

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
FIRST SESSION

LEGISLATIVE BILL 50

Introduced by Groene, 42.

Read first time January 07, 2021

Committee: Judiciary

1 A BILL FOR AN ACT relating to the Licensing of Truth and Deception
2 Examiners Act; to amend sections 81-1902, 81-1903, 81-1910, 81-1914,
3 81-1915, 81-1916, 81-1917, 81-1918, 81-1919, 81-1923, 81-1924,
4 81-1925, 81-1928, 81-1930, 81-1934, 81-1935, and 81-1936, Reissue
5 Revised Statutes of Nebraska; to change provisions relating to voice
6 analysis examiners and voice stress analyzers; to harmonize
7 provisions; and to repeal the original sections.
8 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 81-1902, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1902 It is the purpose of the Licensing of Truth and Deception
4 Examiners Act ~~sections 81-1901 to 81-1936~~ to regulate all persons who
5 purport to be able to detect deception or to verify truth of statements
6 through the use of instrumentation, such as lie detectors, polygraphs,
7 deceptographs, psychological stress evaluators, or voice stress
8 analyzers. The act ~~Sections 81-1901 to 81-1936~~ shall be liberally
9 construed to regulate all such persons using such instruments. No person
10 who purports to be able to detect deception or to verify the truth of
11 statements through instrumentation shall be exempt from the act ~~sections~~
12 ~~81-1901 to 81-1936~~ because of the terminology which he or she may use to
13 refer to himself or herself, to an instrument used, or to services
14 provided. The act ~~Sections 81-1901 to 81-1936~~ shall not be interpreted to
15 prohibit the legitimate use of any of the instruments listed in this
16 section for research purposes.

17 Sec. 2. Section 81-1903, Reissue Revised Statutes of Nebraska, is
18 amended to read:

19 81-1903 For the purpose of the Licensing of Truth and Deception
20 Examiners Act ~~sections 81-1901 to 81-1936~~, unless the context otherwise
21 requires, the definitions found in sections 81-1904 to 81-1913 shall be
22 used.

23 Sec. 3. Section 81-1910, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-1910 Voice analysis examiner shall mean any person, ~~other than an~~
26 ~~intern~~, who uses an instrument capable of permanently recording on a
27 graph one or more psychophysiological reactions present in the voice of
28 an examinee for the purpose of attempting to determine truth or
29 deception.

30 Sec. 4. Section 81-1914, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 81-1914 No person shall, after January 1, 1981, by any means, use or
2 attempt to use any instrument or device for the purpose of attempting to
3 verify truthfulness or detect deception, or reporting or assisting in the
4 reporting of a diagnostic opinion regarding such truthfulness or
5 deception unless such person is duly licensed and holds a valid license
6 under the Licensing of Truth and Deception Examiners Act ~~sections 81-1901~~
7 ~~to 81-1936~~. No person shall falsely represent that he or she is employed
8 by or represents a person licensed under the act ~~sections 81-1901 to~~
9 ~~81-1936~~.

10 Sec. 5. Section 81-1915, Reissue Revised Statutes of Nebraska, is
11 amended to read:

12 81-1915 A person, including a municipal, county, or state employee,
13 who wishes to engage in the use of instrumentation which is designed to
14 attempt to detect truth or deception and any other person desiring to be
15 licensed under the Licensing of Truth and Deception Examiners Act
16 ~~sections 81-1901 to 81-1936~~ shall file an application for a license with
17 the Secretary of State. If the applicant is an individual, the
18 application shall include the applicant's social security number. The
19 Secretary of State shall issue a nontransferable license to each
20 qualified applicant. Such license shall authorize the holder to engage in
21 the use of instrumentation designed to detect truth or deception and each
22 license shall specify the instrument the holder is licensed to operate.

23 Sec. 6. Section 81-1916, Reissue Revised Statutes of Nebraska, is
24 amended to read:

25 81-1916 (1) Each applicant for a truth and deception examiner's
26 license to operate a polygraph instrument shall submit to the Secretary
27 of State a sworn affidavit that the applicant:

28 (a) Is at least nineteen years of age;

29 (b) Is a citizen of the United States and a resident of the State of
30 Nebraska;

31 (c) Has not been under sentence for the commission of a felony

1 within five years prior to such application, including parole, probation,
2 or actual incarceration, and has never been convicted of a felony or a
3 misdemeanor involving moral turpitude;

4 (d) Has an academic degree at the baccalaureate level from an
5 accredited college or university, has at least four years of
6 investigative experience at the federal, state, political subdivision, or
7 private licensed investigator level immediately prior to application, or
8 has had at least four years experience administering polygraph
9 examinations;

10 (e) Has satisfactorily completed a minimum of two hundred fifty
11 classroom hours of formal polygraph instructions from an institution
12 recognized and approved by the secretary and satisfactorily completed not
13 less than one year of internship training or its equivalent as approved
14 by the secretary; and

15 (f) Has not previously had an examiner's license or its equivalent
16 refused, revoked, or suspended, or otherwise invalidated for any cause
17 which would also represent lawful grounds for revoking or denying the
18 applicant's license under the Licensing of Truth and Deception Examiners
19 Act sections 81-1901 to 81-1936.

20 (2) Each applicant shall also:

21 (a) Furnish the secretary with satisfactory proof that he or she has
22 had suitable experience in the personal administration of polygraph
23 examinations during his or her internship or its equivalent;

24 (b) Furnish the secretary with completed fingerprint cards, in
25 duplicate, bearing the applicant's fingerprints and such other
26 identifying information or certification as to the authenticity thereof
27 as the secretary may reasonably require; and

28 (c) After satisfying all of the other requirements of this section,
29 be required to satisfactorily pass a written examination regarding the
30 polygraph, conducted by the secretary or under his or her supervision,
31 given to determine competency to practice as an examiner.

1 Sec. 7. Section 81-1917, Reissue Revised Statutes of Nebraska, is
2 amended to read:

3 81-1917 (1) Each applicant for a truth and deception examiner's
4 license to operate a voice stress analyzer ~~analysis instrument~~ shall
5 submit to the Secretary of State a sworn affidavit that the applicant:

6 (a) Is at least nineteen years of age;

7 (b) Is a citizen of the United States and a resident of the State of
8 Nebraska;

9 (c) Has not been under sentence for the commission of a felony
10 within five years prior to application, including parole, probation, or
11 actual incarceration, and has never been convicted of a felony or a
12 misdemeanor involving moral turpitude;

13 (d) Is a certified law enforcement officer who ~~Has an academic~~
14 ~~degree at the baccalaureate level from an accredited college or~~
15 ~~university,~~ has at least four years of investigative experience at the
16 federal, state, political subdivision, or private licensed investigator
17 level immediately prior to application, or has had at least four years
18 experience administering voice stress examinations;

19 (e) Has satisfactorily completed a minimum of sixty classroom hours
20 of formal voice stress analysis instruction recognized and approved by
21 the secretary ~~and has satisfactorily completed at least one year of~~
22 ~~internship training or its equivalent as approved by the secretary;~~ and

23 (f) Has not previously had an examiner's license or its equivalent
24 refused or revoked, or otherwise invalidated for cause duly shown which
25 would also represent lawful grounds for revoking or denying the
26 applicant's license under the Licensing of Truth and Deception Examiners
27 Act.

28 (2) Each applicant shall also:

29 (a) Provide the secretary with proof that the applicant has
30 completed a course of study at a training facility approved pursuant to
31 subdivision (e) of subsection (1) of this section;

1 (b) Furnish the secretary with satisfactory proof that the applicant
2 ~~he or she~~ has had suitable experience in the personal administration of
3 voice stress analysis examinations during the applicant's ~~his or her~~
4 training course;

5 (c) Furnish the secretary with completed fingerprint cards, in
6 duplicate, bearing the applicant's fingerprints and such other
7 identifying information or certification as to the authenticity thereof
8 as the secretary may reasonably require; and

9 (d) After satisfying all of the other requirements of this section,
10 be required to satisfactorily pass a written examination regarding ~~the~~
11 voice stress analyzers ~~analysis instruments~~, conducted by the secretary
12 or under the secretary's ~~his or her~~ supervision, given to determine
13 competency to practice as an examiner.

14 Sec. 8. Section 81-1918, Reissue Revised Statutes of Nebraska, is
15 amended to read:

16 81-1918 For purposes of sections 81-1916 and 81-1917, the secretary
17 shall accept as proof of completion of a course of study or training a
18 copy of a diploma or certificate attesting to the applicant's completion
19 of a training course at an approved or certified training facility or
20 institution, including, but not limited to, those training facilities or
21 institutions which have been certified by (1) the American Polygraph
22 Association as a course of study and training in the use of the polygraph
23 instrument or (2) the National Institute for Truth Verification and the
24 National Association of Computer Voice Stress Analysts as a course of
25 study and training in the use of voice stress analyzers ~~instruments~~.

26 Sec. 9. Section 81-1919, Reissue Revised Statutes of Nebraska, is
27 amended to read:

28 81-1919 A person may apply for and receive an intern's license
29 authorizing such person to use a polygraph ~~or voice analysis instrument~~
30 if such person is in compliance with subdivisions (1)(a), (1)(b), (1)(c),
31 (1)(e), (1)(f), and (2)(b) of section 81-1916 ~~or subdivisions (1)(a), (1)~~

1 ~~(b), (1)(c), (1)(e), (1)(f), and (2)(c) of section 81-1917 respectively.~~
2 A person shall apply for an intern's license ten days prior to the
3 commencement of such person's ~~his or her~~ internship.

4 Sec. 10. Section 81-1923, Reissue Revised Statutes of Nebraska, is
5 amended to read:

6 81-1923 A license issued pursuant to the Licensing of Truth and
7 Deception Examiners Act ~~sections 81-1901 to 81-1936~~ shall not be
8 assignable or transferable.

9 Sec. 11. Section 81-1924, Reissue Revised Statutes of Nebraska, is
10 amended to read:

11 81-1924 A license issued under the Licensing of Truth and Deception
12 Examiners Act ~~sections 81-1901 to 81-1936~~ is the property of the state
13 and shall be loaned to the licensee. A license or duplicate license shall
14 be prominently displayed at each place of business of every examiner and
15 the address of the licensee's place of business shall appear on the face
16 of the license. The fee for a duplicate license is ten dollars.

17 If a licensee maintains more than one place of business, the
18 licensee shall obtain a duplicate license from the secretary with the
19 address of the additional business location appearing on the face of the
20 duplicate license. The duplicate license must be prominently displayed at
21 the address indicated on the face of the license. This section is not to
22 be interpreted as prohibiting a truth and deception examiner from
23 administering examinations at locations other than that prescribed on the
24 license.

25 Sec. 12. Section 81-1925, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-1925 The revenue derived from all licenses issued pursuant to the
28 Licensing of Truth and Deception Examiners Act ~~sections 81-1901 to~~
29 ~~81-1936~~ shall be placed in the General Fund.

30 Sec. 13. Section 81-1928, Reissue Revised Statutes of Nebraska, is
31 amended to read:

1 81-1928 The secretary may deny, suspend, or revoke any license,
2 after a hearing held in accordance with the Administrative Procedure Act,
3 for any one or more of the following grounds:

4 (1) Failure to inform a subject to be examined as to the nature of
5 the examination;

6 (2) Failure to inform a subject to be examined that participation is
7 voluntary;

8 (3) Asking questions during a polygraph or voice stress analysis
9 examination regarding the examinee's sexual practices, labor union,
10 political or religious affiliations, or marital relationship, except when
11 such questions have a bearing on the areas or issues under examination;

12 (4) Material misstatement in the application for the original
13 license or in the application for any renewal of license under the
14 Licensing of Truth and Deception Examiners Act ~~sections 81-1901 to~~
15 ~~81-1936~~;

16 (5) Willful disregard or violation of the act ~~sections 81-1901 to~~
17 ~~81-1936~~ or any regulation or rule issued pursuant thereto including, but
18 not limited to, willfully making a false report concerning an examination
19 for polygraph or voice stress analysis examination purposes;

20 (6) Conviction of professionally related felony or any crime
21 involving moral turpitude including, but not limited to, dishonesty,
22 fraud, or unauthorized divulging or selling of information or evidence;

23 (7) Making any willful misrepresentation or false promise or causing
24 to be printed any false or misleading advertisement for the purpose of
25 directly or indirectly obtaining business or interns;

26 (8) Having demonstrated incompetency to act as a polygraph or voice
27 analysis ~~stress~~ examiner;

28 (9) Allowing a license under the act ~~sections 81-1901 to 81-1936~~ to
29 be used by any unlicensed person in violation of the provisions of
30 sections 81-1901 to 81-1936;

31 (10) Willfully aiding or abetting another in the violation of the

1 ~~act sections 81-1901 to 81-1936~~ or any rule or regulation issued pursuant
2 thereto;

3 (11) Adjudication of mental illness;

4 (12) Failure, within a reasonable time, to provide information
5 requested by the secretary as a result of a formal complaint in writing
6 to the secretary or as a result of substantive information otherwise
7 received by the secretary which would reasonably indicate a violation of
8 ~~the act sections 81-1901 to 81-1936~~ or any rule or regulation issued
9 pursuant thereto; or

10 (13) Failing to inform the subject of the results of the examination
11 if so required.

12 A license that is suspended shall be suspended for a definite period
13 of time, not to exceed a period of two years. If a license is revoked it
14 shall be revoked for not less than two years except as otherwise provided
15 for in section 81-1921. Any person who has had his or her license revoked
16 for cause may, after a period of two years, reapply to the board for
17 reinstatement.

18 Sec. 14. Section 81-1930, Reissue Revised Statutes of Nebraska, is
19 amended to read:

20 81-1930 Obtaining a license under the Licensing of Truth and
21 Deception Examiners Act ~~sections 81-1901 to 81-1936~~ shall constitute
22 sufficient contact with this state for the exercise of personal
23 jurisdiction over such licensee in any action arising out of the
24 licensee's activity in this state.

25 Sec. 15. Section 81-1934, Reissue Revised Statutes of Nebraska, is
26 amended to read:

27 81-1934 The secretary shall adopt and promulgate any rules and
28 regulations and provide such forms as are necessary to carry out the
29 Licensing of Truth and Deception Examiners Act ~~sections 81-1901 to~~
30 ~~81-1936~~.

31 Sec. 16. Section 81-1935, Reissue Revised Statutes of Nebraska, is

1 amended to read:

2 81-1935 Except as provided in section 81-1932, any person who
3 violates the provisions of the Licensing of Truth and Deception Examiners
4 Act ~~sections 81-1901 to 81-1936~~ or who falsely states or represents that
5 he or she is or has been an examiner or intern shall be guilty of a Class
6 II misdemeanor.

7 Sec. 17. Section 81-1936, Reissue Revised Statutes of Nebraska, is
8 amended to read:

9 81-1936 An applicant who is a truth and deception examiner licensed
10 under laws of another state or territory of the United States may be
11 issued an appropriate license by the secretary without examination if the
12 secretary, in his or her discretion, determines the applicant has
13 produced satisfactory proof that:

14 (1) He or she is at least nineteen years of age;

15 (2) He or she is of good moral character;

16 (3) The requirements for licensing of a truth and deception examiner
17 in such state or territory of the United States were at the date of the
18 applicant's licensing therein substantially equivalent to the
19 requirements of the Licensing of Truth and Deception Examiners Act
20 ~~sections 81-1901 to 81-1936~~;

21 (4) The applicant has lawfully engaged in the administration of
22 truth and deception examinations under the laws of such state or
23 territory for at least six months prior to the application for license;

24 (5) The other state or territory grants similar reciprocity to the
25 license holders of this state;

26 (6) The applicant has complied with section 81-1930; and

27 (7) The applicant has paid the required fee.

28 Sec. 18. Original sections 81-1902, 81-1903, 81-1910, 81-1914,
29 81-1915, 81-1916, 81-1917, 81-1918, 81-1919, 81-1923, 81-1924, 81-1925,
30 81-1928, 81-1930, 81-1934, 81-1935, and 81-1936, Reissue Revised Statutes
31 of Nebraska, are repealed.