

Stricken language would be deleted from and underlined language would be added to present law.
Act 10 of the Third Extraordinary Session

State of Arkansas
90th General Assembly
Third Extraordinary Session, 2016

As Engrossed: H5/20/16
A Bill

Call Item 7
HOUSE BILL 1004

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

For An Act To Be Entitled

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

Subtitle

CONCERNING THE QUALIFICATIONS OF
PROFESSIONALS UNDER THE PRIVATE SECURITY
AGENCY, PRIVATE INVESTIGATOR, AND SCHOOL
SECURITY LICENSING AND CREDENTIALING ACT;
AND TO DECLARE AN EMERGENCY.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 17-40-301(a), concerning unlawful acts, is amended to read as follows:

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

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

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



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

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

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

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

(A) A felony;

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

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

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

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

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

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

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

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

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

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

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

(a) A commission as a commissioned security officer or a commissioned school security officer shall not be issued under this chapter to an individual who:

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

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

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

revocation under this chapter;

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

(5) May not lawfully possess a firearm;

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

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

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

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

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

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

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

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

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

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

(b) The director shall not issue a commission as a commissioned security officer or as a commissioned school security officer to an applicant

employed by a licensee or the security department of a private business unless the applicant submits evidence satisfactory to the director that he or she meets all qualifications established by this chapter and by the rules of the director.

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

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

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

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

/s/Vines

APPROVED: 05/23/2016