

1 State of Arkansas
2 89th General Assembly
3 Fiscal Session, 2014

HR 1012

4
5 By: Representative Wright
6

7 **HOUSE RESOLUTION**

8 A RESOLUTION TO AUTHORIZE THE INTRODUCTION OF A
9 NONAPPROPRIATION BILL CONCERNING THE VESTING OF
10 CERTAIN SECURITY LICENSING AUTHORITY WITH THE
11 DEPARTMENT OF ARKANSAS STATE POLICE; TO ALLOW CERTAIN
12 SCHOOL EMPLOYEES TO BE LICENSED AS PRIVATE SECURITY
13 OFFICERS; TO ABOLISH THE ARKANSAS BOARD OF PRIVATE
14 INVESTIGATORS AND PRIVATE SECURITY AGENCIES AND TO
15 TRANSFER ITS POWERS AND DUTIES; AND TO DECLARE AN
16 EMERGENCY

17
18
19 **Subtitle**

20 TO AUTHORIZE THE INTRODUCTION OF A
21 NONAPPROPRIATION BILL CONCERNING SECURITY
22 LICENSING; SCHOOL SECURITY; THE ARKANSAS
23 BOARD OF PRIVATE INVESTIGATORS AND
24 PRIVATE SECURITY AGENCIES; AND THE
25 TRANSFER OF POWERS AND DUTIES.
26

27
28 BE IT RESOLVED BY THE HOUSE OF REPRESENTATIVES OF THE EIGHTY-NINTH GENERAL
29 ASSEMBLY OF THE STATE OF ARKANSAS:

30
31 That Representative Wright is authorized to introduce a bill which as
32 introduced will read substantially as follows:
33

34 "For An Act To Be Entitled
35 AN ACT TO VEST CERTAIN SECURITY LICENSING AUTHORITY WITH THE DEPARTMENT OF
36 ARKANSAS STATE POLICE; TO ALLOW CERTAIN SCHOOL EMPLOYEES TO BE LICENSED AS



1 PRIVATE SECURITY OFFICERS; TO ABOLISH THE ARKANSAS BOARD OF PRIVATE
2 INVESTIGATORS AND PRIVATE SECURITY AGENCIES AND TRANSFER ITS POWERS AND
3 DUTIES; TO DECLARE AN EMERGENCY; AND FOR OTHER PURPOSES.

4
5 Subtitle

6 TO VEST CERTAIN SECURITY LICENSING AUTHORITY WITH THE STATE POLICE; TO
7 PROVIDE FOR SCHOOL SECURITY; TO ABOLISH THE ARKANSAS BOARD OF PRIVATE
8 INVESTIGATORS AND PRIVATE SECURITY AGENCIES; AND TO DECLARE AN EMERGENCY.

9
10 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

11
12 SECTION 1. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE
13 ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.
14 TRANSFER OF POWERS AND DUTIES.

15 (a) All powers and duties formerly assigned to the Arkansas Board of
16 Private Investigators and Private Security Agencies are transferred to the
17 Department of Arkansas State Police.

18 (b) The Governor shall issue an executive order transferring the
19 powers and duties of the Arkansas Board of Private Investigators and Private
20 Security Agencies to the Department of Arkansas State Police by a type 3
21 transfer as defined in § 25-2-106.

22
23 SECTION 2. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE
24 ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL, AND TEMPORARY LAW.
25 TRANSITION PLAN – CONTINUOUS SERVICE.

26 (a) The transfer of powers and duties occurs under this act, any and
27 all statutory authority, powers, duties, functions, records, authorized
28 positions, property, unexpended balances of appropriations, allocations, or
29 other funds of the Arkansas Board of Private Investigators and Private
30 Security Agencies shall be transferred to the Department of Arkansas State
31 Police only after the development of a transition plan is completed that will
32 ensure the efficient and effective transfer of the powers and duties of the
33 Arkansas Board of Private Investigators and Private Security Agencies to the
34 Department of Arkansas State Police so that there is continuous service
35 delivery to and protection of the people of the State of Arkansas.

36 (b) The Department of Arkansas State Police shall submit for review

1 any transition plan developed under this section to the House Judiciary
 2 Committee and the Senate Judiciary Committee.

3
 4 SECTION 3. Arkansas Code Title 17, Chapter 39, Subchapter 1, is
 5 amended to read as follows.

6 Subchapter 1
 7 – General Provisions

8
 9 17-39-101. Title.

10 This chapter shall be known and may be cited as the “Polygraph
 11 Examiners Licensing Act”.

12
 13 17-39-102. Definitions.

14 As used in this chapter:

15 (1) “Administrator” means the ~~Administrator of the Arkansas Board of~~
 16 ~~Private Investigators and Private Security Agencies~~ administrator in charge
 17 of licensing permitted under this subchapter that is employed by the
 18 Department of Arkansas State Police;

19 (2) “~~Board~~ Department” means the ~~Arkansas Board of Private~~
 20 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
 21 Police created by § 17-40-201;

22 (3) “Intern” means a person who holds a valid polygraph examiner
 23 intern license by the ~~board~~ department;

24 (4) “Internship” means the study of polygraph examinations and of the
 25 administration of polygraph examinations by an intern under the personal
 26 supervision and control of a licensed polygraph examiner as authorized by the
 27 ~~board~~ department;

28 (5) “Person” means any natural person, firm, association,
 29 copartnership, or corporation; and

30 (6) “Polygraph examiner” means any person who uses any device or
 31 instrument to test or question individuals for the purpose of verifying truth
 32 of statements.

33
 34 17-39-103. Penalties.

35 (a) Any person who violates any provision of this chapter or any person
 36 who falsely states or represents that he or she has been or is a properly

1 licensed polygraph examiner or intern shall be guilty of a misdemeanor.

2 (b) Upon conviction, that person shall be punished by a fine of not
3 less than one hundred dollars (\$100) nor more than one thousand dollars
4 (\$1,000) or by imprisonment in the county jail for a term of not to exceed
5 six (6) months, or both.

6
7 17-39-104. Injunction.

8 (a) If any person violates any provisions of this chapter, the
9 ~~Administrator of the Arkansas Board of Private Investigators and Private~~
10 ~~Security Agencies~~ administrator, upon direction of a majority of the ~~Arkansas~~
11 ~~Board of Private Investigators and Private Security Agencies~~ Department of
12 Arkansas State Police and in the name of the State of Arkansas, through the
13 Attorney General, shall apply in any circuit court of competent jurisdiction
14 for an order enjoining the violation or for an order enforcing compliance
15 with this chapter.

16 (b)(1) Upon the filing of a verified petition in the court, the court
17 or any judge thereof, if satisfied by affidavit or otherwise that the person
18 has violated this chapter, may issue a temporary injunction, without notice
19 or bond, enjoining the continued violation.

20 (2) If it is established that the person has violated or is
21 violating this chapter, the court or any judge thereof may enter a decree
22 perpetually enjoining the violation or enforcing compliance with this
23 chapter.

24 (c) In case of violation of any order or decree issued under the
25 provisions of this section, the court or any judge thereof may try and punish
26 the offender for contempt of court.

27 (d) Proceeding under this section shall be in addition to, and not in
28 lieu of, all other remedies and penalties provided by this chapter.

29
30 17-39-105. Evidence.

31 Nothing in this chapter shall be construed as permitting the results of
32 polygraph examinations to be introduced or admitted as evidence in a court of
33 criminal law.

34
35 17-39-106. ~~Board~~ Department of Arkansas State Police – Powers and
36 duties.

1 (a) ~~The Arkansas Board of Private Investigators and Private Security~~
2 ~~Agencies~~ Department of Arkansas State Police is authorized and empowered to
3 perform and carry out the functions and duties enumerated in this chapter
4 with respect to the licensing of polygraph examiners and to do and perform
5 all other acts incidental and necessary to the proper performance of the
6 functions and duties as prescribed in this chapter.

7 (b) The ~~board~~ department shall issue rules consistent with the
8 provisions of this chapter for the administration and enforcement of this
9 chapter and shall prescribe forms which shall be issued in connection
10 therewith.

11 (c) An order or a certified copy thereof, over the ~~board~~ department
12 seal and purporting to be signed by the ~~board~~ department members, shall be
13 prima facie proof that the signatures are the genuine signatures of the ~~board~~
14 department members and that the ~~board~~ department members are fully qualified
15 to act.

16 (d)(1) ~~The position of Administrator of the Arkansas Board of Private~~
17 ~~Investigators and Private Security Agencies is created.~~ The Director of the
18 Department of Arkansas State Police, or his or her designated representative,
19 shall serve as the administrator.

20 (2) The administrator ~~shall not be a member of the board,~~ shall
21 perform duties prescribed by the ~~board~~ department, and shall have no
22 financial or business interests, contingent or otherwise, in any security
23 services contractor or investigating company.

24 (e) All legal process and all documents required by law to be served
25 upon or filed with the ~~board~~ department shall be served or filed with the
26 administrator at the designated office of the ~~board~~ department.

27 (f) All official records of the ~~board~~ department or affidavits by the
28 administrator as to the content of the records shall be prima facie evidence
29 of all matters required to be kept by the ~~board~~ department.

30
31 17-39-107. Disposition of funds.

32 (a) All fees collected under the provisions of this chapter shall be
33 deposited into the State Treasury to the credit of the Department of Arkansas
34 State Police Fund.

35 (b)(1) All funds received under this chapter by the ~~Arkansas Board of~~
36 ~~Private Investigators and Private Security Agencies~~ Department of Arkansas

1 State Police shall be deposited into the State Treasury as special revenues
 2 to the credit of the fund.

3 (2) Money remaining at the end of the fiscal year shall not
 4 revert to any other fund but shall carry over to the next fiscal year.

5
 6 17-39-109. Instrumentation.

7 (a) Every polygraph examiner shall use an instrument which records
 8 visually, permanently, and simultaneously:

- 9 (1) A subject's cardiovascular pattern;
- 10 (2) Electrodermal activity; and
- 11 (3) A subject's respiratory pattern.

12 (b) Patterns of other physiological changes in addition to those
 13 described in this section may also be recorded.

14
 15 SECTION 4. Arkansas Code Title 17, Chapter 39, Subchapter 2, is
 16 amended to read as follows.

17 Subchapter 2
 18 - Licensing

19
 20 17-39-201. License required.

21 It shall be unlawful for any person, including a city, county, or state
 22 employee, to administer polygraph examinations or attempt to hold himself or
 23 herself out as a polygraph examiner without a license approved and issued by
 24 the ~~Arkansas Board of Private Investigators and Private Security Agencies~~
 25 Department of Arkansas State Police.

26
 27 17-39-202. Qualifications.

28 (a) A person is qualified to receive a license as an examiner who:

- 29 (1) Is at least twenty-one (21) years of age;
- 30 (2) Has not been found guilty of or pleaded guilty or nolo
 31 contendere to a felony or a misdemeanor involving moral turpitude;
- 32 (3) Holds a baccalaureate degree from a college or university
 33 accredited by the American Association of Collegiate Registrars and
 34 Admissions Officers or, in lieu thereof, has five (5) consecutive years of
 35 active investigative experience immediately preceding his or her application;
 36 and

1 (4) Is a graduate of a polygraph examiners course approved by
2 the ~~Arkansas Board of Private Investigators and Private Security Agencies~~
3 Department of Arkansas State Police and has satisfactorily completed not less
4 than six (6) months of internship training.

5 (b)(1) Prior to the issuance of a license, the applicant must furnish
6 evidence of a surety bond or insurance policy to the ~~board~~ department.

7 (2) The surety bond or insurance policy shall be in the sum of
8 five thousand dollars (\$5,000).

9 (3) The bond shall be conditioned that the obligor therein will
10 pay to the extent of the face amount of the surety bond or insurance policy
11 all judgments which may be recovered against the licensee by reason of any
12 wrongful or illegal acts committed by him or her in the course of his or her
13 examinations.

14
15 17-39-203. Original application.

16 (a) Applications for original licenses shall be made to the
17 ~~Administrator of the Arkansas Board of Private Investigators and Private~~
18 ~~Security Agencies~~ administrator in writing under oath on forms prescribed by
19 the ~~Arkansas Board of Private Investigators and Private Security Agencies~~
20 Department of Arkansas State Police and shall be accompanied by the required
21 fee, which is not refundable.

22 (b) Any such application shall require the information that in the
23 judgment of the ~~board~~ department will enable it to pass on the qualifications
24 of the applicant for a license.

25
26 17-39-204. Agent for service for nonresident interns and licensees.

27 (a) In addition to other application requirements, a licensee or
28 intern who does not maintain a place of business in Arkansas shall file with
29 the ~~Arkansas Board of Private Investigators and Private Security Agencies~~
30 Department of Arkansas State Police an irrevocable consent that:

31 (1) Actions against the applicant may be filed in any
32 appropriate court of any county or municipality of this state in which the
33 plaintiff resides or in which some part of the transaction occurred out of
34 which the alleged cause of action arose; and

35 (2) Process on the action may be served on the applicant by
36 leaving two (2) copies thereof with the ~~Administrator of the Arkansas Board~~

1 ~~of Private Investigators and Private Security Agencies~~ administrator.

2 (b) The consent shall stipulate and agree that the service of process
3 shall be taken and held to be valid and binding for all purposes.

4 (c) The administrator shall immediately send one (1) copy of the
5 process to the applicant at the address shown on the records of the ~~board~~
6 department by registered or certified mail.

7
8 17-39-205. License based on reciprocity.

9 An applicant who is a polygraph examiner licensed under the laws of
10 another state of the United States may be issued a two-year license by the
11 ~~Arkansas Board of Private Investigators and Private Security Agencies~~
12 Department of Arkansas State Police upon payment of a fee of one hundred and
13 twenty dollars (\$120) and the production of satisfactory proof that the
14 licensee meets the requirements of this section:

15 (1) The applicant must meet the requirements of § 17-39-202;

16 (2) The applicant is at least twenty-one (21) years of age;

17 (3) The requirements of § 17-39-202(3) and (4) may be waived by the
18 ~~board~~ department for the licensing of polygraph examiners in the particular
19 state or territory of the United States were at the date of the applicant's
20 licensing therein substantially equivalent to the requirements now in force
21 in this state;

22 (4) The applicant had lawfully engaged in the administration of
23 polygraph examinations under the laws of that state for at least two (2)
24 years prior to his or her application for a license under this chapter; and

25 (5) The other state grants similar reciprocity to license holders of
26 this state.

27
28 17-39-206. Internship license.

29 ~~Upon approval by the Administrator of the Arkansas Board of~~
30 ~~Private Investigators and Private Security Agencies, the~~ The administrator
31 shall issue an internship license to an intern, provided that he or she
32 applies for the license and pays the required fee within ten (10) days prior
33 to the commencement of his or her internship. The application shall contain
34 such information as may be required by the ~~Arkansas Board of Private~~
35 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
36 Police.

1 (b) A person is qualified to receive an internship license if he or
2 she:

3 (1) Is at least twenty-one (21) years of age;

4 (2) Has not been found guilty of or pleaded guilty or nolo
5 contendere to any felony or a misdemeanor involving moral turpitude;

6 (3) Holds a baccalaureate degree from a college or university
7 accredited by the American Association of Collegiate Registrars and
8 Admissions Officers or, in lieu thereof, has five (5) consecutive years of
9 active investigative experience immediately preceding his or her application;
10 and

11 (4) Is a graduate of a polygraph examiners course approved by
12 the ~~board~~ department.

13 (c) An internship license shall be valid for the term of twelve (12)
14 months from the date of issue. It may be renewed for any term not to exceed
15 six (6) months upon good cause shown to the ~~board~~ department.

16
17 17-39-207. Examination – Fees.

18 The fees to be paid for licenses shall be as follows:

19 (1) For an original two-year polygraph examiner's license, one hundred
20 twenty dollars (\$120);

21 (2) For a one-year or less internship license, thirty dollars
22 (\$30.00);

23 (3) For the issuance of a duplicate polygraph examiner's license or
24 internship license, fifteen dollars (\$15.00);

25 (4) For a polygraph examiner's two-year renewal license, fifty dollars
26 (\$50.00);

27 (5) For the renewal of an internship license past six (6) months,
28 twenty-five dollars (\$25.00); and

29 (6) For the issuance of an optional wallet-size polygraph examiner
30 licensee or intern photo identification card, fifteen dollars (\$15.00).

31
32 17-39-208. Display of license and signature.

33 A license or the photo identification card issued by the ~~Arkansas Board~~
34 ~~of Private Investigators and Private Security Agencies~~ Department of Arkansas
35 State Police must be prominently displayed at the place of business of the
36 polygraph examiner or at the place of internship.

1
2 17-39-209. Notification of address change.

3 Notice in writing shall be given to the ~~Administrator of the Arkansas~~
4 ~~Board of Private Investigators and Private Security Agencies~~ administrator by
5 the licensed examiner of any change of principal business location within
6 thirty (30) days of the time he or she changes the location.

7
8 17-39-210. Expiration and renewal.

9 (a) Each polygraph examiner's license shall be issued for the term of
10 two (2) years and, unless suspended or revoked, shall be renewed with such
11 documentation as may be prescribed by the ~~Arkansas Board of Private~~
12 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
13 Police.

14 (b) A polygraph examiner whose license has expired less than six (6)
15 months may renew the license by making a renewal application and paying the
16 renewal fees and a late fee of twenty dollars (\$20.00).

17 (c) However, any polygraph examiner's license that has been expired
18 for more than six (6) months shall be deemed permanently expired, and the
19 licensee shall begin the process again as a new applicant.

20 (d) The calculation of the late fee or expiration time may be waived
21 for a person who demonstrates that he or she was on active duty with the
22 armed forces of the United States or the National Guard at the time of
23 expiration.

24 (e) The requirements, as set out by the ~~board~~ department, must be met
25 before renewal, including:

26 (1) Payment of all necessary fees; and

27 (2) Providing the ~~board~~ department with proof of continuing
28 polygraph examiner education of at least fourteen (14) hours received in the
29 most recent two-year period by a training course approved by the ~~board~~
30 department.

31
32 17-39-211. Refusal, denial, suspension, revocation – Grounds.

33 The ~~Arkansas Board of Private Investigators and Private Security~~
34 ~~Agencies~~ Department of Arkansas State Police may deny, suspend, or revoke a
35 license on any one (1) or more of the following grounds:

36 (1) Failure to inform a subject to be examined as to the nature of the

1 examination;

2 (2) Failure to inform a subject to be examined that his or her
3 participation in the examination is voluntary;

4 (3) Any violation of law or the rules of the ~~board~~ department or
5 failure to meet the qualifications for licensure;

6 (4) Material misstatement in any application for license under this
7 chapter;

8 (5) Any misrepresentation or false promises or causing to be printed
9 any false or misleading advertisement for the purpose of directly or
10 indirectly obtaining business or interns;

11 (6) Demonstration of unworthiness or incompetency to act as a
12 polygraph examiner as defined by this chapter;

13 (7) Allowing one's license under this chapter to be used by any
14 unlicensed person in violation of the provisions of this chapter;

15 (8) Willfully aiding or abetting another in the violation of this
16 chapter or rule issued pursuant to it;

17 (9) Failure within a reasonable time to provide information requested
18 by the ~~Administrator of the Arkansas Board of Private Investigators and~~
19 ~~Private Security Agencies~~ administrator as the result of a formal complaint
20 to the ~~board~~ department, which would indicate a violation of this chapter; or

21 (10) Failure to inform the subject of the polygraph examination of the
22 results of the examination if so requested.

23

24 17-39-212. Background checks.

25 (a) Each first-time applicant and applicant for license renewal shall
26 be required to apply to the Identification Bureau of the Department of
27 Arkansas State Police for a state and national criminal background check to
28 be conducted by the Identification Bureau of the Department of Arkansas State
29 Police and the Federal Bureau of Investigation.

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

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

36 (d) Upon completion of the criminal background check, the

1 Identification Bureau of the Department of Arkansas State Police shall
2 forward to the ~~board~~ department all releasable information obtained
3 concerning the applicant.
4

5 17-39-213. Refusal, denial, suspension, revocation – Proceedings.

6 (a)(1)(A) When there is cause to deny an application or suspend or
7 revoke the license of any polygraph examiner, the ~~Arkansas Board of Private~~
8 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
9 Police not less than thirty (30) days before denial, suspension, or
10 revocation action is taken, shall notify the person in writing, in person, or
11 by certified mail at the last address supplied to the ~~board~~ department by the
12 person.

13 (B) This notice shall include notification of the
14 impending denial, suspension, or revocation, the reasons therefor, and of his
15 or her right to an administrative hearing for the purpose of determining
16 whether or not the evidence is sufficient to warrant the denial, suspension,
17 or revocation action proposed to be taken by the ~~board~~ department.

18 (2) Upon receipt by the ~~board~~ department of the written request,
19 an opportunity for an administrative hearing shall be afforded as early as is
20 practicable.

21 (3) The administrative hearing in those cases shall be before
22 the ~~board~~ department.

23 (b)(1) The ~~board~~ department shall conduct the administrative hearings,
24 and it is authorized to administer oaths and issue subpoenas for the
25 attendance of witnesses and the production of relevant books, papers,
26 documents, etc.

27 (2) On the basis of the evidence submitted at the hearing, the
28 ~~Administrator of the Arkansas Board of Private Investigators and Private~~
29 ~~Security Agencies~~ administrator shall take whatever action he or she deems
30 necessary in denying the application or suspending or revoking the license.

31 (c)(1) Upon the revocation or suspension of any license, the licensee
32 shall immediately surrender the license or licenses to the administrator of
33 the ~~board~~ department.

34 (2) Failure of a licensee to do so shall be a violation of this
35 chapter, and upon conviction the licensee shall be subject to the penalties
36 set forth in § 17-39-103.

1 (3) At any time after the suspension or revocation of any
 2 license, the administrator shall restore it to the former licensee upon the
 3 written recommendations of the ~~board~~ department.

4
 5 17-39-214. Refusal, suspension, revocation – Appeal.

6 (a) Any person dissatisfied with the action of the ~~Arkansas Board of~~
 7 ~~Private Investigators and Private Security Agencies~~ Department of Arkansas
 8 State Police in denying, suspending, or revoking his or her license may
 9 appeal under the Arkansas Administrative Procedure Act, § 25-15-201 et seq.

10 (b) The ~~board~~ department shall be represented in such appeals by the
 11 Attorney General or any of his or her assistants.

12
 13 17-39-215. Rules.

14 The ~~Arkansas Board of Private Investigators and Private Security~~
 15 ~~Agencies~~ Department of Arkansas State Police may promulgate rules to permit
 16 the efficient administration of this subchapter.

17
 18 SECTION 5. Arkansas Code Title 17, Chapter 39, Subchapter 3, is
 19 amended to read as follows.

20 Subchapter 3

21 – Voice Stress Analysis Examiners

22
 23 17-39-301. Definitions.

24 As used in this subchapter:

25 (1) “Administrator” means the ~~Administrator of the Arkansas Board of~~
 26 ~~Private Investigators and Private Security Agencies~~ administrator in charge
 27 of licensing permitted under this subchapter that is employed by the
 28 Department of Arkansas State Police;

29 (2) “~~Board~~ Department” means the ~~Arkansas Board of Private~~
 30 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
 31 Police created by § 17-40-201;

32 (3) “Voice stress analysis” means the procedure for analyzing the
 33 responses of an individual to a specific set of questions;

34 (4) “Voice stress analysis examiner” means an individual who has been
 35 trained in the operation of a voice stress analysis machine and who maintains
 36 a current certificate from a recognized training facility; and

1 (5) "Voice stress analysis machine" means a device which has the
2 ability to electronically analyze the responses of an individual to a
3 specific set of questions and to record the analysis, both digitally and on a
4 graph.

5
6 17-39-302. Examinations not admissible in criminal proceedings.

7 Nothing contained in this subchapter shall be construed to permit the
8 results of any voice stress analysis examination to be introduced or admitted
9 as evidence in any criminal proceeding.

10
11 17-39-303. License required.

12 It is unlawful for any person to engage in conducting a voice stress
13 analysis unless that person has qualified for and obtained a license as a
14 voice stress analysis examiner from the ~~Arkansas Board of Private~~
15 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
16 Police.

17
18 17-39-304. Application for license – Proof and fee.

19 Any person desiring to be licensed as a voice stress analysis examiner
20 shall make application for licensure to the ~~Administrator of the Arkansas~~
21 ~~Board of Private Investigators and Private Security Agencies~~ administrator
22 and shall submit with the application proof satisfactory to the ~~board~~
23 department that the applicant:

24 (1) Is at least twenty-one (21) years of age;

25 (2) Is an Arkansas resident;

26 (3) Is a person of honesty, truthfulness, integrity, and moral
27 fitness;

28 (4) Has not pleaded guilty or nolo contendere to or been found guilty
29 of a felony or a misdemeanor involving moral turpitude;

30 (5) Holds a baccalaureate degree from a college or university
31 accredited by the American Association of Collegiate Registrars and
32 Admissions Officers or, in lieu thereof, has had five (5) years of
33 investigative experience with a law enforcement agency;

34 (6) Has completed a course of training offering a certification in the
35 operation of the voice stress analysis machine that has been approved by the
36 ~~board~~ department and submits a copy of the certification with the

1 application; and

2 (7) Has posted a surety bond or insurance policy in the amount of five
3 thousand dollars (\$5,000) or proof that the individual is covered by a
4 business insurance policy.

5

6 17-39-305. Fees.

7 (a)(1) Except as provided under subdivision (a)(2) of this section,
8 the applicant for licensure under this subchapter shall pay the following
9 fees:

10 (A) For an original two-year voice stress analysis
11 examiner's license, one hundred twenty dollars (\$120);

12 (B) For a two-year renewal of a voice stress analysis
13 examiner's license, fifty dollars (\$50.00);

14 (C) For the issuance of an optional wallet-sized voice
15 stress analysis examiner's license photo identification card, fifteen dollars
16 (\$15.00); and

17 (D) For the issuance of a duplicate voice stress analysis
18 examiner's license, ten dollars (\$10.00).

19 (2) A certified law enforcement officer who is a full-time
20 employee of a law enforcement agency and who is applying for his or her
21 license for the purpose of full-time employment is not required to pay the
22 fee under subdivisions (a)(1)(A) and (B) of this section.

23 (b) All fees collected under this subchapter shall be deposited into
24 the State Treasury to the credit of the Department of Arkansas State Police
25 Fund.

26 (c)(1) All funds received by the ~~board~~ Department of Arkansas State
27 Police shall be deposited into the State Treasury as special revenues to the
28 credit of the fund.

29 (2) Money remaining at the end of the fiscal year shall not
30 revert to any other fund but shall carry over to the next fiscal year.

31

32 17-39-306. Grounds for denying, suspending, or revoking licenses.

33 The ~~board~~ Department of Arkansas State Police may deny, suspend, or
34 revoke a license on any of the following grounds:

35 (1) For failing to inform a subject to be examined as to the nature of
36 the examination;

1 (2) For failing to inform a subject to be examined that his or her
2 participation in the examination is voluntary;

3 (3) Any material misstatement in the application for original license
4 or in the application for any renewal license under this subchapter;

5 (4) Any willful disregard or violation of this subchapter or of any
6 rule issued pursuant to this subchapter, including, but not limited to,
7 willfully making a false report concerning an examination for voice stress
8 analysis examination purposes;

9 (5) If the holder of any license has been adjudged guilty of the
10 commission of a felony or a misdemeanor involving moral turpitude;

11 (6) For making any willful misrepresentation or false promises or
12 causing to be printed any false or misleading advertisement for the purpose
13 of directly or indirectly obtaining business or trainees;

14 (7) For having demonstrated unworthiness or incompetency to act as a
15 voice stress analysis examiner;

16 (8) For allowing one's license under this subchapter to be used by any
17 other person;

18 (9) For willfully aiding or abetting another in the violation of this
19 subchapter or any regulation or rule issued pursuant to this subchapter;

20 (10) For failing to maintain the requirements for licensure with the
21 ~~board~~ department;

22 (11) For failing, within a reasonable time, to provide information
23 requested by ~~the Secretary of the board~~ department as the result of a formal
24 complaint to the ~~board~~ department which would indicate a violation of this
25 subchapter; or

26 (12) For failing to inform the subject of the voice stress analysis of
27 the results of the examination if so requested.

28
29 17-39-307. Rules.

30 The ~~board~~ Department of Arkansas State Police may promulgate rules to
31 permit the efficient administration of this subchapter.

32
33 17-39-308. Conduct of voice stress analysis.

34 (a) A voice stress analysis shall be conducted only in person.

35 (b) The test is to be conducted through an in-person interview, and
36 written permission for the test must be obtained from the person to be

1 tested.

2 (c)(1) The examiner shall obtain the permission of the individual to
3 be tested to interview and record the responses of the individual and to
4 analyze the individual responses.

5 (2) In each case, the individual's verbal permission shall be
6 recorded as a part of the interview.

7 (d)(1) A certified law enforcement officer who is a full-time employee
8 of a law enforcement agency and who is acting in the course of his or her
9 employment for the law enforcement agency may conduct a voice stress analysis
10 from a legally recorded conversation.

11 (2) If the test is conducted under subdivision (d)(1) of this
12 section:

13 (A) The recorded conversation may be recorded:

14 (i) In person; or

15 (ii) By telephone; and

16 (B) The examiner shall comply with subsection (c) of this
17 section.

18

19 17-39-309. Background checks.

20 (a) Each first-time applicant and each applicant for license renewal
21 shall be required to apply to the Identification Bureau of the Department of
22 Arkansas State Police for a state and national criminal background check to
23 be conducted by the Identification Bureau and the Federal Bureau of
24 Investigation.

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

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

30 (d) Upon completion of the criminal background check, the
31 Identification Bureau shall forward to the ~~board~~ department all releasable
32 information obtained concerning the applicant.

33 (e) This section does not apply to a certified law enforcement officer
34 who is a full-time employee of a law enforcement agency and who is applying
35 for his or her license for the purpose of the full-time employment with the
36 law enforcement agency.

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17-39-310. Penalties.

(a) A person who violates any provision of this chapter or a person who falsely states or represents that he or she has been or is a properly licensed voice stress analysis examiner shall be guilty of a misdemeanor.

(b) Upon conviction, that person shall be punished by a fine of not less than one hundred dollars (\$100) and not more than one thousand dollars (\$1,000) or by imprisonment in the county jail for a term of not to exceed six (6) months, or both.

17-39-311. Injunction.

(a) If a person violates any provisions of this chapter, the ~~Administrator~~ administrator of the ~~Arkansas Board of Private Investigators and Private Security Agencies~~ Department of Arkansas State Police, upon the direction of a majority of the ~~board~~ department and in the name of the State of Arkansas, through the Attorney General, shall apply in any circuit court of competent jurisdiction for an order enjoining the violation or for an order enforcing compliance with this chapter.

(b)(1) Upon the filing of a verified petition in the court, a judge of the court, if satisfied by affidavit or otherwise that the person has violated this chapter, may issue a temporary injunction without notice or bond enjoining the continued violation.

(2) If it is established that the person has violated or is violating this chapter, a judge of the court may enter a decree perpetually enjoining the violation or enforcing compliance with this chapter.

(c) In case of violation of any order or decree issued under the provisions of this section, a judge of the court may sentence the offender for contempt of court.

(d) Punishment for violation under this section shall be in addition to, but not in lieu of, all other remedies and penalties provided by this chapter.

17-39-312. Evidence.

This chapter shall not be construed as permitting the results of voice stress analysis examinations to be introduced or admitted as evidence into a court of criminal law.

1
 2 17-39-313. ~~Board~~ Department of Arkansas State Police – Powers and
 3 duties.

4 (a) The ~~board~~ Department of Arkansas State Police is authorized and
 5 empowered to perform and carry out the functions and duties enumerated within
 6 this chapter with respect to the licensing of voice stress analysis examiners
 7 and to perform all other acts incidental and necessary to the proper
 8 performance of the functions and duties as prescribed in this chapter.

9 (b) The ~~board~~ department shall issue rules consistent with the
 10 provisions of this chapter for the administration and enforcement of this
 11 chapter and shall prescribe forms which shall be issued in connection
 12 therewith.

13 (c) An order or a certified copy thereof, ~~over the board seal and~~
 14 ~~purporting to be signed by the board~~ department members, shall be prima facie
 15 proof that ~~the signatures are the genuine signatures of the board members and~~
 16 ~~that the board members are~~ department is fully qualified to act.

17 (d)(1) ~~The position of Administrator of the Arkansas Board of Private~~
 18 ~~Investigators and Private Security Agencies is created.~~ The Director of the
 19 Department of Arkansas State Police, or his or her designated representative,
 20 shall serve as the administrator.

21 (2) The administrator shall ~~not be a member of the board, shall~~
 22 perform such duties as may be prescribed by the ~~board~~ department, and shall
 23 have no financial or business interests, contingent or otherwise, in any
 24 security services contractor or investigating company.

25 (e) All legal process and all documents required by law to be served
 26 upon or filed with the ~~board~~ department shall be served or filed with the
 27 administrator at the designated office of the ~~board~~ department.

28 (f) All official records of the ~~board~~ department or affidavits by the
 29 administrator as to the content of the records shall be prima facie evidence
 30 of all matters required to be kept by the ~~board~~ department.

31
 32 SECTION 6. Arkansas Code Title 17, Chapter 40, Subchapter 1, is
 33 amended to read as follows.

34 Subchapter 1
 35 – General Provisions
 36

1 17-40-101. Title.

2 This chapter may be cited as the "Private Investigators and Private
3 Security Agencies Act".

4
5 17-40-102. Definitions.

6 As used in this chapter:

7 (1) "Accident reconstruction" means the interpretation of physical
8 evidence in the application of scientific principles to form opinions
9 relative to the events of an accident;

10 (2) "Administrator" means the ~~Administrator of the Arkansas Board of~~
11 ~~Private Investigators and Private Security Agencies~~ administrator in charge
12 of licensing permitted under this subchapter employed by the Department of
13 Arkansas State Police;

14 (3) "Alarm systems agent" means any individual employed by an alarm
15 systems company who sells on site, performs a survey of the premises to be
16 protected, or responds to alarm signal devices, burglar alarms, or cameras as
17 described in subdivision (5) or subdivision (27) of this section;

18 (4) "Alarm systems apprentice" means any individual employed by an
19 alarm systems company who installs, services, or repairs on site as described
20 in subdivision (5) or subdivision (27) of this section that is supervised by
21 an alarm systems technician, a supervisor of technicians, or a manager;

22 (5) "Alarm systems company" means any person, firm, association, or
23 corporation that for a fee or other valuable consideration installs,
24 services, sells on site, performs a survey of the premises to be protected,
25 monitors, or responds to electrical, electronic, or mechanical alarm signal
26 devices, burglar alarms, television cameras, or still cameras used to
27 manually or automatically signal or detect burglary, fire, breaking or
28 entering, shoplifting, pilferage, theft, hold-up, or other illegal or
29 unauthorized activity;

30 (6) "Alarm systems monitor" means any individual employed by an alarm
31 systems company who monitors or responds as described in subdivision (5) of
32 this section;

33 (7) "Alarm systems technician" means any individual employed by an
34 alarm systems company who installs, services, or repairs on site as described
35 in subdivision (5) or subdivision (27) of this section;

36 (8) "Armored car company" means any person that provides armed

1 security transportation and protection of money, currency, coins, bullion,
2 securities, bonds, jewelry, or other valuables from one (1) place or point to
3 another place or point;

4 (9) "~~Board Department~~" means the ~~Arkansas Board of Private~~
5 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
6 Police;

7 (10) "Commissioned security officer" means any private security
8 officer to whom a security officer commission has been issued by the ~~board~~
9 department;

10 (11) "Firearm" means, as defined in Merriam-Webster's New Collegiate
11 Dictionary, a weapon from which a shot is discharged by gunpowder;

12 (12) "Guard company" means any person engaging in the business of
13 providing or undertaking to provide a private watchman, guard, or street
14 patrol service on a contractual basis for another person and performing any
15 one (1) or more of the following or similar functions:

16 (A) Prevention of intrusion, entry, larceny, vandalism, abuse,
17 fire, or trespass on private property;

18 (B) Prevention, observation, or detection of any unauthorized
19 activity on private property;

20 (C) Control, regulation, or direction of the flow or movements
21 of the public, whether by vehicle or otherwise, only to the extent and for
22 the time directly and specifically required to assure the protection of
23 property; or

24 (D) Protection of individuals from bodily harm;

25 (13) "Investigations company" means any person who engages in the
26 business or accepts employment to obtain or furnish information with
27 reference to:

28 (A) Crime or wrongs done or threatened against the United States
29 or any state or territory of the United States;

30 (B) The identity, habits, conduct, business, occupation,
31 honesty, integrity, credibility, knowledge, trustworthiness, efficiency,
32 loyalty, activity, movement, whereabouts, affiliations, associations,
33 transactions, acts, reputation, or character of any person;

34 (C) The location, disposition, or recovery of lost or stolen
35 property;

36 (D) The cause or responsibility for fires, libels, losses,

1 accidents, damages, or injuries to persons or to property; or

2 (E) The securing of evidence to be used before any court, ~~board~~
3 department, officer, or investigating committee;

4 (14) "License" means a permit granted by the ~~board~~ department
5 entitling a person to operate as a security services contractor, an
6 investigations company, or an alarm systems company;

7 (15) "Licensee" means any person to whom a license is granted under
8 this chapter;

9 (16) "Manager" means, in the case of a corporation, an officer or
10 supervisor, or, in the case of a partnership, a general or unlimited partner
11 meeting the experience qualifications set forth in § 17-40-306 for managing a
12 security services contractor or an investigations company;

13 (17) "NBFAA" means the National Burglar and Fire Alarm Association,
14 7101 Wisconsin Avenue, Suite 901, Bethesda, MD 20814-4805, (301) 907-3208;

15 (18) "NICET" means the National Institute for Certification in
16 Engineering Technologies, 1420 King Street, Alexandria, VA 22314-2794, (703)
17 684-2835;

18 (19) "Person" means an individual, firm, association, company,
19 partnership, corporation, nonprofit organization, institution, school, or
20 similar entity~~;~~.

21 (20) "Private investigator" means any person who performs one (1) or
22 more services as described in subdivision (13) of this section;

23 (21) "Private school" means a kindergarten through grade twelve (K-12)
24 private school;

25 ~~(21)-(22)~~ (22) "Private security officer" means any individual employed by a
26 security services contractor or the security department of a private business
27 or school to perform the duties of a security guard, security watchman,
28 security patrolman, or armored car guard;

29 (23) "Public charter school" means a public charter school as it is
30 defined under § 6-23-101 et seq.;

31 ~~(22)-(24)~~ (24) "Registrant" means an individual who has filed an application
32 with the ~~board~~ department to perform the duties of a private investigator,
33 manager, or branch office manager;

34 ~~(23)-(25)~~ (25) "Registration" means a permit granted by the ~~board~~ department
35 to an individual to perform the duties of a private investigator, manager, or
36 branch office manager;

1 (26) "School" means a school district, public charter school, or
 2 private school;

3 (27) "School district" means a kindergarten through grade twelve (K-
 4 12) public school district;

5 ~~(24)~~(28)(A) "Security department of a private business or school"
 6 means the security department of any person or school if the ~~security~~
 7 ~~department has as its~~ general purpose of the security department is the
 8 protection and security of its own property, ~~and~~ grounds, or students and if
 9 it does not offer or provide security services to any other person~~;~~.

10 ~~(25)~~(29) "Security officer commission" means an authorization granted
 11 by the ~~board~~ department to an individual employed as a private security
 12 officer to carry a firearm;

13 ~~(26)~~(30) "Security services contractor" means any guard company or
 14 armored car company;

15 ~~(27)~~(31) "Single-station alarm systems company" means any person,
 16 firm, association, or corporation that for a fee or other valuable
 17 consideration installs, services, or sells on site fire, smoke, or heat
 18 detectors to be installed in a one-family or two-family dwelling or performs
 19 a survey of the premises to be protected if the detectors are single-station
 20 installations and not a part of or connected to any other detection device or
 21 system;

22 ~~(28)~~(32) "Supervisor of technicians" means any individual employed by
 23 an alarm systems company who supervises alarm systems technicians or alarm
 24 systems apprentices and who may install, service, or repair on site as
 25 described in subdivision (5) of this section; and

26 ~~(29)~~(33) "Undercover agent" means an individual hired by another
 27 individual, partnership, corporation, or other business entity to perform a
 28 job for that individual, partnership, corporation, or other business entity
 29 and, while performing the job, to act as an undercover agent, an employee, or
 30 an independent contractor of a licensee, but supervised by a licensee.

31
 32 17-40-103. Exemptions.

33 (a) This chapter does not apply to:

34 (1) A person employed exclusively and regularly by one (1)
 35 employer in connection with the affairs of that employer only and where there
 36 exists an employer-employee relationship;

1 (2) An officer or employee of the United States, of this state,
2 or of a political subdivision of either, while the employee or officer is
3 engaged in the performance of official duties;

4 (3) A person who has part-time or full-time employment as a law
5 enforcement officer and who is certified by the Arkansas Commission on Law
6 Enforcement Standards and Training as a law enforcement officer and receives
7 compensation for private employment on an individual or an independent
8 contractor basis as a patrolman, guard, or watchman if the person is:

9 (A)(i) Employed in an employee-employer relationship; or

10 (ii) Employed on an individual contractual basis;

11 and

12 (B) Not in the employ of another law enforcement officer;

13 (4) A person engaged exclusively in the business of obtaining
14 and furnishing information for purposes of credit worthiness or collecting
15 debts or ascertaining the financial responsibility of applicants for property
16 insurance and for indemnity or surety bonds, with respect to persons, firms,
17 and corporations;

18 (5) Consumer reporting agencies as defined in 15 U.S.C. § 1681
19 et seq.;

20 (6) An attorney at law in performing his or her duties or an
21 employee of an attorney at law, only in connection with providing
22 investigative services to the attorney and his or her practice;

23 (7) Admitted insurers, insurance adjusters, agents, and
24 insurance brokers licensed by the state performing duties in connection with
25 insurance transacted by them;

26 (8) An officer, employee, or agent of a communications common
27 carrier, as defined in 47 U.S.C. § 153(11), while engaged in the normal
28 course of business of the carrier or protecting the carrier or a user of the
29 services of that carrier from fraudulent, unlawful, or abusive use of
30 services;

31 (9) A professional engineer registered with the State Board of
32 Licensure for Professional Engineers and Surveyors engaged in providing
33 investigative services as outlined in this chapter;

34 (10) A person who or business which sells or manufacturers alarm
35 systems, unless such a person or business performs any service as described
36 in § 17-40-102(5);

1 (11) Installation, servicing, or responding to fire alarm
2 systems or any alarm device which is installed in a motor vehicle, aircraft,
3 or boat;

4 (12) Installation of an alarm system on property owned by or
5 leased to the installer;

6 (13) Installation of fixed fire extinguisher systems by persons
7 licensed by the Arkansas Fire Protection Licensing Board;

8 (14) Installation of the raceway, conductors, and components of
9 a fire alarm system by an entity holding a valid Arkansas contractor's
10 license, electrical classification, when the systems are furnished by alarm
11 systems companies licensed under this chapter, provided the alarm systems
12 company:

13 (A) Furnishes a system designed to comply with applicable
14 codes and standards;

15 (B) Furnishes the installing contractor with wiring
16 diagrams and specifications for the required conductors;

17 (C) Provides periodic job site inspections of the
18 installation in progress;

19 (D) Connects and installs the system components;

20 (E) Tests the completed installation in compliance with
21 NFPA 72, providing the owner's representative and the local fire marshal with
22 test documentation; and

23 (F) Instructs the system owner's representative and
24 provides operator manuals for the installed system; and

25 (15) Alarm system agents, alarm system apprentices, and alarm
26 system technicians for class E-S and F-S licenses shall be exempt from the
27 requirements for National Burglar and Fire Alarm Association Level 1 and 2
28 certification.

29 (16) "An agent, employee, or sales representative of an alarm
30 system company, if the agent, employee, or sales representative:

31 (A) Does not alter, install, maintain, move, repair,
32 replace, service, or reconfigure an alarm system or any individual component
33 connected to an alarm system at an end-user's premises; and

34 (B) Is not granted access to passwords or codes which can
35 be used to arm or disarm the system installed at specific end-user premises;
36 and

1 (17) A certified public accountant licensed by the state
2 performing his or her duties, only in connection with providing investigative
3 services, and all employees, independent contractors, or agents acting under
4 the supervision of a certified public accountant licensed by the state, only
5 in connection with providing investigative services to the certified public
6 accountant and his or her practice.

7 (b) Although under the provisions of this chapter the security
8 department of a private business or school that hires or employs an
9 individual in the capacity of a private security officer to possess a firearm
10 in the course and scope of his or her duties is required to make application
11 for a security officer commission for the individual according to the
12 provisions of this chapter, the security department of a private business or
13 school shall not be required to make application to the ~~Arkansas Board of~~
14 ~~Private Investigators and Private Security Agencies~~ Department of Arkansas
15 State Police for any license under this chapter.

16 (c) Notwithstanding any other provision of this chapter, employees of
17 a licensee who are employed exclusively as undercover agents shall not be
18 required to register with the ~~Arkansas Board of Private Investigators and~~
19 ~~Private Security Agencies~~ Department of Arkansas State Police under this
20 chapter.

21
22 17-40-104. Penalties.

23 (a) Any person who violates any provision of this chapter is guilty of
24 a Class A misdemeanor. Any person who violates any provision of this chapter
25 within one (1) year of a previous violation is guilty of a Class D felony.

26 (b)(1) No person shall threaten, intimidate, or attempt to unlawfully
27 influence any ~~member~~ employee of the ~~Arkansas Board of Private Investigators~~
28 ~~and Private Security Agencies~~ Department of Arkansas State Police ~~created by~~
29 ~~§ 17-40-201~~ while the ~~board~~ department ~~member~~ is engaged in the duties of the
30 ~~board~~ department.

31 (2) Violations of this subsection shall constitute Class A
32 misdemeanors.

33
34 17-40-105. Notice of violation.

35 No person licensed under this chapter shall be prosecuted for violating
36 this chapter unless the licensee has been notified of the alleged violation

1 within three hundred sixty-five (365) days after the occurrence of the
2 violation.

3
4 17-40-106. Exclusive regulation – Authority of political subdivisions.

5 (a) The regulation of investigation, security, and alarm systems
6 businesses shall be exclusive to the ~~Arkansas Board of Private Investigators~~
7 ~~and Private Security Agencies~~ Department of Arkansas State Police.

8 (b) Licensees and employees of licensees, under the provisions of this
9 chapter, shall not be required to obtain any authorization, permit,
10 franchise, or license from, or pay another fee or franchise tax to, or post
11 bond in any city, county, or other political subdivision of this state to
12 engage in the business or perform any service authorized under this chapter.

13 (c) However, any city or county shall be permitted to require a
14 business operating within its jurisdiction to register without fee and may
15 adopt an ordinance to require users of alarm systems to obtain revocable
16 permits without fee.

17
18 17-40-107. Introduction of evidence – Effect of violations.

19 The introduction of evidence in all courts in Arkansas shall not be
20 affected by violations of this chapter.

21
22 SECTION 7. Arkansas Code Title 17, Chapter 40, Subchapter 2, is
23 amended to read as follows.

24 Subchapter 2

25 ~~– Arkansas Board of Private Investigators and Private Security Agencies~~
26 Department of Arkansas State Police Administration

27
28 ~~17-40-201. Creation.~~

29 ~~The Arkansas Board of Private Investigators and Private Security~~
30 ~~Agencies is created to carry out the functions and duties conferred on it by~~
31 ~~this chapter.~~

32
33 ~~17-40-202. Members – Qualifications.~~

34 ~~(a) The Arkansas Board of Private Investigators and Private Security~~
35 ~~Agencies shall be composed of seven (7) members as follows:~~

36 ~~(1) One (1) citizen who is not registered under this chapter and~~

1 ~~who is not employed by the same person as any other member of the board,~~
2 ~~appointed by the Governor from a list of three (3) names submitted by the~~
3 ~~Arkansas Sheriffs Association, subject to confirmation by the Senate;~~

4 ~~(2) One (1) municipal law enforcement officer or his or her~~
5 ~~designee, appointed by the Governor from a list of three (3) names submitted~~
6 ~~by the Arkansas Municipal Police Association, subject to confirmation by the~~
7 ~~Senate;~~

8 ~~(3) One (1) member who is registered under this chapter, who is~~
9 ~~a Class A or Class D licensee, who has been engaged for a period of five (5)~~
10 ~~consecutive years as a private investigator, and who is not employed by the~~
11 ~~same person as any other member of the board, appointed by the Governor,~~
12 ~~subject to confirmation by the Senate;~~

13 ~~(4) One (1) member who is registered under this chapter, who has~~
14 ~~been employed for a period of five (5) consecutive years by a security~~
15 ~~services contractor, and who is not employed by the same person as any other~~
16 ~~member of the board, appointed by the Governor, subject to confirmation by~~
17 ~~the Senate;~~

18 ~~(5) One (1) polygraph examiner who is registered under § 17-39-~~
19 ~~101 et seq., who has been engaged for a period of five (5) consecutive years~~
20 ~~as a polygraph examiner, and who is not employed by the same person as any~~
21 ~~other member of the board, appointed by the Governor, subject to confirmation~~
22 ~~by the Senate;~~

23 ~~(6) One (1) member in business with contract security service~~
24 ~~responsibilities that does not hold a license under this chapter, appointed~~
25 ~~by the Governor from a list of three (3) names submitted by the Arkansas~~
26 ~~Chapter of the American Society of Industrial Security, subject to~~
27 ~~confirmation by the Senate; and~~

28 ~~(7) One (1) member who is registered under this chapter, who has~~
29 ~~been engaged for a period of five (5) consecutive years in the alarms systems~~
30 ~~profession, and who is not employed by the same person as any other member of~~
31 ~~the board, appointed by the Governor, subject to confirmation by the Senate.~~

32 ~~(b) The experience qualifications prescribed for membership on the~~
33 ~~board in subsection (a) of this section shall be satisfied by experience of~~
34 ~~five (5) years in the particular field as a police officer in the State of~~
35 ~~Arkansas or in the armed forces of the United States, or both.~~

36

1 ~~17-40-203. Members—Terms—Removal—Vacancies—Compensation.~~

2 ~~(a) Members of the Arkansas Board of Private Investigators and Private~~
3 ~~Security Agencies shall serve four-year terms.~~

4 ~~(b) No member shall serve two (2) consecutive terms.~~

5 ~~(c) Each member, unless removed by the Governor, shall hold office~~
6 ~~until his or her successor is appointed and qualified.~~

7 ~~(d) Any member who fails to attend two (2) or more consecutive~~
8 ~~meetings of the board without reasonable cause may be removed by the~~
9 ~~Governor.~~

10 ~~(e) The Governor shall fill all vacancies occurring among appointed~~
11 ~~members of the board, subject to confirmation by the Senate, with~~
12 ~~appointments for the duration of the unexpired term.~~

13 ~~(f) The members of the board shall serve without pay but may receive~~
14 ~~expense reimbursement in accordance with § 25-16-901 et seq.~~

15
16 ~~17-40-204. Creation:~~ 17-40-201. Administrator.

17 (a) ~~The position of Administrator of the Arkansas Board of Private~~
18 ~~Investigators and Private Security Agencies is created.~~ The Director of the
19 Department of Arkansas State Police, or his or her designated representative,
20 shall serve as the administrator under this chapter. ~~The administrator shall~~
21 ~~not be a member of the Arkansas Board of Private Investigators and Private~~
22 ~~Security Agencies, shall perform such duties as may be prescribed by the~~
23 ~~board, and shall have no financial or business interests, contingent or~~
24 ~~otherwise, in any security services contractor or investigating company.~~

25 (b) All legal process and all documents required by law to be served
26 upon or filed with the ~~board~~ department shall be served or filed with the
27 administrator at the designated office of the ~~board~~ department.

28 (c) All official records of the ~~board~~ department or affidavits by the
29 administrator as to the content of the records shall be prima facie evidence
30 of all matters required to be kept by the ~~board~~ department under this
31 chapter.

32
33 ~~17-40-205. Employees.~~

34 ~~The number of employees and the salary of each shall be fixed by the~~
35 ~~General Assembly.~~

36

1 ~~17-40-206. Organization and proceedings.~~

2 ~~(a) The Arkansas Board of Private Investigators and Private Security~~
3 ~~Agencies shall elect from among its members a chair, vice chair, and~~
4 ~~secretary to serve one-year terms commencing on January 1 of each year. The~~
5 ~~chair or, in his or her absence, the vice chair shall preside at all meetings~~
6 ~~of the board and perform the other duties prescribed in this chapter.~~

7 ~~(b) The board shall meet at regular intervals to be decided by a~~
8 ~~majority vote of the board.~~

9 ~~(c) At the first meeting, the board shall specify the date and place~~
10 ~~of the first examinations for licenses to be held.~~

11 ~~(d) A majority of the board constitutes a quorum to transact business.~~

12 ~~(e) The board shall adopt a seal, the form of which it shall~~
13 ~~prescribe.~~

14 ~~(f) The board shall be governed by the Arkansas Administrative~~
15 ~~Procedure Act, § 25-15-201 et seq.~~

16
17 ~~17-40-207.~~ 17-40-202. Powers and duties.

18 ~~(a) The Arkansas Board of Private Investigators and Private Security~~
19 ~~Agencies~~ Department of Arkansas State Police shall have the following powers
20 and duties under this chapter:

21 (1) To determine the qualifications of licensees, registrants,
22 and commissioned security officers as provided in this chapter;

23 (2) To investigate alleged violations of the provisions of this
24 chapter and of any rules and regulations adopted by the ~~board~~ department;

25 (3) To promulgate reasonable rules and regulations in the manner
26 provided by the Arkansas Administrative Procedure Act, § 25-15-201 et seq.;

27 and

28 (4) To establish and enforce standards governing the safety and
29 conduct of persons licensed, registered, and commissioned under the
30 provisions of this chapter, including authority to adopt a rule to prohibit
31 such persons from using any metallic insignia or identification badge.

32 (b) In the conduct of any investigation conducted under the provisions
33 of this chapter, the ~~board~~ department may issue subpoenas to compel the
34 attendance of witnesses and the production of pertinent books, accounts,
35 records, and documents. The officer conducting a hearing may administer oaths
36 and may require testimony or evidence to be given under oath.

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17-40-208. Training of personnel.

(a) ~~The Arkansas Board of Private Investigators and Private Security Agencies~~ Department of Arkansas State Police shall establish training programs to be conducted by agencies and institutions approved by the ~~board~~ department.

(b) The basic training course approved by the ~~board~~ department may include the following:

- (1) Legal limitations on the use of firearms and on the powers and authority of the private security officer;
- (2) Familiarity with this chapter;
- (3) Field note taking and report writing;
- (4) Range firing and procedure and handgun safety and maintenance; and
- (5) Any other topics of security officer training curriculum which the ~~board~~ department deems necessary.

(c) The ~~board~~ department shall promulgate all rules necessary to administer the provisions of this section concerning the training requirements of this chapter.

(d) When an individual meets the training requirements approved by the ~~board~~ department, that individual shall not be required to be trained over again until the private security officer's or commissioned security officer's renewal training is required, which is two (2) years after the private security officer or commissioned security officer is licensed, regardless of the company by which the private security officer or commissioned security officer is employed or trained.

17-40-209. Fees – Disposition of funds.

(a) It is the intent of the General Assembly that the cost of the investigating and licensing of private investigators and private security agencies as authorized by this chapter be borne by the individuals and agencies so licensed.

(b) To assure that such an intent is carried out, the expenditure for personal services and operating expenses associated with the investigating and licensing of agencies and individuals required to be licensed under the provisions of this chapter shall be limited in the aggregate to the amount

1 deposited into the State Treasury to the credit of the Department of Arkansas
2 State Police Fund from license and registration fees of the individuals and
3 agencies.

4 (c) In order to provide sufficient revenues to carry out the duties
5 and functions prescribed by this chapter, the ~~Arkansas Board of Private~~
6 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
7 Police is authorized to levy fees for licenses as authorized by this chapter
8 in such amounts as may be deemed necessary and proper by the ~~board~~
9 department.

10 (d) A delinquency fee shall be provided by the ~~board~~ department.

11 (e)(1) All funds received by the ~~board~~ department shall be deposited
12 into the State Treasury as special revenues to the credit of the fund.

13 (2) Money remaining at the end of the fiscal year shall not
14 revert to any other fund but shall carry over to the next fiscal year.

15
16 SECTION 8. Arkansas Code Title 17, Chapter 40, Subchapter 3, is
17 amended to read as follows.

18 Subchapter 3

19 - License, Registration, and Commissions

20
21 17-40-301. Unlawful acts.

22 (a) No licensee or officer, director, partner, manager, or employee of
23 a licensee shall knowingly make any false report to his or her employer or
24 client for whom information was being obtained.

25 (b) No written report shall be submitted to a client except by the
26 licensee, manager, or a person authorized by one (1) or either of them. The
27 person submitting the report shall exercise diligence in ascertaining whether
28 or not the facts and information in a report are true and correct.

29 (c) No licensee, or officer, director, partner, manager, or employee
30 of a licensee, except full-time police officers, shall use a title, wear a
31 uniform, use an insignia, use an identification, or make any statement with
32 the intent to give the impression that he or she is connected in any way with
33 the federal government, a state government, county government, city
34 government, or any political subdivision of a state government.

35 (d) It is unlawful and punishable as provided in § 17-40-104 for any
36 person to represent falsely that he or she is employed by a licensee.

1 (e)(1) It shall be unlawful and punishable as provided in § 17-40-104
2 for any state, county, or municipal government, or political subdivision of
3 either, to install, service, maintain, monitor, operate, sell, or lease as
4 lessor any burglar alarm system, fire alarm system, or other electronic
5 security system on private property if a private contractor licensed to do
6 business within the county or municipality offers such systems or services to
7 the public within such a county or municipality.

8 (2) The provisions of this section shall not prohibit a county
9 or municipal government from installing, servicing, maintaining, or operating
10 a burglar alarm system or fire alarm system on any property owned or leased
11 by such a county or municipal government.

12 (f) No person shall program an automatic dialing device to call any
13 law enforcement agency, fire department, emergency health service, or any
14 state, city, or county agency, without prior approval of the ~~Arkansas Board~~
15 ~~of Private Investigators and Private Security Agencies~~ Department of Arkansas
16 State Police.

17 (g) No licensee shall contract or subcontract with any unlicensed
18 entity that performs a service that is required to be licensed by this
19 chapter.

20
21 17-40-305. License required.

22 It shall be unlawful and punishable as provided in § 17-40-104 for any
23 person to engage in the business of, or perform any service as, a private
24 investigator, security services contractor, or alarm systems company, or to
25 offer his or her services in those capacities or engage in any business or
26 business activity required to be licensed by this chapter unless he or she
27 has obtained a license under the provisions of this chapter.

28
29 17-40-306. License – Applicant qualifications.

30 (a) Unless the requirement is waived by the ~~Arkansas Board of Private~~
31 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
32 Police, an applicant for a license or his or her manager must:

33 (1) Be at least twenty-one (21) years of age;

34 (2) Be a high school graduate or its equivalent if the applicant
35 is a manager of an investigations company or an individual applying for an
36 investigations company license;

1 (3) Not have been found guilty of or pleaded guilty or nolo
2 contendere to any:

3 (A) Felony, Class A misdemeanor, crime involving an act of
4 violence, or any crime involving moral turpitude in any court in the State of
5 Arkansas for which a pardon has not been granted;

6 (B) Felony, Class A misdemeanor or an offense of a
7 comparable level, crime involving an act of violence, or any crime involving
8 moral turpitude in any court in another state for which a pardon has not been
9 granted; or

10 (C) Felony, Class A misdemeanor or an offense of a
11 comparable level, crime involving an act of violence, or any crime involving
12 moral turpitude in a military or federal court for which a pardon has not
13 been granted;

14 (4) Not have been declared by any court of competent
15 jurisdiction incompetent by reason of mental defect or disease and not have
16 been restored;

17 (5) Not be suffering from habitual drunkenness or from narcotics
18 addiction or dependence;

19 (6) Not have been discharged from the armed services of the
20 United States under other than honorable conditions;

21 (7) Be of good moral character; and

22 (8) Be in compliance with any other reasonable qualifications
23 that the ~~board~~ department may fix by rule.

24 (b)(1) An applicant who applies for a license to engage in the
25 business of an investigations company or his or her manager shall have:

26 (A) Two (2) consecutive years' experience prior to the
27 date of the application in the investigative field as an agent, employee,
28 manager, or owner of an investigations company;

29 (B) Been licensed under Acts 1965, No. 447 [repealed];

30 (C) Two (2) years' experience as a licensed bail bondsman
31 and a baccalaureate degree from a four-year institution of higher education;
32 or

33 (D) Satisfied such other requirements as may be set by the
34 ~~board~~ department.

35 (2) The experience of the applicant must be reviewed by the
36 ~~board~~ department and determined to be adequate to qualify the applicant to

1 engage in the business of an investigations company.

2 (c) An applicant who applies for a license to engage in the business
3 of a security services contractor or his or her manager shall have two (2)
4 consecutive years' experience prior to the date of application in the
5 security services field as an agent, employee, manager, or owner of a
6 security services contractor company, or the applicant or his or her manager
7 shall have been licensed under Acts 1973, No. 605 [repealed], or shall
8 satisfy such other requirements as may be set by the ~~board~~ department.

9
10 17-40-307. License – Application and examination.

11 (a) An application for a license under this chapter shall be in the
12 form prescribed by the ~~Arkansas Board of Private Investigators and Private~~
13 ~~Security Agencies~~ Department of Arkansas State Police. The application shall
14 include:

15 (1) The full name and business address of the applicant;

16 (2) The name under which the applicant intends to do business;

17 (3) A statement as to the general nature of the business in
18 which the applicant intends to engage;

19 (4) A statement as to the classification under which the
20 applicant desires to be qualified;

21 (5) The full name and residence address of each of the
22 applicant's partners, officers, directors, and its manager, if the applicant
23 is an entity other than an individual;

24 (6) Two (2) recent photographs, of a type prescribed by the
25 ~~board~~ department, of the applicant, if the applicant is an individual, or of
26 each officer and of each partner or shareholder who owns a twenty-five
27 percent (25%) or greater interest in the applicant, if the applicant is an
28 entity;

29 (7) Two (2) classifiable sets of fingerprints of the applicant,
30 if the applicant is an individual, or of each officer and of each partner or
31 shareholder who owns a twenty-five percent (25%) or greater interest in the
32 applicant, if the applicant is an entity;

33 (8) A verified statement of his or her experience
34 qualifications;

35 (9) A verified statement disclosing any record of convictions of
36 the applicant of a felony, Class A misdemeanor, a crime involving an act of

1 violence, or any crime involving moral turpitude; and

2 (10) Such information as may be required by the ~~board~~ department
3 which would show that the applicant is honest, trustworthy, and of good
4 character.

5 (b) An application for a license under this chapter shall include the
6 social security number of the one making the application.

7 (c) The ~~board~~ department may require an applicant or his or her
8 manager to demonstrate qualifications by an examination to be determined by
9 the ~~board~~ department or show proof of other qualifications as may be
10 determined by the ~~board~~ department.

11 (d) Payment of the application fee prescribed by this chapter entitles
12 the applicant or his or her manager to one (1) examination without further
13 charge. If the person fails to pass the examination, he or she shall not be
14 eligible for any subsequent examination except upon payment of the
15 reexamination fee which shall be set by the ~~board~~ department in an amount not
16 in excess of the renewal fee for the license classification for which license
17 application was originally made.

18 (e)(1) Each first-time applicant and applicant for license renewal
19 shall be required to apply to the Identification Bureau of the Department of
20 Arkansas State Police for a state and national criminal background check to
21 be conducted by the Identification Bureau of the Department of Arkansas State
22 Police and the Federal Bureau of Investigation.

23 (2) The check shall conform to applicable federal standards and
24 shall include the taking of fingerprints as required in subdivision (a)(7) of
25 this section.

26 (3) The applicant shall sign a release of information to the
27 ~~board~~ department and shall be responsible for the payment of any fee
28 associated with the criminal background check.

29 (4) Upon completion of the criminal background check, the
30 Identification Bureau of the Department of Arkansas State Police shall
31 forward to the ~~board~~ department all releasable information obtained
32 concerning the applicant.

33
34 17-40-308. License – Insurance prerequisite.

35 (a) No Class B, Class C, or general license shall be issued to a
36 company under this chapter unless the applicant files with the ~~Arkansas Board~~

1 ~~of Private Investigators and Private Security Agencies~~ Department of Arkansas
2 State Police proof of a policy of continuing public liability insurance in a
3 sum not less than five hundred thousand dollars (\$500,000), conditioned to
4 compensate any person for damages, including, but not limited to, bodily
5 injury, caused by wrongful acts of the principal or its servants, officers,
6 agents, and employees in the conduct of any business licensed by this
7 chapter.

8 (b) No Class B or Class C license shall be issued to an armored car
9 company unless the applicant files with the ~~board~~ department proof of a valid
10 and continuing policy of armored car cargo insurance protecting customers'
11 valuables in a sum not less than five hundred thousand dollars (\$500,000).

12 (c)(1) All Class E licensees shall maintain in force at all times
13 while licensed a public liability insurance policy, with minimum limits of
14 liability of three hundred thousand dollars (\$300,000). All Class F licensees
15 shall maintain in force at all times while licensed a public liability
16 insurance policy, with minimum limits of liability of one hundred thousand
17 dollars (\$100,000).

18 (2) All alarm systems businesses which issue Underwriters'
19 Laboratories certificates for local mercantile, central station, or police
20 connected alarms shall maintain in force at all times a public liability
21 insurance policy in an amount of at least three hundred thousand dollars
22 (\$300,000).

23 (3) Proof of such insurance must be provided to the ~~board~~
24 department upon request.

25 (4) This section will not pertain to alarm systems businesses
26 that do not sell, install, or service alarm systems.

27
28 17-40-309. License – Classifications.

29 (a) No person may engage in any operation outside the scope of the
30 person's license.

31 (b) For the purpose of defining the scope of licenses, the following
32 license classifications are established:

33 (1) Class A: Investigations company license, covering operations
34 as defined in § 17-40-102(13);

35 (2) Class B: Security services contractor license, covering
36 operations as defined in § 17-40-102(26);

1 (3) Class C: Covering the operations included within Class A and
2 Class B;

3 (4) Class D: A single individual operating as an investigations
4 company with no other employees required to be licensed or registered under
5 this chapter;

6 (5)(A) Class E Level 1: Alarm systems company license, covering
7 operations as defined in § 17-40-102(5). Fire alarm license is restricted to
8 structures for which applicable building and life safety codes do not mandate
9 the installation of fire alarm systems, one-family or two-family dwellings
10 classified as "Group R-3" in the Arkansas Fire Prevention Code.

11 (B) Class E Level 2: Alarm systems company license
12 covering operations as defined in § 17-40-102(5). Fire alarm license is
13 restricted to structures for which applicable building and life safety codes
14 do not mandate the installation of fire alarm systems, one-family and two-
15 family dwellings classified as "Group R-3"; "Group R-1", except buildings
16 with three (3) or more stories; "Group R-2", except buildings with three (3)
17 or more stories; "Group A", except those that exceed fifteen thousand square
18 feet (15,000 sq.ft.); "Group B", except "highrise"; "Group E", except those
19 that exceed fifteen thousand square feet (15,000 sq.ft.); "Group F"; "Group
20 M"; and "Group S" in the Arkansas Fire Prevention Code.

21 (C) Class E Level 3: Alarm systems company license
22 covering operations as defined in § 17-40-102(5). Fire alarm license is
23 unrestricted.

24 (D) Class E-M: Alarm systems company license covering only
25 monitoring as defined in § 17-40-102(5).

26 (E) Class E-S: A single-station alarm systems company
27 license covering operations as defined by § 17-40-102(27). Fire alarm license
28 is restricted to one-family and two-family dwellings.

29 (F) Class F-S: A single-station alarm systems company
30 license covering operations as defined by § 17-40-102(27) with no more than
31 five (5) registered employees required to be registered under this chapter.
32 Fire alarm license is restricted to one-family and two-family dwellings;

33 (6)(A) Class F: An alarm systems company license covering
34 operations as defined in § 17-40-102(5) with no more than five (5) employees
35 required to be registered under this chapter. Fire alarm license is
36 restricted to structures for which applicable building and life safety codes

1 do not mandate installation of fire alarm systems and one-family and two-
2 family dwellings classified as "Group R-3" in the Arkansas Fire Prevention
3 Code.

4 (B) Class F-M: Alarm systems company license covering only
5 monitoring as defined in § 17-40-102(5) with no more than five (5) persons
6 required to be registered under this chapter; ~~and~~

7 (7) General: Covering the operations included within Class A,
8 Class B, and Class E-; and

9 (8) A security guard license is established to permit a school
10 employee to carry a concealed handgun in the course of his or her duties as a
11 school employee for the purpose of school security and emergency response.

12 (c) A person licensed only as a security services contractor may not
13 make any investigation except as incidental to the theft, loss, embezzlement,
14 misappropriation, or concealment of any property which the person has been
15 hired or engaged to protect.

16
17 17-40-310. License – Form.

18 A license when issued shall be in the form prescribed by the ~~Arkansas~~
19 ~~Board of Private Investigators and Private Security Agencies~~ Department of
20 Arkansas State Police, and shall include:

- 21 (1) The name of the licensee;
22 (2) The name under which the licensee is to operate; and
23 (3) The number and date of issuance of the license.

24
25 17-40-311. License – Assignability.

26 A license issued under this chapter is not assignable.

27
28 17-40-312. License – Termination.

29 (a) The ~~Arkansas Board of Private Investigators and Private Security~~
30 ~~Agencies~~ Department of Arkansas State Police shall prescribe by rule the
31 procedure under which a license issued under this chapter may be terminated.

32 (b) The fee for the termination of a license under this chapter shall
33 be established by the ~~board~~ department in an amount not to exceed five
34 dollars (\$5.00).

35
36 17-40-313. License – Expiration and renewal.

1 (a)(1) Licenses issued under this chapter expire one (1) year after
2 the date of issuance if not renewed.

3 (2) To renew an unexpired license, the licensee, on or before
4 the date on which it would otherwise expire, shall apply for renewal on a
5 form prescribed by the ~~Arkansas Board of Private Investigators and Private~~
6 ~~Security Agencies~~ Department of Arkansas State Police, and pay the renewal
7 fee prescribed by this chapter. On renewal, a renewal license shall be issued
8 to the licensee.

9 (b) Renewal of a license shall not prohibit the bringing of
10 disciplinary proceedings for an act committed before the effective date of
11 the renewal.

12 (c) A suspended license is subject to expiration and shall be renewed
13 as provided in this chapter. However, renewal does not entitle the licensee,
14 while the license remains suspended and until it is reinstated, to engage in
15 the licensed activity or in any other activity or conduct in violation of the
16 order or judgment by which the license was suspended.

17 (d) It shall be unlawful for a suspended license holder or its
18 employee to operate while the license is suspended.

19 (e) A license which is not renewed within two (2) years after its
20 expiration may not be renewed, restored, reinstated, or reissued thereafter.

21 (f) The holder of the license may obtain a new license only on
22 compliance with all of the provisions of this chapter relating to the
23 issuance of an original license.

24
25 17-40-314. Licenses – Managers.

26 (a)(1) The business of each licensee, other than in instances in which
27 the licensee company is owned and operated by the same individual who meets
28 the qualifications of a manager, shall be operated under the direction and
29 control of at least one (1) manager.

30 (2) Licensees in instances in which the licensee company is
31 owned and operated by the same individual who meets the qualifications of a
32 manager shall not be required to obtain a manager's license.

33 (b) No person shall act as a manager of a licensee until he or she
34 has:

35 (1) Demonstrated his or her qualifications by a written
36 examination; and

1 (2) Made a satisfactory showing to the ~~Arkansas Board of Private~~
2 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
3 Police that he or she has the qualifications prescribed by § 17-40-306 and
4 that none of the facts stated in § 17-40-350(a) exist as to him or her.

5 (c) It shall be unlawful and punishable as provided in § 17-40-104 for
6 any individual to make application to the ~~board~~ department as manager or to
7 serve as manager of an investigations company, security services contractor,
8 or alarm systems company unless the individual intends to maintain a
9 supervisory position on a daily basis for the investigations company,
10 security services contractor, or alarm systems company.

11 (d)(1) If the manager, who has qualified as provided in this section,
12 ceases to be manager for any reason whatsoever, the licensee shall notify the
13 ~~board~~ department in writing within fourteen (14) days from the cessation.

14 (2) If notice is given, the license shall remain in force for a
15 reasonable length of time to be determined by the rules of the ~~board~~
16 department pending the qualification, as provided in this chapter, of another
17 manager. If the licensee fails to notify the ~~board~~ department within the
18 fourteen-day period, his or her license shall be subject to suspension or
19 revocation.

20
21 17-40-315. Duties of licensee.

22 (a) Each licensee shall maintain a record containing the information
23 relative to his or her employees as may be prescribed by the ~~Arkansas Board~~
24 ~~of Private Investigators and Private Security Agencies~~ Department of Arkansas
25 State Police.

26 (b) At all times a licensee shall be legally responsible for the good
27 conduct in the business of each employee, including his or her manager.

28 (c) Any licensed entity finding a violation of this chapter shall
29 report the violation to the local authority and to the ~~board~~ department.

30
31 17-40-316. Licenses – Change of address, name, or officers.

32 (a) Notification to the ~~Arkansas Board of Private Investigators and~~
33 ~~Private Security Agencies~~ Department of Arkansas State Police shall be made
34 within fourteen (14) days after:

35 (1) The change of address of the principal place of business of
36 a licensee;

- 1 (2) The change of address of a branch office; or
 2 (3) The change of a business name under which a licensee does
 3 business.

4 (b) A licensee shall, within fourteen (14) days after the change,
 5 notify the ~~board~~ department of:

- 6 (1) Any and all changes of his or her address;
 7 (2) The change of the name under which he or she does business;
 8 and
 9 (3) Any changes in its officers or partners.

10

11 17-40-317. Licensees – Windup period.

12 When the individual on the basis of whose qualifications a license
 13 under this chapter has been obtained ceases to be connected with the licensee
 14 for any reason whatsoever, the business may be carried on for a temporary
 15 period under such terms and conditions as the ~~Arkansas Board of Private~~
 16 ~~Investigators and Private Security Agencies~~ Department of Arkansas State
 17 Police shall provide by regulation.

18

19 17-40-318. Training requirements for alarm system business.

20 (a)(1) The licensee or his or her manager of a Class E Level 1 and
 21 Class F license shall show proof of National Burglar and Fire Alarm
 22 Association Level 2 certification or ~~board~~ department-approved equivalent.

23 (2) The licensee or his or her manager for a Class E Level 1
 24 shall have two (2) years from July 30, 1999, to obtain the aforementioned
 25 certification.

26 (3) An applicant for a Class E Level 1 and Class F license or
 27 his or her manager applicant shall show proof of National Burglar and Fire
 28 Alarm Association Level 2 certification or ~~board~~ department-approved
 29 equivalent before the license may be issued.

30 (b)(1) The licensee or his or her manager of a Class E Level 2 license
 31 shall show proof of National Burglar and Fire Alarm Association Level 2,
 32 National Institute for Certification in Engineering Technologies Level II
 33 certification or ~~board~~ department-approved equivalent.

34 (2) The licensee or his or her manager shall have two (2) years
 35 from July 30, 1999, to obtain the aforementioned certification. An applicant
 36 for a Class E Level 2 license or his or her manager applicant shall show

1 proof of National Burglar and Fire Alarm Association Level 2 certification,
2 National Institute for Certification in Engineering Technologies Level II
3 certification or ~~board~~ department-approved equivalent before the license may
4 be issued.

5 (c)(1) The licensee or his or her manager of a Class E Level 3 license
6 shall show proof of National Institute for Certification in Engineering
7 Technologies Level III, National Burglar and Fire Alarm Association Level 2
8 and Practical Fire Alarm Course, or ~~board~~ department-approved equivalent.

9 (2) The licensee or his or her manager shall have two (2) years
10 from July 30, 1999, to obtain the aforementioned certification.

11 (3) An applicant for a Class E Level 3 license or his or her
12 manager applicant shall show proof of National Burglar and Fire Alarm
13 Association Level 2 and Practical Fire Alarm Course, National Institute for
14 Certification in Engineering Technologies Level III, or ~~board~~ department-
15 approved equivalent before the license may be issued.

16 (d) All persons applying for a license as an alarm system company or
17 his or her manager applicant shall successfully complete the examination as
18 manager under the provisions of this chapter and the ~~Arkansas Board of~~
19 ~~Private Investigators and Private Security Agencies~~ Department of Arkansas
20 State Polices' rules and regulations.

21 (e) All applicants for licensure shall meet other reasonable
22 qualifications as may be adopted by the ~~board~~ department.

23 (f) The licensee or the licensee's manager of a Class E-S or Class F-S
24 license shall demonstrate that he or she is knowledgeable in fire protection
25 and the proper use and placement of single-station fire and heat detectors by
26 satisfactorily completing an examination to be approved by the ~~board~~
27 department on the single-station portion of the Household Fire Warning
28 Protection provision of the National Fire Protection Association, 72 Code
29 Book, as it exists on January 1, 2001, and the Arkansas Fire Code as it
30 pertains to single-station fire detection devices.

31
32 17-40-325. Registration required.

33 Every employee of a licensee who is employed as a private investigator,
34 manager, private security officer, commissioned security officer, alarm
35 systems technician, alarm systems monitor, alarm systems apprentice,
36 registrant private investigator, or alarm systems agent must be registered

1 with the ~~Arkansas Board of Private Investigators and Private Security~~
2 ~~Agencies~~ Department of Arkansas State Police within fourteen (14) calendar
3 days after the commencement of the employment.
4

5 17-40-326. Registration – Applicant qualifications.

6 (a) The minimum age of a person registered as a private investigator,
7 security officer, alarm agent, alarm technician, alarm monitor, alarm
8 supervisor, or alarm apprentice under this subchapter shall be eighteen (18)
9 years of age.

10 (b) The ~~Arkansas Board of Private Investigators and Private Security~~
11 ~~Agencies~~ Department of Arkansas State Police may promulgate by rule any
12 additional qualifications for an individual registered under this subchapter
13 as a private investigator, manager, private security officer, branch office
14 manager, alarm monitor, alarm supervisor, alarm apprentice, or alarm systems
15 agent, which may include provision for apprenticeship programs.
16

17 17-40-327. Registration – Application.

18 The application for registration shall be verified and shall include
19 all of the following:

20 (1) The full name, residence address, residence telephone number, date
21 and place of birth, and the social security number of the employee;

22 (2) The name and address of the employer, the date the employment
23 commenced, and a letter from the licensee requesting that the employee be
24 registered under his or her license;

25 (3) The title of the position occupied by the employee and a
26 description of his or her duties;

27 (4) Two (2) recent photographs of the employee of a type prescribed by
28 the ~~Arkansas Board of Private Investigators and Private Security Agencies~~
29 Department of Arkansas State Police and two (2) classifiable sets of his or
30 her fingerprints;

31 (5)(A) A verified statement disclosing any record of convictions or
32 pleas of guilty or nolo contendere of the applicant of a felony, a Class A
33 misdemeanor, a crime involving an act of violence, or any crime involving
34 moral turpitude.

35 (B) The verified statement shall be obtained from the
36 Identification Bureau of the Department of Arkansas State Police after a

1 state and national criminal background check has been conducted by the
2 Identification Bureau of the Department of Arkansas State Police and the
3 Federal Bureau of Investigation.

4 (C) The check shall conform to applicable federal standards and
5 shall include the taking of fingerprints as required in § 17-40-307(a)(7).

6 (D) The applicant shall sign a release of information to the
7 ~~board~~ department and shall be responsible for the payment of any fee
8 associated with the criminal background check.

9 (E) Upon completion of the criminal background check, the
10 Identification Bureau of the Department of Arkansas State Police shall
11 forward to the ~~board~~ department all releasable information obtained
12 concerning the applicant; and

13 (6) Other information, evidence, statements, or documents required by
14 the ~~board~~ department.

15
16 17-40-328. Registration fee.

17 The ~~Arkansas Board of Private Investigators and Private Security~~
18 ~~Agencies~~ Department of Arkansas State Police is authorized to levy fees for
19 registration as authorized by this chapter in such amounts as may be deemed
20 necessary and proper by the ~~board~~ department.

21
22 17-40-329. Registration – Issuance of identification card – Transfer
23 and fee – Cancellation.

24 (a)(1) An identification card of such size, design, and content as may
25 be determined by the ~~Arkansas Board of Private Investigators and Private~~
26 ~~Security Agencies~~ Department of Arkansas State Police shall be issued to each
27 registrant under this chapter.

28 (2) The date of expiration shall be noted on the identification
29 card.

30 (3) The identification card shall contain a photograph and the
31 name of the agency.

32 (b) The registration of each registrant, private security officer,
33 alarm systems technician, alarm systems monitor, alarm systems apprentice,
34 registrant private investigator, or alarm systems agent expires two (2) years
35 from the date of issuance and is valid regardless of the security company,
36 alarm company, or investigative company by which the registrant, commissioned

1 security officer, alarm systems technician, alarm systems monitor, alarm
2 systems apprentice, registrant private investigator, or alarm systems agent
3 is employed.

4 (c) When an individual to whom a registration has been issued
5 terminates his or her position, he or she shall return the identification
6 card to the licensee within five (5) days after his or her date of
7 termination.

8 (d) When an individual to whom a registration has been issued
9 terminates his or her employment with a company, he or she, prior to becoming
10 employed with a different agency, must notify the ~~board~~ department in writing
11 and pay a transfer fee.

12 (e) Within seven (7) days after the licensee has received the
13 identification of a terminated registered employee, the licensee shall mail
14 or deliver the identification card to the ~~board~~ department for cancellation,
15 along with a letter from the licensee stating:

16 (1) The date the registered employee terminated;

17 (2) The date the licensee received the identification card of
18 the terminated registered employee; and

19 (3) The cause for which or the conditions under which the
20 registered employee terminated.

21
22 17-40-335. Security officer's commission required.

23 It is unlawful and punishable as provided in § 17-40-104:

24 (1) For a person to employ an individual as a private security officer
25 and knowingly authorize or permit him or her to carry a firearm during the
26 course of performing his or her duties as a private security officer if the
27 ~~Arkansas Board of Private Investigators and Private Security Agencies~~
28 Department of Arkansas State Police has not issued him or her a security
29 officer commission under § 17-40-336;

30 (2) For an individual employed as a private security officer to
31 knowingly carry a firearm during the course of performing his or her duties
32 as a private security officer if the ~~board~~ department has not issued him or
33 her a security officer commission under § 17-40-336; or

34 (3) For any person to hire or employ an individual or for any
35 individual to accept employment in the capacity of a private security officer
36 to carry a firearm in the course and scope of his or her duties unless the

1 private security officer is issued a security officer commission by the ~~board~~
2 department.

3
4 17-40-336. Commission – Geographical scope.

5 ~~(a) With the concurrence of the Department of Arkansas State Police,~~
6 ~~the Arkansas Board of Private Investigators and Private Security Agencies~~ The
7 Department of Arkansas State Police may issue a security officer commission
8 to an individual employed as a uniformed private security officer, provided
9 that the geographical scope of the security officer commission is restricted
10 to one (1) named county in the state and all counties contiguous to the named
11 county, except as allowed in subsection (b) of this section.

12 ~~(b) With the concurrence of the department, the board~~ The department
13 may issue a security officer commission that is broader in geographical scope
14 within the state than that specified in subsection (a) of this section if the
15 broader scope is shown to be in the public interest and necessary to the
16 performance of the duties of the private security officer.

17
18 17-40-337. Commission – Applicant qualifications.

19 (a) No security officer commission may be issued to any individual
20 who:

21 (1) Is under twenty-one (21) years of age;

22 (2) Has been found guilty of or who has pleaded guilty or nolo
23 contendere to any felony in any:

24 (A) Court in the State of Arkansas for which a pardon has
25 not been granted;

26 (B) Court in another state for which a pardon has not been
27 granted; or

28 (C) Military or federal court for which a pardon has not
29 been granted; or

30 (3) Has committed any act which if committed by a licensee would
31 be grounds for suspension or revocation of a license under this chapter.

32 ~~(b) The Arkansas Board of Private Investigators and Private Security~~
33 ~~Agencies~~ Department of Arkansas State Police shall not issue a security
34 officer commission to an applicant employed by a licensee or the security
35 department of a private business or school unless the applicant submits
36 evidence satisfactory to the ~~board~~ department that he or she meets all

1 qualifications established by this chapter and by the rules of the ~~board~~
2 department.

3
4 17-40-338. Commission – Armored car company employees.

5 (a) ~~With the concurrence of the Department of Arkansas State Police,~~
6 ~~the Arkansas Board of Private Investigators and Private Security Agencies~~ The
7 Department of Arkansas State Police shall issue a security officer commission
8 to a qualified employee of an armored car company that is a carrier that has
9 a permit from the proper federal or state regulatory authority to conduct the
10 armored car business in accordance with the permit or certificate.

11 (b) A security officer commission issued to an employee of an armored
12 car company shall be broad enough in its geographical scope to cover the
13 county or counties in this state in which the armored car company has a
14 permit or certificate to conduct its business.

15
16 17-40-339. Commission – Processing of applications.

17 (a) ~~The Arkansas Board of Private Investigators and Private Security~~
18 ~~Agencies~~ Department of Arkansas State Police shall send a copy of each
19 application for a security officer commission to the sheriff of the county
20 and the chief of police of the principal city of the county in which the
21 applicant resides.

22 (b) A sheriff or chief of police who wishes to object to the issuance
23 of a security officer commission to a particular applicant may do so by
24 mailing or otherwise delivering, within twenty (20) days after the date the
25 notice was mailed to him or her, a written statement of his or her objection
26 and his or her reasons to the ~~board~~ department.

27 (c) In its discretion, the ~~board~~ department may set the matter for a
28 hearing if an objection is timely filed.

29
30 17-40-340. Commission – Issuance of identification card.

31 (a) Each security officer commission issued under this section shall
32 be in the form of an identification card designed by the ~~Arkansas Board of~~
33 ~~Private Investigators and Private Security Agencies~~ Department of Arkansas
34 State Police and shall identify the licensee and the security department of a
35 private business or school by whom the holder of the security officer
36 commission is employed.

1 (b) No charge shall be imposed for the identification card.

2
3 17-40-342. Commission – Termination.

4 If the holder of a license, registration, or commission terminates his
5 or her employment with the licensee or the security department of a private
6 business or school, he or she shall return the identification card to the
7 ~~Arkansas Board of Private Investigators and Private Security Agencies~~
8 Department of Arkansas State Police within seven (7) days of the date of
9 termination of the employment.

10
11 17-40-343. Commission – Expiration.

12 A security officer commission expires two (2) years after the date it
13 is issued.

14
15 17-40-344. Commission – Suspension or denial.

16 The ~~Administrator of the Arkansas Board of Private Investigators and~~
17 ~~Private Security Agencies~~ administrator may suspend or deny a security
18 officer commission if the holder or applicant is indicted or arrested for a
19 felony, a Class A misdemeanor, a crime involving an act of violence, or a
20 crime involving moral turpitude.

21
22 17-40-350. License, registration, or commission – Grounds for
23 disciplinary action.

24 (a) The ~~Arkansas Board of Private Investigators and Private Security~~
25 ~~Agencies~~ Department of Arkansas State Police may revoke, place on probation,
26 or suspend any registration, license, or security officer commission and may
27 either fine in an amount not to exceed one thousand dollars (\$1,000) for each
28 violation of this chapter or reprimand any registrant, licensee, or
29 commissioned security officer, or both, or the ~~board~~ department may deny an
30 application for a registration, license, or security officer commission, or
31 renewal thereof, on proof that the applicant, licensee, commissioned security
32 officer, or registrant has:

33 (1) Violated any provision of this chapter or violated any of
34 the rules and regulations promulgated under this chapter;

35 (2) Been found guilty of or pleaded guilty or nolo contendere to
36 any:

1 (A) Felony, Class A misdemeanor, crime involving an act of
2 violence, or crime involving moral turpitude by any court in the State of
3 Arkansas for which a pardon has not been granted;

4 (B) Felony, Class A misdemeanor or an offense of a
5 comparable level, any crime involving an act of violence, or any crime
6 involving moral turpitude in any court in another state for which a pardon
7 has not been granted; or

8 (C) Felony, Class A misdemeanor or an offense of a
9 comparable level, any crime involving an act of violence, or any crime
10 involving moral turpitude in a military or federal court for which a pardon
11 has not been granted;

12 (3) Practiced fraud, deceit, or misrepresentation;

13 (4) Made a material misstatement in the application for or
14 renewal of a license, registration, or security officer commission; or

15 (5) Demonstrated incompetence or untrustworthiness in his or her
16 actions.

17 (b) ~~The Administrator of the Arkansas Board of Private Investigators~~
18 ~~and Private Security Agencies~~ administrator may summarily suspend, for no
19 more than sixty (60) days, any registration or commission if it is shown that
20 the health, safety, or welfare of the public is endangered.

21 (c)(1) The ~~board~~ department may suspend any registration, license, or
22 commission on conviction in this state or any other state or territory of the
23 United States or in any foreign country, of a felony, a Class A misdemeanor,
24 a crime involving an act of violence, or a crime involving an act of moral
25 turpitude for a period not exceeding sixty (60) days pending a hearing and a
26 determination of charges.

27 (2) If the licensee is a corporation, proof of actual
28 participation and knowledge on the part of the registrant is required.

29 (3) If the hearing is adjourned at the request of the registrant
30 or licensee, the suspension may be continued for the additional period of the
31 adjournment.

32
33 17-40-351. License, registration, or commission – Procedure for denial.

34 (a) ~~The Administrator of the Arkansas Board of Private Investigators~~
35 ~~and Private Security Agencies~~ administrator shall have the authority to deny
36 the issuance of a license, registration, or commission.

1 (b) He or she shall notify the applicant of his or her decision in
2 writing.

3 (c) The applicant may appeal the decision to the ~~Arkansas Board of~~
4 ~~Private Investigators and Private Security Agencies~~ Director of the
5 Department of Arkansas State Police, provided he or she perfects the appeal
6 within ten (10) days of his or her notice of rejection.

7 (d) The ~~board~~ director shall hear his or her appeal within sixty (60)
8 days.

9
10 17-40-352. License, registration, or commission – Record of denial,
11 revocation, or suspension.

12 (a) In the event that the ~~Arkansas Board of Private Investigators and~~
13 ~~Private Security Agencies~~ Department of Arkansas State Police denies the
14 application or revokes or suspends any license, security officer commission,
15 or registration, or imposes any reprimand or fine the ~~board's~~ department's
16 determination shall be in writing and officially signed.

17 (b)(1) The original copy of the determination, when signed, shall be
18 filed with the ~~board~~ department.

19 (2) Copies shall be mailed to the applicant, licensee,
20 commissioned security officer, or registrant and to the complainant within
21 two (2) days after the filing.

22
23 17-40-353. Reciprocity.

24 Any person who is licensed under the laws of another state or territory
25 of the United States as a security services contractor, private investigator,
26 or alarm systems company may apply for a license in this state upon
27 production of satisfactory proof that:

28 (1) The other state or territory grants similar reciprocity to license
29 holders of this state;

30 (2) The requirements for licensing in the particular state or
31 territory were at the date of the applicant's licensing substantially
32 equivalent to the requirements now in effect in this state;

33 (3) The applicant meets all the qualifications for the particular
34 license of § 17-40-306 and pays the fees specified for the particular license
35 in § 17-40-209; and

36 (4) The applicant meets other reasonable qualifications as may be

1 adopted by the ~~Arkansas Board of Private Investigators and Private Security~~
2 ~~Agencies~~ Department of Arkansas State Police for reciprocity.

3
4 17-40-354. Fingerprint cards.

5 The Identification Bureau of the Department of Arkansas State Police
6 may retain the fingerprint card collected for each individual who is
7 fingerprinted under this chapter.

8
9 17-40-355. School security license.

10 (a) The Director of the Department of Arkansas State Police may issue
11 a security guard license under § 17-40-309(b)(8) to a person who is employed
12 at a school and who will be engaged in ensuring school safety and emergency
13 response.

14 (b) In addition to any class or instruction required by the department
15 under this chapter, the following training is required for a license under §
16 17-40-309(b)(8):

17 (1) Fundamental use of firearms training, including firearm
18 safety drills, tactics, and required qualification on an approved course of
19 fire;

20 (2) Active shooter training;

21 (3) Active shooter simulation scenarios;

22 (4) Trauma care;

23 (5) Defensive tactics; and

24 (6) Weapon retention.

25 (c) A person may not be issued a school security license under this
26 subchapter if, as part of his or her employment, he or she is engaged in
27 classroom instruction at the school district, public charter school, or
28 private school where he or she is employed.

29
30
31 SECTION 9. EMERGENCY CLAUSE. It is found and determined by the
32 General Assembly of the State of Arkansas that the powers and duties of the
33 Arkansas Board of Private Investigators and Private Security Agencies can
34 easily be absorbed by the Department of Arkansas State Police; that the
35 transfer of the board's powers and duties to the department is economically
36 and administratively sound, as well as demonstrates good, efficient governing

1 of the State and the resources of its citizens; and that this act is
2 immediately necessary because the immediate transition of the duties and
3 powers of the board should occur immediately due to the number of licensees
4 affected by the licensing and administrative requirements. Therefore, an
5 emergency is declared to exist, and this act being immediately necessary for
6 the preservation of the public peace, health, and safety shall become
7 effective on:

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

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

12 (3) If the bill is vetoed by the Governor and the veto is
13 overridden, the date the last house overrides the veto."

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