

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

Act 2237 of the Regular Session

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005

As Engrossed: S4/1/05

A Bill

HOUSE BILL 2786

4
5 By: Representative Wills
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7

For An Act To Be Entitled

9 AN ACT TO AMEND LICENSURE REQUIREMENTS FOR
10 PRIVATE INVESTIGATORS AND PRIVATE SECURITY
11 AGENCIES; TO IMPOSE A CRIMINAL BACKGROUND CHECK
12 REQUIREMENT FOR INITIAL AND RENEWAL LICENSURE;
13 AND FOR OTHER PURPOSES.
14

Subtitle

15 AN ACT TO AMEND LICENSURE REQUIREMENTS
16 FOR PRIVATE INVESTIGATORS AND PRIVATE
17 SECURITY AGENCIES AND TO IMPOSE A
18 CRIMINAL BACKGROUND CHECK REQUIREMENT
19 FOR INITIAL AND RENEWAL LICENSURE.
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22

23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
24

25 SECTION 1. Arkansas Code § 17-40-306 is amended to read as follows:
26 17-40-306. License - Applicant qualifications.

27 (a) An applicant for a license or his or her manager must, unless the
28 requirement is waived by the Arkansas Board of Private Investigators and
29 Private Security Agencies:

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

31 (2) Be a high school graduate or its equivalent if the applicant
32 is a manager of an investigations company or an individual applying for an
33 investigations company license;

34 (3) (A) Not have been convicted found guilty of or pleaded guilty
35 or nolo contendere to in any jurisdiction of any felony, Class A misdemeanor,



1 crime involving an act of violence, or any crime involving moral turpitude in
2 any court in the State of Arkansas for which a pardon has not been granted;

3 (B) Not have been found guilty of or pleaded guilty or
4 nolo contendere to any felony, Class A misdemeanor or an offense of a
5 comparable level, crime involving an act of violence, or any crime involving
6 moral turpitude in any court in another state for which a pardon has not been
7 granted; or

8 (C) Not have been found guilty of or pleaded guilty or
9 nolo contendere to any felony, Class A misdemeanor or an offense of a
10 comparable level, crime involving an act of violence, or any crime involving
11 moral turpitude in a military or federal court for which a pardon has not
12 been granted;

13 (4) Not have been declared by any court of competent
14 jurisdiction incompetent by reason of mental defect or disease and not have
15 been restored;

16 (5) Not be suffering from habitual drunkenness or from narcotics
17 addiction or dependence;

18 (6) Not have been discharged from the armed services of the
19 United States under other than honorable conditions;

20 (7) Be of good moral character; and

21 (8) Be in compliance with any other reasonable qualifications
22 that the board may fix by rule.

23
24 SECTION 2. Arkansas Code § 17-40-307 is amended to add a new
25 subsection to read as follows:

26 (e)(1) Each first-time applicant and applicant for license renewal
27 shall be required to apply to the Identification Bureau of the Department of
28 Arkansas State Police for a state and national criminal background check to
29 be conducted by the Identification Bureau and the Federal Bureau of
30 Investigation.

31 (2) The check shall conform to applicable federal standards and
32 shall include the taking of fingerprints as required in subdivision (a)(7) of
33 this section.

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

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

4
5 SECTION 3. Arkansas Code § 17-40-327 is amended to read as follows:

6 17-40-327. Registration - Application.

7 The application for registration shall be verified and shall include
8 all of the following:

9 (1) The full name, residence address, residence telephone
10 number, date and place of birth, and the social security number of the
11 employee;

12 (2) The name and address of the employer, the date the
13 employment commenced, and a letter from the licensee requesting that the
14 employee be registered under his or her license;

15 (3) The title of the position occupied by the employee and a
16 description of his or her duties;

17 (4) Two (2) recent photographs of the employee of a type
18 prescribed by the Arkansas Board of Private Investigators and Private
19 Security Agencies and two (2) classifiable sets of his or her fingerprints;

20 (5)(A) A verified statement disclosing any record of convictions
21 or pleas of guilty or nolo contendere of the applicant of a felony, a Class A
22 misdemeanor, a crime involving an act of violence, or any crime involving
23 moral turpitude; ~~and.~~

24 (B) The verified statement shall be obtained from the
25 identification bureau of the Department of Arkansas State Police after a
26 state and national criminal background check has been conducted by the
27 Identification Bureau and the Federal Bureau of Investigation.

28 (C) The check shall conform to applicable federal
29 standards and shall include the taking of fingerprints as required in § 17-
30 40-307(a)(7).

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

34 (E) Upon completion of the criminal background check, the
35 Identification Bureau shall forward to the board all releasable information
36 obtained concerning the applicant; and

1 (6) Other information, evidence, statements, or documents
2 required by the board.

3
4 SECTION 4. Arkansas Code § 17-40-337 is amended to read as follows:

5 17-40-337. Commission - Applicant qualifications.

6 (a) No security officer commission may be issued to any individual:

7 (1) ~~who~~ Who is under twenty-one (21) years of age;

8 (2)(A) ~~who is a convicted felon~~ Who has been found guilty of or
9 has pleaded guilty or nolo contendere to any felony in any court in the State
10 of Arkansas for which a pardon has not been granted;

11 (B) Who has been found guilty of or has pleaded guilty or
12 nolo contendere to any felony in any court in another state for which a
13 pardon has not been granted;

14 (C) Who has been found guilty of or has pleaded guilty or
15 nolo contendere to any felony in a military or federal court for which a
16 pardon has not been granted; or

17 (3) ~~who~~ Who has committed any act which if committed by a
18 licensee would be grounds for suspension or revocation of a license under
19 this chapter.

20 (b) The Arkansas Board of Private Investigators and Private Security
21 Agencies shall not issue a security officer commission to an applicant
22 employed by a licensee or the security department of a private business
23 unless the applicant submits evidence satisfactory to the board that he or
24 she meets all qualifications established by this chapter and by the rules of
25 the board.

26
27 SECTION 5. Arkansas Code § 17-40-344 is amended to read as follows:

28 17-40-344. Commission - Suspension or denial.

29 The Administrator of the Arkansas Board of Private Investigators and
30 Private Security Agencies may suspend or deny a security officer commission
31 if the holder or applicant is indicted or arrested for a felony, a Class A
32 misdemeanor, a crime involving an act of violence, or a crime involving moral
33 turpitude.

34
35 SECTION 6. Arkansas Code § 17-40-350 is amended to read as follows:

36 17-40-350. License, registration, or commission - Grounds for

1 disciplinary action.

2 (a) The Arkansas Board of Private Investigators and Private Security
3 Agencies may revoke or suspend any registration, license, or security officer
4 commission, and may either fine in an amount not to exceed one thousand
5 dollars (\$1,000) for each violation of this chapter or reprimand any
6 registrant, licensee, or commissioned security officer, or both, or the board
7 may deny an application for a registration, license, or security officer
8 commission, or renewal thereof, on proof that the applicant, licensee,
9 commissioned security officer, or registrant has:

10 (1) Violated any provision of this chapter or violated any
11 of the rules and regulations promulgated under this chapter;

12 (2)(A) ~~Committed any act resulting in conviction of a~~ Been
13 found guilty of or pleaded guilty or nolo contendere to any felony, a Class A
14 misdemeanor, a crime involving an act of violence, or a crime involving moral
15 turpitude by any court in the State of Arkansas for which a pardon has not
16 been granted;

17 (B) Been found guilty of or pleaded guilty or nolo
18 contendere to any felony, Class A misdemeanor or an offense of a comparable
19 level, any crime involving an act of violence, or any crime involving moral
20 turpitude in any court in another state for which a pardon has not been
21 granted;

22 (C) Been found guilty of or pleaded guilty or nolo
23 contendere to any felony, Class A misdemeanor or an offense of a comparable
24 level, any crime involving an act of violence, or any crime involving moral
25 turpitude in a military or federal court for which a pardon has not been
26 granted;

27 (3) Practiced fraud, deceit, or misrepresentation;

28 (4) Made a material misstatement in the application for or
29 renewal of a license, registration, or security officer commission; or

30 (5) Demonstrated incompetence or untrustworthiness in his
31 or her actions.

32

33 *SECTION 7. Arkansas Code § 17-40-208(d), which pertains to training of*
34 *private investigators and private security agency personnel, is amended to*
35 *read as follows:*

36 (d) *When an individual meets the training requirements approved by the*

1 board, that individual shall not be required to be trained over again until
 2 ~~registrant~~ the private security officer's or commissioned security officer's
 3 renewal training is required, which is ~~one (1) year~~ two (2) years after the
 4 ~~registrant~~ the private security officer or commissioned security officer is
 5 licensed, regardless of which company the ~~registrant~~ the private security
 6 officer or commissioned security officer is employed or trained by.

7
 8 SECTION 8. Arkansas Code § 17-40-209 is amended to read as follows:
 9 17-40-209. Fees - Disposition of funds.

10 (a) It is the intent of the General Assembly that the cost of the
 11 investigating and licensing of private investigators and private security
 12 agencies as authorized by this chapter be borne by the individuals and
 13 agencies so licensed.

14 (b) To assure that such an intent is carried out, the expenditure for
 15 personal services and operating expenses associated with the investigating
 16 and licensing of agencies and individuals required to be licensed under the
 17 provisions of this chapter shall be limited in the aggregate ~~during any one~~
 18 ~~(1) fiscal year~~ to the amount deposited into the State Treasury to the credit
 19 of the Department of Arkansas State Police Fund from ~~annual~~ license and
 20 registration fees of such individuals and agencies.

21 (c) In order to provide sufficient revenues to carry out the duties
 22 and functions prescribed by this chapter, the Arkansas Board of Private
 23 Investigators and Private Security Agencies is authorized to levy fees for
 24 licenses as authorized by this chapter in such amounts as may be deemed
 25 necessary and proper by the board.

26 (d) A delinquency fee shall be provided by the board.

27 (e) (1) All funds received by the board shall be deposited in the State
 28 Treasury as special revenues to the credit of the fund.

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

31
 32 SECTION 9. Arkansas Code § 17-40-325 is amended to read as follows:
 33 17-40-325. Registration required.

34 ~~(a)~~ Every employee of a licensee who is employed as a private
 35 investigator, manager, private security officer, commissioned security
 36 officer, alarm systems technician, alarm systems monitor, alarm systems

1 apprentice, registrant private investigator, or alarm ~~system~~ systems agent
2 must be registered with the Arkansas Board of Private Investigators and
3 Private Security Agencies within fourteen (14) calendar days after the
4 commencement of the employment.

5 ~~(b) Any individual who is employed by a general licensee and is~~
6 ~~registered with the board as a private investigator or private security~~
7 ~~officer is duly authorized to perform the duties of an alarm systems agent~~
8 ~~for the general licensee by whom he or she is employed without additional~~
9 ~~fees or application.~~

10
11 SECTION 10. Arkansas Code § 17-40-329(b), which pertains to the
12 expiration date of a registration under the Private Investigators and Private
13 Security Agencies Act, is amended to read as follows:

14 (b) The registration of each registrant, private security officer,
15 alarm systems technician, alarm systems monitor, alarm systems apprentice,
16 registrant private investigator, or alarm systems agent expires ~~one (1) year~~
17 two (2) years from the date of issuance and is valid regardless of what
18 security company, alarm company, or investigative company the registrant,
19 commissioned security officer, alarm systems technician, alarm systems
20 monitor, alarm systems apprentice, registrant private investigator, or alarm
21 systems agent is employed by.

22
23 SECTION 11. Arkansas Code § 17-40-343 is amended to read as follows:
24 17-40-343. Commission - Expiration.

25 A security officer commission expires ~~on the date the license of the~~
26 ~~licensee who employs the officer expires or, if the officer is employed by~~
27 ~~the security department of a private business, one (1) year~~ two (2) years
28 after the date it is issued.

29
30 SECTION 12. Arkansas Code § 17-40-350(a), which pertains to licensing,
31 registration, or commission of private investigators and private security
32 agencies, is amended to read as follows:

33 (a) The Arkansas Board of Private Investigators and Private Security
34 Agencies may revoke, place on probation, or suspend any registration,
35 license, or security officer commission, and may either fine in an amount not
36 to exceed one thousand dollars (\$1,000) for each violation of this chapter or

1 reprimand any registrant, licensee, or commissioned security officer, or
2 both, or the board may deny an application for a registration, license, or
3 security officer commission, or renewal thereof, on proof that the applicant,
4 licensee, commissioned security officer, or registrant has:

5 (1) Violated any provision of this chapter or violated any of
6 the rules and regulations promulgated under this chapter;

7 (2) Committed any act resulting in conviction of a felony, a
8 Class A misdemeanor, a crime involving an act of violence, or a crime
9 involving moral turpitude;

10 (3) Practiced fraud, deceit, or misrepresentation;

11 (4) Made a material misstatement in the application for or
12 renewal of a license, registration, or security officer commission; or

13 (5) Demonstrated incompetence or untrustworthiness in his or her
14 actions.

15
16 SECTION 13. Arkansas Code Title 17, Chapter 40, Subchapter 3 is
17 amended to add an additional section to read as follows:

18 17-40-354. Fingerprint cards.

19 The Identification Bureau of the Department of Arkansas State Police
20 may retain the fingerprint card collected for each individual who is
21 fingerprinted under this subchapter.

22
23 SECTION 14. Since the duration of registrations and commissions under
24 the Private Investigators and Private Security Agencies Act, §17-40-101 et
25 seq., double in length as a result of the act derived from this House Bill
26 2786 of 2005, the Arkansas Board of Private Investigators and Private
27 Security Agencies may increase the fees in existence on April 1, 2005, for
28 such registrations and commissions without necessity of promulgating the fee
29 increases under the Arkansas Administrative Procedures Act, § 25-15-201 et
30 seq. The fees increased under the authority of this section shall not exceed
31 for each fee category the combined fees in a fee category for an initial
32 application and renewal as those fees are in existence on April 1, 2005.

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34 /s/ Wills
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APPROVED: 4/13/2005