

1                                   **DECEPTION DETECTION EXAMINERS**  
2                                   **LICENSING ACT AMENDMENTS**

3                                   2008 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Chief Sponsor: Roger E. Barrus**

6                                   Senate Sponsor: Scott K. Jenkins

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8   **LONG TITLE**

9   **General Description:**

10           This bill amends the Deception Detection Examiners Licensing Act as it relates to  
11 supervision of deception detection interns and background checks of applicants.

12   **Highlighted Provisions:**

13           This bill:

- 14           ▶ provides that supervision of a deception detection intern is not required to be done  
15 directly;
- 16           ▶ provides for a criminal background check of a person who applies for a license as a  
17 deception detection examiner or a deception detection intern; and
- 18           ▶ makes technical changes.

19   **Monies Appropriated in this Bill:**

20           None

21   **Other Special Clauses:**

22           None

23   **Utah Code Sections Affected:**

24   AMENDS:

25           **58-1-301.5**, as enacted by Laws of Utah 2002, Chapter 214

26           **58-64-102**, as enacted by Laws of Utah 1995, Chapter 215

27           **58-64-302**, as enacted by Laws of Utah 1995, Chapter 215

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29   *Be it enacted by the Legislature of the state of Utah:*

30 Section 1. Section **58-1-301.5** is amended to read:

31 **58-1-301.5. Division access to Bureau of Criminal Identification records.**

32 (1) The division shall have direct access to criminal background information maintained  
33 by the Bureau of Criminal Identification under Title 53, Chapter 10, Part 2, Bureau of Criminal  
34 Identification, for background screening of licensure applicants as required in:

- 35 (a) Section 58-31b-302 of Title 58, Chapter 31b, Nurse Practice Act;
- 36 (b) Section 58-47b-302 of Title 58, Chapter 47b, Massage Therapy Practice Act;
- 37 (c) Section 58-55-302 of Title 58, Chapter 55, Utah Construction Trades Licensing  
38 Act, as it applies to alarm companies and alarm company agents; [~~and~~]
- 39 (d) Section 58-63-302 of Title 58, Chapter 63, Security Personnel Licensing Act[-]; and
- 40 (e) Section 58-64-302 of Title 58, Chapter 64, Deception Detection Examiners  
41 Licensing Act.

42 (2) The division access under Subsection (1) shall be in accordance with Section  
43 53-10-108.

44 Section 2. Section **58-64-102** is amended to read:

45 **58-64-102. Definitions.**

46 In addition to the definitions in Section 58-1-102, as used in this chapter:

- 47 (1) "Board" means the Deception Detection Examiners Board created in Section  
48 58-64-201.
- 49 (2) "Deception detection examination" means the use of an instrument on an individual  
50 for the purpose of detecting whether that individual is engaged in deception.
- 51 (3) "Deception detection examiner" means an individual who engages in or represents  
52 that the individual is engaged in conducting or performing deception detection examinations or  
53 in the interpretation of deception detection examinations.
- 54 (4) "Deception detection intern" means an individual who engages in deception  
55 detection examinations under the [~~direct~~] supervision and control of a deception detection  
56 examiner for the purpose of training and qualification as a deception detection examiner.
- 57 (5) "Instrument" means a polygraph, voice stress analyzer, or any other device that

58 records the examinee's cardiovascular patterns, respiratory patterns, galvanic skin response, or  
59 other physiologic characteristics of the examinee for the purpose of monitoring factors relating  
60 to whether the examinee is truthful or engaged in deception.

61 (6) "Unlawful conduct" is as defined in Sections 58-1-501 and 58-64-501.

62 (7) "Unprofessional conduct" is as defined in Sections 58-1-501 and 58-64-502 and as  
63 may be further defined by rule.

64 Section 3. Section **58-64-302** is amended to read:

65 **58-64-302. Qualifications for licensure.**

66 (1) Each applicant for licensure as a deception detection examiner shall:

67 (a) submit an application in a form prescribed by the division;

68 (b) pay a fee determined by the department under Section 63-38-3.2;

69 (c) be of good moral character in that the applicant has not been convicted of a felony,  
70 a misdemeanor involving moral turpitude, or any other crime which when considered with the  
71 duties and responsibilities of a deception detection examiner is considered by the division and  
72 the board to indicate that the best interests of the public will not be served by granting the  
73 applicant a license;

74 (d) not have been declared by any court of competent jurisdiction incompetent by  
75 reason of mental defect or disease and not been restored;

76 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
77 dependence;

78 (f) have completed one of the following:

79 (i) have earned a bachelor's degree from a four year university or college meeting  
80 standards established by the division by rule in collaboration with the board;

81 (ii) have completed not less than 8,000 hours of investigation experience approved by  
82 the division in collaboration with the board; or

83 (iii) have completed a combination of university or college education and investigation  
84 experience, as defined by rule by the division in collaboration with the board as being equivalent  
85 to the requirements under Subsection (1)(f)(i) or (1)(f)(ii);

86 (g) have successfully completed a training program in detection deception meeting  
87 criteria established by rule by the division in collaboration with the board; and

88 (h) have performed satisfactorily as a licensed deception detection intern for a period of  
89 not less than one year and shall have satisfactorily conducted not less than 100 deception  
90 detection examinations under the [~~direct~~] supervision of a licensed deception detection  
91 examiner.

92 (2) Each applicant for licensure as a deception detection intern shall:

93 (a) submit an application in a form prescribed by the division;

94 (b) pay a fee determined by the department under Section 63-38-3.2;

95 (c) be of good moral character in that the applicant has not been convicted of a felony,  
96 a misdemeanor involving moral turpitude, or any other crime which when considered with the  
97 duties and responsibilities of a deception detection intern is considered by the division and the  
98 board to indicate that the best interests of the public will not be served by granting the applicant  
99 a license;

100 (d) not have been declared by any court of competent jurisdiction incompetent by  
101 reason of mental defect or disease and not been restored;

102 (e) may not be currently suffering from habitual drunkenness or from drug addiction or  
103 dependence;

104 (f) have completed one of the following:

105 (i) have earned a bachelor's degree from a four year university or college meeting  
106 standards established by the division by rule in collaboration with the board;

107 (ii) have completed not less than 8,000 hours of investigation experience approved by  
108 the division in collaboration with the board; or

109 (iii) have completed a combination of university or college education and investigation  
110 experience, as defined by rule by the division in collaboration with the board as being equivalent  
111 to the requirements under Subsection (2)(f)(i) or (2)(f)(ii);

112 (g) have successfully completed a training program in detection deception meeting  
113 criteria established by rule by the division in collaboration with the board; and

114 (h) provide the division with an intern supervision agreement in a form prescribed by  
115 the division under which:

- 116 (i) a licensed deception detection examiner agrees to [~~directly~~] supervise the intern; and
- 117 (ii) the applicant agrees to be [~~directly~~] supervised by that licensed deception detection  
118 examiner.

119 (3) To determine if an applicant meets the qualifications of Subsection (1)(c) or (2)(c),  
120 the division shall provide an appropriate number of copies of fingerprint cards to the  
121 Department of Public Safety with the division's request to:

122 (a) conduct a search of records of the Department of Public Safety for criminal history  
123 information relating to each applicant for licensure under this chapter; and

124 (b) forward to the Federal Bureau of Investigation a fingerprint card of each applicant  
125 requiring a check of records of the F.B.I. for criminal history information under this section.

126 (4) The Department of Public Safety shall send to the division:

127 (a) a written record of criminal history, or certification of no criminal history record, as  
128 contained in the records of the Department of Public Safety in a timely manner after receipt of a  
129 fingerprint card from the division and a request for review of Department of Public Safety  
130 records; and

131 (b) the results of the F.B.I. review concerning an applicant in a timely manner after  
132 receipt of information from the F.B.I.

133 (5) (a) The division shall charge each applicant a fee, in accordance with Section  
134 63-38-3.2, equal to the cost of performing the records reviews under this section.

135 (b) The division shall pay the Department of Public Safety the costs of all records  
136 reviews, and the Department of Public Safety shall pay the F.B.I. the costs of records reviews  
137 under this chapter.

138 (6) Information obtained by the division from the reviews of criminal history records of  
139 the Department of Public Safety and the F.B.I. shall be used or disseminated by the division only  
140 for the purpose of determining if an applicant for licensure under this chapter is qualified for  
141 licensure.

