

1 State of Arkansas *As Engrossed: H5/20/16* Call Item 7  
2 90th General Assembly **A Bill**  
3 Third Extraordinary Session, 2016 HOUSE BILL 1004  
4

5 By: Representatives Vines, Branscum  
6 By: Senators E. Williams, G. Stubblefield, J. English, B. Sample  
7

8 **For An Act To Be Entitled**

9 AN ACT CONCERNING THE QUALIFICATIONS OF PROFESSIONALS  
10 UNDER THE PRIVATE SECURITY AGENCY, PRIVATE  
11 INVESTIGATOR, AND SCHOOL SECURITY LICENSING AND  
12 CREDENTIALING ACT; TO DECLARE AN EMERGENCY; AND FOR  
13 OTHER PURPOSES.  
14

15 **Subtitle**

16 CONCERNING THE QUALIFICATIONS OF  
17 PROFESSIONALS UNDER THE PRIVATE SECURITY  
18 AGENCY, PRIVATE INVESTIGATOR, AND SCHOOL  
19 SECURITY LICENSING AND CREDENTIALING ACT;  
20 AND TO DECLARE AN EMERGENCY.  
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24 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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26 SECTION 1. Arkansas Code § 17-40-301(a), concerning unlawful acts, is  
27 amended to read as follows:

28 (a) ~~It~~ Except as provided under § 17-40-325, it is unlawful for a  
29 person to knowingly:

30 (1) Perform any service as a private investigator unless the  
31 person has obtained a credential to perform the services of a private  
32 investigator under this chapter;

33 (2) Perform any service as or engage in the business or business  
34 activity of a security services contractor or alarm systems company unless  
35 the person has obtained a license as a securities services contractor or  
36 alarm systems company under this chapter; ~~or~~



1           (3) Engage in an operation outside the scope of the person's  
2 license or credential; or

3           (4) Perform any service that requires a license, credential, or  
4 commission under this subchapter without having first been issued that  
5 license, credential, or commission.

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7           SECTION 2. Arkansas Code § 17-40-306(d), concerning the issuance of a  
8 license or credential for security officers and other professionals, is  
9 amended to read as follows:

10           (d)(1) The Except as provided in subdivision (d)(2) of this section,  
11 the director shall not issue a license or credential nor renew an existing  
12 license or credential of a person who has been found guilty of or pleaded  
13 guilty or nolo contendere to one (1) or more of the following in any court in  
14 the State of Arkansas or to a comparable offense in another state, or in a  
15 military or federal court for which a pardon has not been granted:

16                   (A) A felony;

17                   (B) A Class A misdemeanor involving theft, sexual  
18 offenses, violence, an element of dishonesty, or a crime against a person as  
19 determined by the department under subsection (e) of this section; or

20                   (C) ~~A crime involving violence; or~~ An attempted felony or  
21 solicitation or conspiracy to commit a felony that is classified as a Class A  
22 misdemeanor.

23                   ~~(D) A crime involving moral turpitude.~~

24           (2) An individual shall not be denied issuance of a license or  
25 credential or renewal of an existing license or credential if the individual  
26 by any court has been found guilty of or pleaded guilty or nolo contendere to  
27 any misdemeanor if the person was found guilty of or pleaded guilty or nolo  
28 contendere to the misdemeanor ten (10) or more years before the date of the  
29 application for issuance or renewal.

30           (3) For purposes of this subsection, the state and national  
31 criminal background check shall include a record of all offenses that have  
32 been previously sealed or expunged by any court.

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34           SECTION 3. Arkansas Code § 17-40-306, concerning the issuance of a  
35 license or credential for security officers and other professionals, is  
36 amended to add an additional subsection read as follows:

1       (e) The department shall promulgate rules within ninety (90) days of  
 2 the effective date of this act that determine the offenses under subdivision  
 3 (d)(1)(B) of this section that constitute a Class A misdemeanor involving  
 4 theft, sexual offenses, violence, an element of dishonesty, or a crime  
 5 against a person.

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 7       SECTION 4. Arkansas Code § 17-40-325 is amended to read as follows:  
 8       17-40-325. ~~Credential~~ License or credential application.

9       (a) Every A person who is employed as a private investigator, a  
 10 manager, a private security officer, an alarm systems technician, an alarm  
 11 systems monitor, an alarm systems apprentice, or an alarm systems agent and  
 12 who is required to be licensed or credentialed under this chapter shall  
 13 submit a properly completed application for the license or credential to the  
 14 Director of the Department of Arkansas State Police within fourteen (14)  
 15 calendar days after the commencement of employment.

16       (b) While the application for the license or credential is pending, an  
 17 applicant may perform the services of a private investigator, a manager, a  
 18 private security officer, an alarm systems technician, an alarm systems  
 19 monitor, an alarm systems apprentice, or an alarm systems agent if the  
 20 applicant is under the supervision of a person who holds a license or  
 21 credential for which the applicant applied.

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 23       SECTION 5. Arkansas Code § 17-40-337 is amended to read as follows:  
 24       17-40-337. Commission – Applicant qualifications.

25       (a) A *commission* as a commissioned security officer or a commissioned  
 26 school security officer shall not be issued under this chapter to an  
 27 individual who:

28               (1) Is under twenty-one (21) years of age;  
 29               (2) Has been found guilty of or who has pleaded guilty or nolo  
 30 contendere to any of the following offenses, whether or not those offenses  
 31 have been sealed or expunged:

32                       (A) ~~an~~ An offense listed under § 17-40-306(d);  
 33                       (B) A crime involving the use of a firearm; or  
 34                       (C) A crime involving the use of alcohol while in  
 35 possession of a firearm;

36               (3) Has committed an act that would be grounds for suspension or

1 revocation under this chapter;

2 (4) Does not meet the qualifications for a commission as  
3 determined by the Director of the Department of Arkansas State Police;

4 (5) May not lawfully possess a firearm;

5 (6)(A) Has not successfully completed a state and national  
6 criminal background check to be conducted by the Department of Arkansas State  
7 Police and the Federal Bureau of Investigation.

8 (B) Criminal history records from the Arkansas Crime  
9 Information Center shall be available to the director for review of the  
10 applicant's qualifications.

11 (C) The state and national criminal background check shall  
12 conform to applicable federal standards and shall include the taking of  
13 fingerprints.

14 (D) The individual applicant shall sign a release of  
15 information to the director and shall make payment of any fee associated with  
16 the state and national criminal background check;

17 (7) Has been adjudicated as mentally incompetent or has been  
18 involuntarily committed to a mental institution or mental health treatment  
19 facility;

20 (8) Is a registered sex offender or required to be registered as  
21 a sex offender under the Sex Offender Registration Act of 1997, § 12-12-901  
22 et seq.;

23 (9) Is suffering from habitual drunkenness or from narcotics  
24 addiction or dependence;

25 (10) Has been discharged from the United States Armed Forces  
26 under dishonorable conditions; or

27 (11) Is not in compliance with any other reasonable  
28 qualification that the director may set by rule; ~~or~~

29 ~~(12) Has been found guilty of or who has pleaded guilty or nolo~~  
30 ~~contendere by any court to any felony, Class A misdemeanor, crime involving~~  
31 ~~an act of violence, any crime involving use of a firearm, any crime involving~~  
32 ~~the use of alcohol while in possession of a firearm, any crime involving~~  
33 ~~moral turpitude, or a comparable offense in another state, including a~~  
34 ~~previously sealed or expunged offense, by any court.~~

35 (b) *The director shall not issue a commission as a commissioned*  
36 *security officer or as a commissioned school security officer to an applicant*

1 employed by a licensee or the security department of a private business  
2 unless the applicant submits evidence satisfactory to the director that he or  
3 she meets all qualifications established by this chapter and by the rules of  
4 the director.

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6 SECTION 6. EMERGENCY CLAUSE. It is found and determined by the  
7 General Assembly of the State of Arkansas that many individuals became  
8 ineligible for licensure due to unintended consequences of the enactment of  
9 the Private Security Agency, Private Investigator, and School Security  
10 Licensing and Credentialing Act, § 17-40-101 et seq.; that this ineligibility  
11 resulted from the commission of minor offenses or offenses from many years  
12 earlier; and that this act is immediately necessary to ensure that qualified  
13 individuals are able to practice their livelihood and receive licensure under  
14 the Private Security Agency, Private Investigator, and School Security  
15 Licensing and Credentialing Act, § 17-40-101 et seq. Therefore, an emergency  
16 is declared to exist, and this act being immediately necessary for the  
17 preservation of the public peace, health, and safety shall become effective  
18 on:

19 (1) The date of its approval by the Governor;

20 (2) If the bill is neither approved nor vetoed by the Governor,  
21 the expiration of the period of time during which the Governor may veto the  
22 bill; or

23 (3) If the bill is vetoed by the Governor and the veto is  
24 overridden, the date the last house overrides the veto.

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28 /s/Vines

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31 **APPROVED: 05/23/2016**