

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 1298 of the Regular Session

1 State of Arkansas  
2 87th General Assembly  
3 Regular Session, 2009  
4

As Engrossed: H3/19/09

A Bill

HOUSE BILL 1745

5 By: Representative Maloch  
6  
7

8 **For An Act To Be Entitled**

9 *AN ACT TO MAKE A SECOND OR SUBSEQUENT OFFENSE OF*  
10 *PRACTICING AS A COUNSELOR WITHOUT A LICENSE A*  
11 *CLASS D FELONY; TO CREATE A CIVIL PENALTY FOR*  
12 *PRACTICING AS A COUNSELOR WITHOUT A LICENSE; AND*  
13 *FOR OTHER PURPOSES.*

14  
15 **Subtitle**

16 *AN ACT TO MAKE A SECOND OR SUBSEQUENT*  
17 *OFFENSE OF PRACTICING AS A COUNSELOR*  
18 *WITHOUT A LICENSE A CLASS D FELONY AND*  
19 *TO CREATE A CIVIL PENALTY.*

20  
21  
22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code § 17-27-104(a), concerning penalties for  
25 practicing counseling without a license, is amended to read as follows:

26 (a)(1) ~~Any person who shall hold~~ A person who holds himself or herself  
27 out to the public as being engaged in the practice of counseling or marriage  
28 and family therapy as defined in § 17-27-102 or represents himself or herself  
29 by the title “licensed professional counselor”, “licensed associate  
30 counselor”, “licensed marriage and family therapist”, or “licensed associate  
31 marriage and family therapist” and shall not then possess in full force and  
32 effect a valid license to practice counseling ~~as provided in this chapter~~  
33 ~~shall be deemed guilty of a Class A misdemeanor~~ under this chapter is guilty  
34 of:

35 (A) For a first offense, a Class A misdemeanor; and



1 (B) For a second or subsequent offense, a Class D felony.

2 ~~(2)(A) Upon conviction, that person shall be punished by a fine~~  
3 ~~of not less than five hundred dollars (\$500) nor more than one thousand~~  
4 ~~dollars (\$1,000) and may be imprisoned for a term not exceeding one (1) year.~~

5 ~~(B)(A)~~ Each violation and conviction shall be deemed a  
6 separate offense.

7 ~~(G)(B)~~ Notwithstanding the limits imposed for a Class A  
8 misdemeanor or a Class D felony as appropriate, if the defendant has derived  
9 pecuniary gain in the form of client fees received for services in violation  
10 of this chapter, the fees will be refunded.

11 (3) In addition to the criminal penalties provided under this  
12 section and in addition to any other laws under which a person may obtain  
13 relief, a person aggrieved or damaged by a violation of this section has a  
14 civil cause of action against the defendant for injunctive and other curative  
15 relief and may also recover:

16 (A) The greater of ten thousand dollars (\$10,000) or the  
17 actual damages caused by the violation;

18 (B) Court costs;

19 (C) Reasonable attorney's fees;

20 (D) Costs and expenses reasonably related to the expenses  
21 of investigating and bringing the civil action; and

22 (E) Exemplary or punitive damages in an amount determined  
23 by the fact finder.

24

25 /s/ Maloch

26

27 APPROVED: 4/9/2009

28

29

30

31

32

33

34

35

36