

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.

1 State of Arkansas
2 85th General Assembly
3 Regular Session, 2005
4

As Engrossed: H4/7/05
A Bill

SENATE BILL 610

5 By: Senator B. Johnson
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8 **For An Act To Be Entitled**

9 AN ACT TO CHANGE THE CRIMINAL BACKGROUND CHECK
10 REQUIREMENTS FOR THE ARKANSAS BOARD OF EXAMINERS
11 IN COUNSELING; AND FOR OTHER PURPOSES.
12

13 **Subtitle**

14 AN ACT TO CHANGE THE CRIMINAL BACKGROUND
15 CHECK REQUIREMENTS FOR THE ARKANSAS
16 BOARD OF EXAMINERS IN COUNSELING.
17
18

19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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21 SECTION 1. Arkansas Code § 17-27-313 is amended to read as follows:
22 17-27-313. Criminal background checks.

23 (a) ~~On and after October 1, 1997, The Arkansas Board of Examiners in~~
24 Counseling may require each applicant for license renewal and each first-time
25 applicant for a license issued by the Arkansas Board of Examiners in
26 Counseling ~~shall be required~~ to apply to the Identification Bureau of the
27 Department of Arkansas State Police for a state and national criminal
28 background check, to be conducted by the Identification Bureau and the
29 Federal Bureau of Investigation.

30 (b) The check shall conform to the applicable federal standards and
31 shall include the taking of fingerprints.

32 (c) The applicant shall sign a release of information to the board and
33 shall be responsible ~~to the Department of Arkansas State Police~~ for the
34 payment of any fee associated with the criminal background check.

35 (d) Upon completion of the criminal background check, the
36 Identification Bureau of the Department of Arkansas State Police shall



1 forward to the board all releasable information obtained concerning the
2 applicant ~~in the commission of any offense listed in subsection (f) of this~~
3 ~~section to the board.~~

4 ~~(e) At the conclusion of any background check required by this~~
5 ~~section, the Identification Bureau of the Department of Arkansas State Police~~
6 ~~shall promptly destroy the fingerprint card of the applicant.~~

7 ~~(f)~~(e) No person shall be eligible to receive or hold a license issued
8 by the board if that person has pleaded guilty or nolo contendere to, or been
9 found guilty of, any of the following offenses by any court in the State of
10 Arkansas or of any similar offense by a court in another state or of any
11 *similar offense by a federal court:*

12 (1) Capital murder, as prohibited in § 5-10-101;

13 (2) Murder in the first degree and second degree, as prohibited
14 in §§ 5-10-102 and 5-10-103;

15 (3) Manslaughter, as prohibited in § 5-10-104;

16 (4) Negligent homicide, as prohibited in § 5-10-105;

17 (5) Kidnapping, as prohibited in § 5-11-102;

18 (6) False imprisonment in the first degree, as prohibited in §
19 5-11-103;

20 (7) Permanent detention or restraint, as prohibited in § 5-11-
21 106;

22 (8) Robbery, as prohibited in § 5-12-102;

23 (9) Aggravated robbery, as prohibited in § 5-12-103;

24 (10) Battery in the first degree, as prohibited in § 5-13-201;

25 (11) Aggravated assault, as prohibited in § 5-13-204;

26 (12) Introduction of controlled substance into body of another
27 person, as prohibited in § 5-13-210;

28 (13) Terroristic threatening in the first degree, as prohibited
29 in § 5-13-301;

30 (14) Rape, as prohibited in § 5-14-103;

31 (15) Sexual indecency with a child, as prohibited in § 5-14-110;

32 (16) Sexual assault in the first degree, second degree, third
33 degree, and fourth degree, as prohibited in §§ 5-14-124 - 5-14-127;

34 (17) Incest, as prohibited in § 5-26-202;

35 (18) Offenses against the family, as prohibited in §§ 5-26-303 -
36 5-26-306;

1 (19) Endangering the welfare of an incompetent person in the
2 first degree, as prohibited in § 5-27-201;

3 (20) Endangering the welfare of a minor in the first degree, as
4 prohibited in § 5-27-203;

5 (21) Permitting abuse of a child, as prohibited in § 5-27-
6 221(a)(1) and (3);

7 (22) Engaging children in sexually explicit conduct for use in
8 visual or print media, transportation of minors for prohibited sexual
9 conduct, pandering or possessing visual or print medium depicting sexually
10 explicit conduct involving a child, or use of a child or consent to use of a
11 child in a sexual performance by producing, directing, or promoting a sexual
12 performance by a child, as prohibited in §§ 5-27-303 - 5-27-305, 5-27-402,
13 and 5-27-403;

14 (23) Felony adult abuse, as prohibited in § 5-28-103;

15 (24) Theft of property, as prohibited in § 5-36-103;

16 (25) Theft by receiving, as prohibited in § 5-36-106;

17 (26) Arson, as prohibited in § 5-38-301;

18 (27) Burglary, as prohibited in § 5-39-201;

19 (28) Felony violation of the Uniform Controlled Substances Act,
20 §§ 5-64-101 - 5-64-608, as prohibited in § 5-64-401;

21 (29) Promotion of prostitution in the first degree, as
22 prohibited in § 5-70-104;

23 (30) Stalking, as prohibited in § 5-71-229;

24 (31) Criminal attempt, criminal complicity, criminal
25 solicitation, or criminal conspiracy, as prohibited in §§ 5-3-201, 5-3-202,
26 5-3-301, and 5-3-401, to commit any of the offenses listed in this
27 subsection;

28 (32) Computer child pornography, as prohibited in § 5-27-603;
29 *and*

30 (33) Computer exploitation of a child in the first degree, as
31 prohibited in § 5-27-605.

32 ~~(g)~~(f)(1) The board may issue a six-month nonrenewable letter of
33 provisional eligibility for licensure to a first-time applicant pending the
34 results of the criminal background check.

35 (2) Upon receipt of information from the Identification Bureau
36 of the Department of Arkansas State Police that the person holding such a

1 letter of provisional licensure has pleaded guilty or nolo contendere to, or
2 been found guilty of, any offense listed in subsection (f) of this section,
3 the board shall immediately revoke the provisional license.

4 ~~(h)~~(g)(1) The provisions of ~~subsection~~ subsections (e) and (f) and
5 subdivision (g)(2) of this section may be waived by the board upon the
6 request of:

7 (A) An affected applicant for licensure; or

8 (B) The person holding a license subject to revocation.

9 (2) Circumstances for which a waiver may be granted shall
10 include, but not be limited to, the following:

11 (A) The age at which the crime was committed;

12 (B) The circumstances surrounding the crime;

13 (C) The length of time since the crime;

14 (D) Subsequent work history;

15 (E) Employment references;

16 (F) Character references; and

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

19 ~~(i)~~(h)(1) Any information received by the board from the
20 Identification Bureau of the Department of Arkansas State Police pursuant to
21 this section shall not be available for examination except by the affected
22 applicant for licensure, or his or her authorized representative, or the
23 person whose license is subject to revocation, or his or her authorized
24 representative.

25 (2) No record, file, or document shall be removed from the
26 custody of the Department of Arkansas State Police.

27 ~~(j)~~(i) Any information made available to the affected applicant for
28 licensure or the person whose license is subject to revocation shall be
29 information pertaining to that person only.

30 ~~(k)~~(j) Rights of privilege and confidentiality established herein
31 shall not extend to any document created for purposes other than this
32 background check.

33 ~~(l)~~(k) The board shall adopt the necessary rules and regulations to
34 fully implement the provisions of this section.

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36 /s/ B. Johnson