

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
89th General Assembly
Regular Session, 2013

As Engrossed: H4/12/13
A Bill

HOUSE BILL 1809

By: Representatives Lowery, Linck

For An Act To Be Entitled

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

Subtitle

TO AMEND THE LAW CONCERNING THE LICENSING
OF VOICE STRESS ANALYSIS EXAMINERS.

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

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

17-39-301. Definitions.

As used in this subchapter:

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

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

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

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

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



SECTION 2. Arkansas Code § 17-39-304 is amended to read as follows:
17-39-304. Application for license – Proof and fee.

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

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

(2) Is an Arkansas resident;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (3) Any material misstatement in the application for original license or in the application for any renewal license under this subchapter;
- (4) Any willful disregard or violation of this subchapter or of any ~~regulation or~~ rule issued pursuant to this subchapter, including, but not limited to, willfully making a false report concerning an examination for voice stress analysis examination purposes;
- (5) If the holder of any license has been adjudged guilty of the commission of a felony or a misdemeanor involving moral turpitude;
- (6) For making any willful misrepresentation or false promises or causing to be printed any false or misleading advertisement for the purpose of directly or indirectly obtaining business or trainees;
- (7) For having demonstrated unworthiness or incompetency to act as a voice stress analysis examiner ~~as defined by § 17-39-301~~;
- (8) For allowing one's license under this subchapter to be used by any ~~unlicensed~~ other person ~~in violation of the provisions of this subchapter~~;
- (9) For willfully aiding or abetting another in the violation of this subchapter or any regulation or rule issued pursuant to this subchapter;
- (10) ~~Where the license holder has been adjudged an habitual drunkard or mentally incompetent as provided in the Probate Code~~ For failing to maintain the requirements for licensure with the board;
- (11) For failing, within a reasonable time, to provide information requested by the Secretary of the ~~Arkansas Board of Private Investigators and Private Security Agencies~~ board as the result of a formal complaint to the Board which would indicate a violation of this subchapter; or
- (12) For failing to inform the subject of the voice stress analysis of the results of the examination if so requested.

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

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

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

~~(2) The serial number of the particular machine.~~

The board may promulgate rules to permit the efficient administration of this subchapter.

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

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

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

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

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

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

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

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

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

(A) The recorded conversation may be recorded:

(i) In person; or

(ii) By telephone; and

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

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

17-39-309. Background checks.

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

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

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

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

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

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

17-39-310. Penalties.

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

17-39-311. Injunction.

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

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

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

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

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

17-39-312. Evidence.

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

17-39-313. Board – Powers and duties.

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

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

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

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

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

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

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

/s/Lowery