

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 87th General Assembly
3 Regular Session, 2009
4

As Engrossed: H3/19/09

A Bill

HOUSE BILL 1745

5 By: Representative Maloch
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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

Subtitle

15 AN ACT TO MAKE A SECOND OR SUBSEQUENT
16 OFFENSE OF PRACTICING AS A COUNSELOR
17 WITHOUT A LICENSE A CLASS D FELONY AND
18 TO CREATE A CIVIL PENALTY.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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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

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



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

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

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

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

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

17 (B) Court costs;

18 (C) Reasonable attorney's fees;

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

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

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24 /s/ Maloch
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