and
7 shall be responsible for the payment of any fee associated with the criminal
8 background check.

9 (d) Upon completion of the criminal background check, the
10 Identification Bureau shall forward to the board all releasable information
11 obtained concerning the applicant.

12 (e) This section does not apply to a certified law enforcement officer
13 who is a full-time employee of a law enforcement agency and who is applying
14 for his or her license for the purpose of the full-time employment with the
15 law enforcement agency.

16
17 17-39-310. Penalties.

18 A person who violates any provision of this chapter or a person who
19 falsely states or represents that he or she has been or is a properly
20 licensed voice stress analysis examiner shall be guilty of a misdemeanor.
21 Upon conviction, that person shall be punished by a fine of not less than one
22 hundred dollars (\$100) and not more than one thousand dollars (\$1,000) or by
23 imprisonment in the county jail for a term of not to exceed six (6) months,
24 or both.

25
26 17-39-311. Injunction.

27 (a) If a person violates any provisions of this chapter, the
28 Administrator of the Board of the Arkansas Board of Private Investigators and
29 Private Security Agencies, upon direction of a majority of the board and in
30 the name of the State of Arkansas, through the Attorney General, shall apply
31 in any circuit court of competent jurisdiction for an order enjoining the
32 violation or for an order enforcing compliance with this chapter.

33 (b) Upon the filing of a verified petition in the court, a judge of
34 the court, if satisfied by affidavit or otherwise that the person has
35 violated this chapter, may issue a temporary injunction without notice or
36 bond enjoining the continued violation. If it is established that the person

1 has violated or is violating this chapter, a judge of the court may enter a
2 decree perpetually enjoining the violation or enforcing compliance with this
3 chapter.

4 (c) In case of violation of any order or decree issued under the
5 provisions of this section, a judge of the court may sentence the offender
6 for contempt of court.

7 (d) Punishment for violation under this section shall be in addition
8 to, but not in lieu of, all other remedies and penalties provided by this
9 chapter.

10
11 17-39-312. Evidence.

12 This chapter shall not be construed as permitting the results of voice
13 stress analysis examinations to be introduced or admitted as evidence into a
14 court of criminal law.

15
16 17-39-313. Board – Powers and duties.

17 (a) The board is authorized and empowered to perform and carry out the
18 functions and duties enumerated within this chapter with respect to the
19 licensing of voice stress analysis examiners and to perform all other acts
20 incidental and necessary to the proper performance of the functions and
21 duties as prescribed in this chapter.

22 (b) The board shall issue rules consistent with the provisions of this
23 chapter for the administration and enforcement of this chapter and shall
24 prescribe forms which shall be issued in connection therewith.

25 (c) An order or a certified copy thereof, over the board seal and
26 purporting to be signed by the board members, shall be prima facie proof that
27 the signatures are the genuine signatures of the board members and that the
28 board members are fully qualified to act.

29 (d) The position of Administrator of the Arkansas Board of Private
30 Investigators and Private Security Agencies is created. The Director of the
31 Department of Arkansas State Police, or his or her designated representative,
32 shall serve as the administrator. The administrator shall not be a member of
33 the board, shall perform such duties as may be prescribed by the board, and
34 shall have no financial or business interests, contingent or otherwise, in
35 any security services contractor or investigating company.

36 (e) All legal process and all documents required by law to be served

1 upon or filed with the board shall be served or filed with the administrator
2 at the designated office of the board.

3 (f) All official records of the board or affidavits by the
4 administrator as to the content of the records shall be prima facie evidence
5 of all matters required to be kept by the board.

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/s/Lowery