1	State of Arkansas	A TO '11	
2	91st General Assembly	A Bill	
3	Regular Session, 2017		SENATE BILL 229
4			
5	By: Senator S. Flowers		
6			
7		For An Act To Be Entitled	
8		REQUIRE CRIMINAL BACKGROUND CHECKS FO	
9		I AND DRUG ABUSE COUNSELORS LICENSEES;	
10		LAW CONCERNING ALCOHOLISM AND DRUG AB	BUSE
11	COUNSELORS	; AND FOR OTHER PURPOSES.	
12			
13		Subtitle	
14	mo n		
15		EQUIRE CRIMINAL BACKGROUND CHECKS FOR	
16		HOLISM AND DRUG ABUSE COUNSELORS	
17		NSEES; AND TO AMEND THE LAW	
18		ERNING ALCOHOLISM AND DRUG ABUSE	
19 20	COUNT	SELORS.	
21			
22	RE IT ENACTED BY THE C	ENERAL ASSEMBLY OF THE STATE OF ARKAN	ISAS•
23	DE II EMMOTED DI IIIE C	ENLIGH MODERALI OF THE STATE OF MICH.	10110 •
24	SECTION 1. Arka	insas Code § 17-27-408(a), concerning	requirements for
25		nd drug abuse counselors, is amended t	-
26	additional subdivision		
27	(11) Has	applied for a criminal background che	eck and meets the
28		suance of a license under § 17-27-417.	
29			
30	SECTION 2. Arka	unsas Code § 17-27-409(a), concerning	license
31	requirements for assoc	ciate alcoholism and drug abuse counse	elors, is amended
32	to add an additional s	subdivision to read as follows:	
33	<u>(12) Has</u>	applied for a criminal background che	eck and meets the
34	qualifications for iss	suance of a license under § 17-27-417.	<u>-</u>
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36	SECTION 3. Arka	insas Code § 17-27-410 is repealed.	

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1	17-27-410. Certified arconolism and arug abuse technician —
2	Certification requirements.
3	(a) The State Board of Examiners of Alcoholism and Drug Abuse
4	Counselors shall issue the certification as a certified alcoholism and drug
5	abuse technician to an applicant who meets the following requirements:
6	(1) Is at least twenty-one (21) years of age;
7	(2)(A) Has successfully completed a minimum of three (3) years
8	or six thousand (6,000) hours of supervised experience.
9	(B) Supervised experience shall be approved and documented
10	by a registered clinical supervisor in good standing with the board;
11	(3)(A) Has successfully completed a minimum of two hundred
12	seventy (270) clock hours of approved education.
13	(B) Approved education shall be directly related to
14	alcoholism or drug abuse counseling subjects, theory, practice, or research;
15	(4) Has submitted an application on a form provided by the board
16	and paid an application fee fixed by the board;
17	(5) Has certified under penalty of perjury as evidenced by a
18	notarized signature on the application for licensure that all education and
19	experience requirements have been met;
20	(6) Has submitted three (3) letters of reference;
21	(7) Has paid to the board an examination fee fixed by the board;
22	(8) Has passed a national qualifying written examination
23	prescribed by the board, sufficient to ensure professional competence in
24	keeping with the highest standards of the alcoholism and drug abuse
25	counseling profession;
26	(9) Has signed a written agreement to abide by the code of
27	ethics adopted by the board; and
28	(10) Holds a high school diploma or equivalent.
29	(b) The certification shall be displayed in the technician's principal
30	place of practice and shall entitle the individual to hold himself or herself
31	forth to the public as providing services as authorized by this subchapter.
32	(c) Technicians certified by the board may engage in the practice of
33	alcoholism and drug abuse counseling only while under the direct supervision
34	of a licensed alcoholism and drug abuse counselor who is registered as a
35	registered clinical supervisor by the board.
36	(d) A technician shall not receive a license as a licensed alcoholism

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    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
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           SECTION 4. Arkansas Code Title 17, Chapter 27, Subchapter 4, is
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     amended to add an additional section to read as follows:
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           17-27-417. Criminal background checks.
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          (a) Each applicant for a license issued by the Arkansas Board of
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    Examiners of Alcoholism and Drug Abuse Counselors shall apply for a state and
     federal criminal background check to be conducted by the Department of
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11
     Arkansas State Police and the Federal Bureau of Investigation.
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          (b) The criminal background check in subsection (a) of this section
    shall conform to the applicable federal standards and shall include the
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    taking of fingerprints.
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          (c) The applicant for a license under this subchapter shall:
                (1) Sign and provide a release of information to the board; and
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                (2) Be responsible for the payment of any fee associated with
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    the criminal background check.
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           (d) Upon completion of the criminal background check, the
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     Identification Bureau of the Department of Arkansas State Police shall
    forward to the board all information obtained concerning the applicant and
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    the commission of any offense listed under subsection (e) of this section.
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           (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
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    person has pleaded guilty or nolo contendere to or been found guilty of a
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    felony, any crime involving moral turpitude, or criminal offense involving
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    violence, dishonesty, fraud, deceit, break of client trust, or abuse of the
    vulnerable, including without limitation:
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                (1) Capital murder, § 5-10-101;
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                (2) Murder in the first degree, § 5-10-102;
                (3) Murder in the second degree, § 5-10-103;
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                (4) Manslaughter, § 5-10-104;
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                (5) Negligent homicide, § 5-10-105;
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                (6) Kidnapping, § 5-11-102;
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                (7) False imprisonment in the first degree, § 5-11-103;
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                (8) Permanent detention or restraint, § 5-11-106;
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1	(9) Robbery, § 5-12-102;
2	(10) Aggravated robbery, § 5-12-103;
3	(11) Battery in the first degree, § 5-13-201;
4	(12) Aggravated assault, § 5-13-204;
5	(13) Introduction of a controlled substance into the body of
6	another person, § 5-13-210;
7	(14) Terroristic threatening in the first degree, § 5-13-301;
8	(15) Rape, § 5-14-103;
9	(16) Sexual indecency with a child, § 5-14-110;
10	(17) Sexual assault in the first degree, second degree, third
11	degree, and fourth degree, §§ 5-14-124 - 5-14-127;
12	(18) Incest, § 5-26-202;
13	(19) Offenses against the family, §§ 5-26-303 - 5-26-306;
14	(20) Endangering the welfare of an incompetent person in the
15	first degree, § 5-27-201;
16	(21) Endangering the welfare of a minor in the first degree, §
17	<u>5-27-205</u> ;
18	(22) Permitting the abuse of a minor, § 5-27-221;
19	(23) Engaging children in sexually explicit conduct for use in
20	visual or print media, transportation of minors for prohibited sexual
21	conduct, pandering or possessing visual or print medium depicting sexually
22	explicit conduct involving a child, or use of a child or consent to use of a
23	child in a sexual performance by producing, directing, or promoting a sexual
24	performance by a child, §§ 5-27-402 - 5-27-403;
25	(24) Felony adult abuse, § 5-28-103;
26	(25) Theft of property, § 5-36-103;
27	(26) Theft by receiving, § 5-36-106;
28	(27) Arson, § 5-38-301;
29	(28) Burglary, § 5-39-201;
30	(29) Felony violation of the Uniform Controlled Substances Act,
31	§§ 5-64-101 - 5-64-510;
32	(30) Promoting prostitution in the first degree, § 5-70-104;
33	(31) Stalking, § 5-71-229;
34	(32) Criminal attempt, § 5-3-201, criminal complicity, §-5-3-
35	202, criminal solicitation, § 5-3-301, or criminal conspiracy, § 5-3-401, to
36	commit any of the offenses listed under subsection (e) of this section;

1	(33) Computer child pornography, § 5-27-603; and	
2	(34) Computer exploitation of a child in the first degree, § 5-	
3	<u>27-605.</u>	
4	(f)(1) The provisions under subsection (e) of this section may be	
5	waived by the board upon the request of the person:	
6	(A) Applying for licensure under this subchapter; or	
7	(B) Holding a license that is subject to revocation.	
8	(2) In its decision to grant a waiver under subdivision $(f)(1)$	
9	of this section, the board may consider the following without limitation:	
10	(A) The age of the applicant or licensee at the time the	
11	crime was committed;	
12	(B) The circumstances surrounding the crime;	
13	(C) The length of time since the crime was committed;	
14	(D) The work history of the applicant or licensee	
15	subsequent to the commission of the crime;	
16	(E) Employment references of the applicant or licensee;	
17	(F) Character references of the applicant or licensee; and	
18	(G) Other evidence demonstrating that the applicant or	
19	licensee does not pose a threat to the health or safety or children or	
20	vulnerable adults.	
21	(g)(l) Information received by the board from the Identification	
22	Bureau of the Department of Arkansas State Police under this section shall	
23	not be available for examination except by the affected applicant for	
24	licensure, the licensee, or an authorized representative or the applicant or	
25	licensee.	
26	(2) A record, file, or document shall not be removed from the	
27	custody of the department.	
28	(3) Information made available to an applicant or licensee under	
29	subdivision (g)(l) of this section shall be information pertaining to that	
30	person only.	
31	(4) Rights of privilege and confidentiality established under	
32	this section shall not extend to any document created for a purpose other	
33	than a criminal background check.	
34	(h) The board shall adopt rules necessary to implement the provisions	
35	under this section.	
36	(i)(1) As used in this section an expunsed record of a conviction	

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1	plea of guilty, or plea of nolo contendere to an offense listed under
2	subsection (e) of this section shall not be a felony, any crime involving
3	moral turpitude, or criminal offense involving violence, dishonesty, fraud,
4	deceit, breach of client trust, or abuse of the vulnerable unless the offense
5	is also listed in subdivision (i)(2) of this section.
6	(2) Because of the serious nature of the offenses and the close
7	relationship to the type of work that is to be performed, a conviction,
8	guilty plea, or plea of nolo contendere to any of the following offenses
9	shall result in permanent disqualification for licensure under this
10	subchapter:
11	(A) Capital murder, § 5-10-101;
12	(B) Murder in the first degree, § 5-10-102;
13	(C) Murder in the second degree, § 5-10-103;
14	(D) Kidnapping, § 5-11-102;
15	(E) Rape, § 5-14-103;
16	(F) Sexual assault in the first degree, § 5-14-124;
17	(G) Sexual assault in the second degree, § 5-14-125;
18	(H) Engaging children in sexually explicit conduct for use in
19	visual or print media, § 5-27-303, transportation of minors for prohibited
20	sexual conduct, § 5-27-305, pandering or possessing visual or print medium
21	depicting sexually explicit conduct involving a child, § 5-27-304, or use of
22	a child or consent to use of a child in a sexual performance by producing,
23	directing, or promoting a sexual performance by a child, §§ 5-27-402 - 5-27-
24	<u>403;</u>
25	(I) Arson, § 5-38-301;
26	(J) Endangering the welfare of an incompetent person in the
27	first degree, § 5-27-201; and
28	(K) Adult abuse that constitutes a felony, § 5-28-103.
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