

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

HOUSE BILL 1745

By: Representative Maloch

For An Act To Be Entitled

AN ACT TO MAKE PRACTICING AS A COUNSELOR WITHOUT
A LICENSE A CLASS D FELONY; AND FOR OTHER
PURPOSES.

Subtitle

AN ACT TO MAKE PRACTICING AS A COUNSELOR
WITHOUT A LICENSE A CLASS D FELONY.

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

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

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

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

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

~~(C)(B)~~ Notwithstanding the limits imposed for a ~~Class A~~



~~misdemeanor~~ Class D felony, if the defendant has derived pecuniary gain in the form of client fees received for services in violation of this chapter, the fees will be refunded.

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

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

(B) Court costs;

(C) Reasonable attorney's fees;

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

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