

LEGISLATURE OF NEBRASKA
ONE HUNDRED FOURTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 254

Introduced by Morfeld, 46.

Read first time January 14, 2015

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to unsworn declarations; to amend section
- 2 28-915, Reissue Revised Statutes of Nebraska, and section 28-915.01,
- 3 Revised Statutes Cumulative Supplement, 2014; to adopt the Uniform
- 4 Unsworn Foreign Declarations Act; to change provisions relating to
- 5 perjury; to harmonize provisions; and to repeal the original
- 6 sections.
- 7 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 28-915, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 28-915 (1) A person is guilty of perjury, ~~a Class III felony,~~ if, in
4 any official proceeding, or in any unsworn declaration meeting the
5 requirements of the Uniform Unsworn Foreign Declarations Act, he or she
6 makes a false statement under oath or equivalent affirmation, or swears
7 or affirms the truth of a statement previously made, when the statement
8 is material and he or she does not believe it to be true. Perjury is a
9 Class III felony.

10 (2) A person is guilty of subornation of perjury, ~~a Class III~~
11 ~~felony,~~ if he or she persuades, procures, or suborns any other person to
12 commit perjury. Subornation of perjury is a Class III felony.

13 (3) A falsification shall be material, regardless of the
14 admissibility of the statement under rules of evidence, if it could have
15 affected the course or outcome of the proceeding. It shall not be a
16 defense that the declarant mistakenly believed the falsification to be
17 immaterial. Whether a falsification is material in a given factual
18 situation shall be a question of law.

19 (4) It shall not be a defense to prosecution under this section that
20 the oath or affirmation was administered or taken in an irregular manner
21 or that the declarant was not competent to make the statement. A document
22 purporting to be made upon oath or affirmation at any time when the actor
23 presents it as being so verified, or any unsworn declaration meeting the
24 requirements of the Uniform Unsworn Foreign Declarations Act, shall be
25 deemed to have been duly sworn or affirmed.

26 (5) No person shall be guilty of an offense under this section if he
27 or she retracted the falsification in the course of the proceeding in
28 which it was made before it became manifest that the falsification was or
29 would be exposed and before the falsification substantially affected the
30 proceeding.

31 (6) When the defendant made inconsistent statements under oath or

1 equivalent affirmation, both having been made within the period of the
2 statute of limitations, the prosecution may proceed by setting forth the
3 inconsistent statements in a single count alleging in the alternative
4 that one or the other was false and not believed by the defendant. In
5 such case it shall not be necessary for the prosecution to prove which
6 statement was false but only that one or the other was false and not
7 believed by the defendant to be true.

8 (7) No person shall be convicted of an offense under this section
9 when proof of falsity rests solely upon contradiction by testimony of a
10 single person other than the defendant.

11 Sec. 2. Section 28-915.01, Revised Statutes Cumulative Supplement,
12 2014, is amended to read:

13 28-915.01 (1) A person who makes a false statement under oath or
14 equivalent affirmation, or swears or affirms the truth of such a
15 statement previously made, including an oath or affirmation made that
16 meets the requirements of the Uniform Unsworn Foreign Declarations Act,
17 when he or she does not believe the statement to be true, is guilty of a
18 Class I misdemeanor if the falsification:

19 (a) Occurs in an official proceeding; or

20 (b) Is intended to mislead a public servant in performing his or her
21 official function.

22 (2) A person who makes a false statement under oath or equivalent
23 affirmation, or swears or affirms the truth of such a statement
24 previously made, including an oath or affirmation made that meets the
25 requirements of the Uniform Unsworn Foreign Declarations Act, when he or
26 she does not believe the statement to be true, is guilty of a Class II
27 misdemeanor if the statement is one which is required by law to be sworn
28 or affirmed before a notary or other person authorized to administer
29 oaths.

30 (3) Subsections (4) through (7) of section 28-915 shall apply to
31 subsections (1) and (2) of this section.

1 (4) This section shall not apply to reports, statements, affidavits,
2 or other documents made or filed pursuant to the Nebraska Political
3 Accountability and Disclosure Act.

4 Sec. 3. Sections 3 to 10 of this act shall be known and may be
5 cited as the Uniform Unsworn Foreign Declarations Act.

6 Sec. 4. In the Uniform Unsworn Foreign Declarations Act:

7 (1) Boundaries of the United States means the geographic boundaries
8 of the United States, Puerto Rico, the United States Virgin Islands, and
9 any territory or insular possession subject to the jurisdiction of the
10 United States.

11 (2) Law includes the federal or a state constitution, a federal or
12 state statute, a judicial decision or order, a rule of court, an
13 executive order, and an administrative rule, regulation, or order.

14 (3) Record means information that is inscribed on a tangible medium
15 or that is stored in an electronic or other medium and is retrievable in
16 perceivable form.

17 (4) Sign means, with present intent to authenticate or adopt a
18 record:

19 (A) to execute or adopt a tangible symbol; or

20 (B) to attach to or logically associate with the record an
21 electronic symbol, sound, or process.

22 (5) State means a state of the United States, the District of
23 Columbia, Puerto Rico, the United States Virgin Islands, or any territory
24 or insular possession subject to the jurisdiction of the United States.

25 (6) Sworn declaration means a declaration in a signed record given
26 under oath. The term includes a sworn statement, verification,
27 certificate, and affidavit.

28 (7) Unsworn declaration means a declaration in a signed record that
29 is not given under oath, but is given under penalty of perjury.

30 Sec. 5. The Uniform Unsworn Foreign Declarations Act applies to an
31 unsworn declaration by a declarant who at the time of making the

