

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

State of Arkansas
91st General Assembly
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A Bill

SENATE BILL 229

By: Senator S. Flowers

For An Act To Be Entitled

AN ACT TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR ALCOHOLISM AND DRUG ABUSE COUNSELORS LICENSEES; TO AMEND THE LAW CONCERNING ALCOHOLISM AND DRUG ABUSE COUNSELORS; AND FOR OTHER PURPOSES.

Subtitle

TO REQUIRE CRIMINAL BACKGROUND CHECKS FOR ALCOHOLISM AND DRUG ABUSE COUNSELORS LICENSEES; AND TO AMEND THE LAW CONCERNING ALCOHOLISM AND DRUG ABUSE COUNSELORS.

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

SECTION 1. Arkansas Code § 17-27-408(a), concerning requirements for licensed alcoholism and drug abuse counselors, is amended to add an additional subdivision to read as follows:

(11) Has applied for a criminal background check and meets the qualifications for issuance of a license under § 17-27-417.

SECTION 2. Arkansas Code § 17-27-409(a), concerning license requirements for associate alcoholism and drug abuse counselors, is amended to add an additional subdivision to read as follows:

(12) Has applied for a criminal background check and meets the qualifications for issuance of a license under § 17-27-417.

SECTION 3. Arkansas Code § 17-27-410 is repealed.



~~17-27-410. Certified alcoholism and drug abuse technician—
Certification requirements.~~

~~(a) The State Board of Examiners of Alcoholism and Drug Abuse Counselors shall issue the certification as a certified alcoholism and drug abuse technician to an applicant who meets the following requirements:~~

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

~~(2)(A) Has successfully completed a minimum of three (3) years or six thousand (6,000) hours of supervised experience.~~

~~(B) Supervised experience shall be approved and documented by a registered clinical supervisor in good standing with the board;~~

~~(3)(A) Has successfully completed a minimum of two hundred seventy (270) clock hours of approved education.~~

~~(B) Approved education shall be directly related to alcoholism or drug abuse counseling subjects, theory, practice, or research;~~

~~(4) Has submitted an application on a form provided by the board and paid an application fee fixed by the board;~~

~~(5) Has certified under penalty of perjury as evidenced by a notarized signature on the application for licensure that all education and experience requirements have been met;~~

~~(6) Has submitted three (3) letters of reference;~~

~~(7) Has paid to the board an examination fee fixed by the board;~~

~~(8) Has passed a national qualifying written examination prescribed by the board, sufficient to ensure professional competence in keeping with the highest standards of the alcoholism and drug abuse counseling profession;~~

~~(9) Has signed a written agreement to abide by the code of ethics adopted by the board; and~~

~~(10) Holds a high school diploma or equivalent.~~

~~(b) The certification shall be displayed in the technician's principal place of practice and shall entitle the individual to hold himself or herself forth to the public as providing services as authorized by this subchapter.~~

~~(c) Technicians certified by the board may engage in the practice of alcoholism and drug abuse counseling only while under the direct supervision of a licensed alcoholism and drug abuse counselor who is registered as a registered clinical supervisor by the board.~~

~~(d) A technician shall not receive a license as a licensed alcoholism~~

~~and drug abuse counselor or a license as an associate alcoholism and drug abuse counselor unless the provisions of §§ 17-27-408 and 17-27-409 have been met.~~

SECTION 4. Arkansas Code Title 17, Chapter 27, Subchapter 4, is amended to add an additional section to read as follows:

17-27-417. Criminal background checks.

(a) Each applicant for a license issued by the Arkansas Board of Examiners of Alcoholism and Drug Abuse Counselors shall apply for a state and federal criminal background check to be conducted by the Department of Arkansas State Police and the Federal Bureau of Investigation.

(b) The criminal background check in subsection (a) of this section shall conform to the applicable federal standards and shall include the taking of fingerprints.

(c) The applicant for a license under this subchapter shall:

- (1) Sign and provide a release of information to the board; and
- (2) 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 of the Department of Arkansas State Police shall forward to the board all information obtained concerning the applicant and the commission of any offense listed under subsection (e) of this section.

(e) Except as provided in subdivision (i)(1) of this section, a person is not eligible to receive or hold a license issued by the board if that person has pleaded guilty or nolo contendere to or been found guilty of a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, break of client trust, or abuse of the vulnerable, including without limitation:

- (1) Capital murder, § 5-10-101;
- (2) Murder in the first degree, § 5-10-102;
- (3) Murder in the second degree, § 5-10-103;
- (4) Manslaughter, § 5-10-104;
- (5) Negligent homicide, § 5-10-105;
- (6) Kidnapping, § 5-11-102;
- (7) False imprisonment in the first degree, § 5-11-103;
- (8) Permanent detention or restraint, § 5-11-106;

- (9) Robbery, § 5-12-102;
- (10) Aggravated robbery, § 5-12-103;
- (11) Battery in the first degree, § 5-13-201;
- (12) Aggravated assault, § 5-13-204;
- (13) Introduction of a controlled substance into the body of another person, § 5-13-210;
- (14) Terroristic threatening in the first degree, § 5-13-301;
- (15) Rape, § 5-14-103;
- (16) Sexual indecency with a child, § 5-14-110;
- (17) Sexual assault in the first degree, second degree, third degree, and fourth degree, §§ 5-14-124 – 5-14-127;
- (18) Incest, § 5-26-202;
- (19) Offenses against the family, §§ 5-26-303 - 5-26-306;
- (20) Endangering the welfare of an incompetent person in the first degree, § 5-27-201;
- (21) Endangering the welfare of a minor in the first degree, § 5-27-205;
- (22) Permitting the abuse of a minor, § 5-27-221;
- (23) Engaging children in sexually explicit conduct for use in visual or print media, transportation of minors for prohibited sexual conduct, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, §§ 5-27-402 - 5-27-403;
- (24) Felony adult abuse, § 5-28-103;
- (25) Theft of property, § 5-36-103;
- (26) Theft by receiving, § 5-36-106;
- (27) Arson, § 5-38-301;
- (28) Burglary, § 5-39-201;
- (29) Felony violation of the Uniform Controlled Substances Act, §§ 5-64-101 - 5-64-510;
- (30) Promoting prostitution in the first degree, § 5-70-104;
- (31) Stalking, § 5-71-229;
- (32) Criminal attempt, § 5-3-201, criminal complicity, §- 5-3-202, criminal solicitation, § 5-3-301, or criminal conspiracy, § 5-3-401, to commit any of the offenses listed under subsection (e) of this section;

(33) Computer child pornography, § 5-27-603; and

(34) Computer exploitation of a child in the first degree, § 5-27-605.

(f)(1) The provisions under subsection (e) of this section may be waived by the board upon the request of the person:

(A) Applying for licensure under this subchapter; or

(B) Holding a license that is subject to revocation.

(2) In its decision to grant a waiver under subdivision (f)(1) of this section, the board may consider the following without limitation:

(A) The age of the applicant or licensee at the time the crime was committed;

(B) The circumstances surrounding the crime;

(C) The length of time since the crime was committed;

(D) The work history of the applicant or licensee subsequent to the commission of the crime;

(E) Employment references of the applicant or licensee;

(F) Character references of the applicant or licensee; and

(G) Other evidence demonstrating that the applicant or licensee does not pose a threat to the health or safety of children or vulnerable adults.

(g)(1) Information received by the board from the Identification Bureau of the Department of Arkansas State Police under this section shall not be available for examination except by the affected applicant for licensure, the licensee, or an authorized representative or the applicant or licensee.

(2) A record, file, or document shall not be removed from the custody of the department.

(3) Information made available to an applicant or licensee under subdivision (g)(1) of this section shall be information pertaining to that person only.

(4) Rights of privilege and confidentiality established under this section shall not extend to any document created for a purpose other than a criminal background check.

(h) The board shall adopt rules necessary to implement the provisions under this section.

(i)(1) As used in this section, an expunged record of a conviction,

plea of guilty, or plea of nolo contendere to an offense listed under subsection (e) of this section shall not be a felony, any crime involving moral turpitude, or criminal offense involving violence, dishonesty, fraud, deceit, breach of client trust, or abuse of the vulnerable unless the offense is also listed in subdivision (i)(2) of this section.

(2) Because of the serious nature of the offenses and the close relationship to the type of work that is to be performed, a conviction, guilty plea, or plea of nolo contendere to any of the following offenses shall result in permanent disqualification for licensure under this subchapter:

(A) Capital murder, § 5-10-101;

(B) Murder in the first degree, § 5-10-102;

(C) Murder in the second degree, § 5-10-103;

(D) Kidnapping, § 5-11-102;

(E) Rape, § 5-14-103;

(F) Sexual assault in the first degree, § 5-14-124;

(G) Sexual assault in the second degree, § 5-14-125;

(H) Engaging children in sexually explicit conduct for use in visual or print media, § 5-27-303, transportation of minors for prohibited sexual conduct, § 5-27-305, pandering or possessing visual or print medium depicting sexually explicit conduct involving a child, § 5-27-304, or use of a child or consent to use of a child in a sexual performance by producing, directing, or promoting a sexual performance by a child, §§ 5-27-402 - 5-27-403;

(I) Arson, § 5-38-301;

(J) Endangering the welfare of an incompetent person in the first degree, § 5-27-201; and

(K) Adult abuse that constitutes a felony, § 5-28-103.