

Approve _____

Date

2/16/88

MINUTES OF THE SENATE COMMITTEE ON FEDERAL AND STATE AFFAIRS

The meeting was called to order by Senator Bill Morris at
Chairperson

11:00 a.m./~~pm~~ on February 4, 1988 in room 254-E of the Capitol.

All members were present except:

Senator Reilly, Senator Anderson, and Senator Daniels were excused.

Committee staff present:

Mary Galligan, Legislative Research
Mary Torrence, Assistant Revisor of Statutes
June Windscheffel, Committee Secretary

Conferees appearing before the committee:

Ms. Mary Beth Mudrick, Assistant Attorney General, Executive Director,
Kansas Board of Polygraphists
Representative Nancy Brown

Senator Morris, Vice-Chairperson, called the meeting to order in the absence of the Chairman who was away on business.

The Minutes of the Meeting of February 3, 1988, were before the Committee. Senator Arasmith moved they be approved. The motion was seconded by Senator Strick. The motion carried.

The bill for hearing by the Committee was SB479, concerning exempting polygraphists as private investigators.

The first conferee was Ms. Mary Beth Mudrick, Assistant Attorney General, Executive Director of the Kansas Board of Polygraphists, who testified on behalf of the Board of Polygraphists and the Attorney General's office. Ms. Mudrick testified that the bill had been proposed by the Joint Committee on Rules and Regulations following a hearing on the proposed administrative rules and regulations of the Board of Polygraphists. A copy of the information presented to the Committee by Ms. Mudrick is attached. (Attachment #1) Passage of SB479 would exempt polygraphists from the licensing requirements of the private investigator licensing act at a time when they are not subject to any other licensing requirements.

Ms. Mudrick distributed copies of two proposals for amending the statutes. (Attachment #2 and Attachment #3)

Ms. Mudrick said they had discussed with Representative Nancy Brown, sponsor of the polygraphist licensing act passed last session, the need for submitting both proposals to an interim session to review in 1988.

Representative Brown appeared before the Committee to express her desire that an interim study be made of the two proposals. She said she would not like to abolish or repeal this bill at this time. The people still want it.

The Chairman thanked both conferees for appearing and stated that no action on the matter would be taken at this time.

The meeting was adjourned.

SUMMARY OF TESTIMONY ON SENATE BILL 479
BY MARY BETH MUDRICK BEFORE THE SENATE
COMMITTEE ON FEDERAL AND STATE AFFAIRS

THURSDAY, FEBRUARY 4, 1988

Mary Beth Mudrick, Assistant Attorney General, Executive Director of the Kansas Board of Polygraphists, testified on behalf of the Board of Polygraphists and the Attorney General's office.

Mary Beth Mudrick testified that Senate Bill 479 had been proposed by the Joint Committee on Rules and Regulations following a hearing on the proposed administrative rules and regulations of the Board of Polygraphists. At that hearing, the Joint Committee became aware of an Attorney General's opinion stating that polygraphists must be licensed as private investigators. If polygraphists were licensed by the Board of Polygraphists, as required by K.S.A. 1987 Supp. 75-740, et seq. adopted last session, they would, in fact, be subject to dual licensure requirements. Senate Bill 479 would solve that problem.

However, Ms. Mudrick informed the committee that due to problems with the existing polygraphist licensing laws (K.S.A. 1987 Supp. 75-740, et seq.) the Board is not currently able to license polygraphists.

Therefore, passage of Senate Bill 479 would exempt polygraphists from the licensing requirements of the private investigator licensing act at a time when they are not subject to any other licensing requirements.

Ms. Mudrick provided the committee with copies of the two proposals. The first proposal amends K.S.A. 1987 Supp. 75-740 et seq., the polygraphist licensing act. This proposal was drafted by the Board of Polygraphists.

The second proposal amends K.S.A. 75-7b01 et seq., the private detective licensing act. The amendments create the Board of Investigative Professions and bring both private investigators and polygraphists under the supervision of the new board. The Attorney General's office and the Board of Polygraphists jointly drafted this proposal.

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Mary Beth Mudrick stated the Board discussed with Rep. Nancy Brown, sponsor of the polygraphist licensing act passed last session, the need for submitting both proposals to an interim session for review in the summer of 1988. Ms. Mudrick stated there is a possibility that proponents of the use of psychological stress evaluators (P.S.E.s) may seek to be included in these proposals.

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Attachment #2

AN ACT concerning polygraphists; providing for the licensure and regulation thereof; establishing the Kansas board of polygraphists, amending K.S.A. 1987 Supp. 75-740, 75-741, 75-742 and 75-744 through 75-748..

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 1987 Supp. 75-740 is hereby amended to read as follows: 75-750. As used in this act:

- (a) "Board" means the Kansas board of polygraphists.
- (b) "Intern" means a person licensed by the board to conduct polygraph examinations as a trainee.
- (c) "Person" means any natural person, firm, association, partnership, corporation, government agency or subdivision, or any employee or agent thereof.
- (d) "Polygraph" means any mechanical or electronic instrument or device, regardless of the name or design of the instrument or device, that is capable of simultaneously measuring and permanently recording at least:
 - (1) Cardiovascular reactions;
 - (2) respirations; and
 - (3) electrodermal response,which is used to test or question individuals to determine the truthfulness of the individual's responses.
- (e) "Polygraphists" means a person licensed by the board to conduct polygraph examinations.

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(f) "Polygraph examination" means the procedure by which a polygraphist renders an opinion, using instrumentation described, as to the veracity of statements made by the person being examined. At a minimum, an examination consists of:

- (1) The pre-test interview;
- (2) chart production and analysis; and
- (3) the post-test interview, if a post test interview is done.

Sec. 2. K.S.A. 1987 Supp. 75-741 is hereby amended to read as follows: 75-741. (a) There is hereby established, under the jurisdiction of the attorney general, the Kansas board of polygraphists.

(b) The board shall consist of five members to be appointed by the attorney general. No person shall be eligible for appointment as a member of the board unless such person is a citizen of the United States and is, and has been for a minimum of one year immediately preceding the appointment, a resident of Kansas.

(c) Four members of the board shall be licensed polygraphists. ~~each of whom shall have personally conducted at least 500 polygraph examinations during the five years immediately preceding the appointment.~~ Of these four board members, two shall be privately employed as polygraphists, and two shall be employed by law enforcement agencies as polygraphists. The two privately employed board members shall have personally conducted at least 500 polygraph examinations during the five years immediately preceding the appointment. The two board members employed by law enforcement agencies shall have personally conducted at least 250 polygraph examinations during the five years time directly preceding the appointment. The first members of the board appointed to these positions shall meet these qualifications,

except for their lack of licensure as polygraphists, and shall seek to become licensed as soon as possible after appointment to the board.

(d) The fifth member of the board shall be a voting public member. Such member shall be a registered voter and a person who is not and never has been a member, nor the spouse of a member, of any profession licensed or regulated under this act; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated under this act, or an activity or organization directly related to any profession licensed or regulated under this act. ~~The duties of the public member shall not include the determination of the technical requirements to be met for licensure or whether any person meets such technical requirements or of the technical competence or technical judgment of a licensee or a candidate for licensure.~~

(e) Each member of the board appointed to serve a full term shall be appointed for a term of three years and shall serve until a successor is appointed and qualified, except of the first members of the board, one shall be appointed for a term of one year, two for terms of two years and two for terms of three years. Any member appointed to fill a vacancy shall be appointed for the unexpired term and shall serve until a successor is appointed and qualified.

(f) No two members shall reside in the same congressional state judicial district at the time of their appointment.

(g) The attorney general may remove any member of the board for misconduct, inefficiency, incompetency or neglect of duty.

(h) A majority of the members of the board shall constitute a quorum.

(i) No member of the board shall receive any compensation for the performance of official duties as such member but members shall be entitled to reimbursement for mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto.

Sec. 3. K.S.A. 1987 Supp. 75-742 is hereby amended to read as follows: 75-742. (a) The members of the board shall conduct the first meeting as soon as practicable after appointment. The members shall immediately organize by electing a chairperson and vice-chairperson, and elections for these positions shall be conducted annually.

(b) The board shall have the power to prescribe and use a seal; adopt rules and regulations deemed necessary for the administration of this act; conduct examinations and issue licenses; fix and collect fees for the issuance and renewal of licenses, including fees for background investigations, late renewal, and for the conducting of examinations required by this act; administer oaths and hear testimony regarding disciplinary actions as provided in section 6 or preparatory to the filing of a complaint pursuant to section 6; require, by summons or subpoena, the attendance and testimony of witnesses, and the production of books, papers and documents with respect to such testimony; employ such board personnel and incur such other expense as it deems necessary for the effectual administration of this act within appropriations therefor; and to do and perform all other acts and things committed to its charge and administration by this act or incidental thereto.

(c) The board shall cause a record to be kept of all its proceedings and shall preserve all complaints and all affidavits and other verified documents.

Sec. 4. K.S.A. 1987 Supp. 75-744 is hereby amended to read as follows: 75-744. (a) On and after January 1, ~~1988~~ 1989, no person shall represent such person's self as a polygraphist, polygraph operator or polygraph examiner in connection with such person's name, or conduct or offer to conduct polygraph examinations for remuneration, monetary or otherwise, unless licensed as provided in this act. An individual licensed as a polygraphist under this Act does not need a license as a private investigator to conduct polygraph examinations. Nothing in the Act shall be construed to prevent the use or administration of polygraph examinations by law enforcement officials of another state or of the federal government in connection with their official duties.

(b) Any polygraph used by a polygraphist must be capable of simultaneously measuring and permanently recording at least:

- (1) Cardiovascular reactions;
- (2) respiration; and
- (3) electrodermal response.

(c) Before a polygraphist shall begin a polygraph examination, the polygraphist shall receive a dated statement, signed in the polygraphist's presence, by the person to whom the examination is to be given, verifying that:

(1) The person knows that taking the examination is a voluntary act on such person's part;

(2) the person is aware of the option to decline to take the examination; and

(3) the person consents to disclosing the results of the examination and to whom the results shall be given.

(d) No polygraphists shall ask any questions during any polygraph examination concerning:

(1) Sexual behavior, unless such behavior is at issue or the examination is being conducted in the course of a criminal investigation or civil litigation;

(2) the political or religious beliefs of the person being given the examination, unless these beliefs are at issue, and

(3) beliefs, affiliation or lawful activities regarding unions or labor organizations, unless these beliefs are of issue.

(e) Nothing in this section shall be construed to prevent the use of polygraph examinations by a law enforcement agency in connection with noncriminal investigations or other inquiries involving officers, ~~or~~ employees, or prospective employees of that agency nor shall this section be construed to serve as the basis or authority for any such officer or employee or prospective employee to decline or refuse to participate in a polygraph examination.

(f) All polygraph examinations shall be conducted under such testing conditions as are established by rules and regulations of the board.

(g) All polygraph charts; information or question sheets, or both; agreements to submit to a polygraph examinations; polygraph examiner comments and opinions; written reports; documents and other pertinent papers concerning each polygraph examination shall be kept together and maintained for a period of two years following the examination and, upon request, shall be made available to the board or the board's designee. The board shall make such a request only upon receipt of a grievance or complaint or upon service of subpoena. In the case of polygraph

examinations conducted by a law enforcement agency, only such reports, documents and papers as the law enforcement agency deems necessary to be made available, that is, polygrams, technique used, numerical finding, question sheet and identification of question type and placement (relevant, control, and irrelevant) shall be furnished.

Sec. 5. K.S.A. 1987 Supp. 75-745 is hereby amended to read as follows: 75-745. (a) The board shall issue any qualified person a license as a polygraphist or as an intern, and any such license shall be renewed annually every two years. Any person who does not renew the license within 60 days after the license renewal date shall pay a late renewal fee in addition to the required renewal fee. Any person who does not renew the license within two years after the license renewal date shall be subject to reexamination.

(b) The board shall adopt rules and regulations which designate the renewal date for polygraphist and intern licenses.

(c) Each application for the issuance of a polygraphist license or an intern license shall be made on a form furnished to the applicant, shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties for perjury, and shall be accompanied by the required application fee. Each applicant for a license as a polygraphist or as an intern shall have attained the age of 21 years.

(d) Each applicant for a license as a polygraphist or as an intern shall meet the following requirements:

(1) Be a citizen of the United States;-

(2) (1) be a person who has not been convicted of a felony nor of any crime involving moral turpitude;

(3) (2) (A) have a bachelor's degree from a four-year accredited university or college recognized as such by the board; or

(B) have completed two years of study, or its equivalent, at such university or college; and (i) have had at least two years' experience as an investigator as approved by the board; or (ii) served a minimum of two years' internship under the supervision of a licensed examiner.

Official transcripts must be submitted to the board as proof for all college courses, technical courses and other educational credits claimed by the applicant.

(e) Each applicant for a license as a polygraphist or as an intern shall have satisfactorily completed a polygraphy training course, consisting of at least 250 hours of instruction, that is recognized by the board and offered by any accredited college or university or any other institution approved by the board to offer such instruction.

(f) Each applicant for a license as a polygraphist shall pass both a written and practical examination conducted or approved by the board and shall pay the required examination fee before the license shall be granted. Any applicant who fails to pass the examination shall be permitted to take a subsequent written and practical examinations once upon payment of a reexamination fee. If an applicant fails either the written or practical examination twice, the applicant is no longer eligible to take a subsequent examinations at the reexamination fee.

(g) Each applicant for a license as a polygraphist shall successfully complete an internship in accordance with rules and regulations adopted by the board under the personal supervision and control of a polygraphist before the license shall be granted. In cases where the geographical location of the intern is not conducive to the direct and immediate supervision and control of a polygraphist, the intern may be required to submit, on a timely and regular basis, such documents and papers as the supervisory polygraphist deems necessary to be evaluated in order to determine satisfactory performance and progress of the intern. No violation of any examinee's privacy and security shall occur as a result of the intern evaluation process. The internship shall continue until the intern has personally conducted at least 100 polygraph examinations, provided no internship shall continue longer than one year without permission of the board. Interns shall be given credit for polygraph examinations conducted prior to January 1, 1989.

(h) The board may waive the education, training, internship and examination requirement of this section and grant a polygraphist license without examination to any applicant upon presentation of satisfactory evidence that the applicant has been licensed or registered as a polygraphist in another state that has requirements for licensure substantially equivalent to the requirements for licensure in this act.

(i) ~~The board may waive the education, training, internship and examination requirements of this section and grant a polygraphist license to any applicant upon presentation of satisfactory evidence that the applicant has had prior training or experience substantially equivalent to these requirements; and that the applicant has been~~

engaged in conducting polygraph examinations in this state for at least one year immediately preceding the effective date of this act; has personally conducted at least 250 polygraph examinations and has completed training as approved by the board. Any person who has been engaged in the occupation, business or profession of polygraph examination one year prior to the effective date of this Act, shall, upon application, be issued a polygraphist license. Application must be made within sixty (60) days of the effective date of this Act. Applicants must satisfy requirements of Sec. 6 (c) and (d)(1).

(j) A polygraph examiner employed by a municipal, county, state or federal agency shall not be required to pay any application or licensing fees so long as the sole use of the polygraph is in performance of such examiner's official duties, provided that such polygraph examiner must be properly licensed. Application, background investigation, licensing and examination fees for applicants employed by municipal, county or state agencies shall be paid by the applicant's employer so long as the applicant's work as a polygraphist is restricted to the performance of official duties. Licenses paid for by municipal, county or state funds shall be labeled in such a manner as to distinguish the license from a private polygraphist's license.

(k) A polygraphist employed by a municipal, county or state agency is not prohibited by this act from conducting polygraph examinations outside the performance of official duties. However, if such examiner does administer polygraph examinations other than in the performance of official duties, the examiner must obtain a license as a private polygraphist and pay the appropriate fees.

(k) (1) All licenses shall at all times be posted in a conspicuous place in the principal place of business of the licensee in this state. The board shall issue to each licensed ~~polygraph examiner~~ polygraphist an identification card which must be in the examiner's possession when administering polygraph examinations at a location away from the normal place of business.

Sec. 6. K.S.A. 1987 Supp. 75-746 is hereby amended to read as follows: 75-746. (a) The board may deny, suspend or revoke, limit, restrict or refuse to renew, in accordance with the Kansas administrative procedure act, any license required pursuant to this act for one or any combination of causes stated in subsection (b).

(b) The board may cause a complaint to be filed against any holder of any license required by this act or any person who has failed to renew or has surrendered a license for any one or any combination of the following causes:

(1) Use of any controlled substance as defined in subsection (e) of K.S.A. 65-4101, and amendments thereto, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a polygraphist or intern;

(2) the person has been finally adjudicated and found guilty, or entered a plea of guilty or *noto contendere*, in a criminal prosecution under the laws of any municipality, state, any territory of the United States or of the United States, for any offense reasonably related to the qualifications, functions or duties of a polygraphist or intern, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed. An applicant or licensee

shall promptly notify the board of any criminal charges filed against the applicant or licensee in any court and shall notify the board of any final adjudication on the charges or complaint;

(3) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to this act or in obtaining permission to take any examination given or required pursuant to this act;

(4) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a polygraphist or intern;

(6) violation of, or assisting, ~~or~~ enabling or counseling any person to violate, any provision of this act, or of any rules and regulations adopted pursuant to this act;

(7) impersonation of any person holding a license or allowing any person to use the licensee's license or diploma from any school;

(8) denial of a license or other right to conduct business or disciplinary action against the holder of a license or other right to conduct polygraph examinations granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state. An applicant or licensee shall promptly notify the board of the filing of any charges or complaints against the applicant or licensee with any licensing agency, and shall notify the board of the outcome of the charge or complaint;

(9) a person an applicant or licensee is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) assisting or enabling any person to conduct or offer to conduct polygraph examinations for remuneration, monetary or otherwise, who is not currently licensed to do so under this act;

(11) issuance of a license based upon a material mistake of fact;

(12) failure to display a valid license as required by rules and regulations adopted pursuant to this act;

(13) violation of any professional trust or confidence; or

(14) use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

(c) After the filing of the complaint, the proceedings shall be conducted in accordance with the Kansas administrative procedure act. Upon a finding that the grounds, provided in subsection (b), for disciplinary action are met, the board, singly or in combination, may censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years; may suspend, limit or restrict as the board deems necessary, the person's license for a period not to exceed three years; or may revoke the person's license.

Sec. 7. K.S.A. 1987 Supp. 75-747 is hereby amended to read as follows: 75-747. (a) Upon application by the board and the necessary burden having been met, the district court may, without fee or bond, grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license is required upon a showing that such

acts or practices were performed or offered to be performed without a license; or

(2) engaging in any practice or business authorized by a license issued pursuant to this act upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state.

(b) Any such action shall be commenced in the county in which the conduct occurred or in the county in which the defendant resides.

(c) Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this act and may be brought concurrently with other actions to enforce this act.

New Sec. 8. Any agency action of the board of polygraphists pursuant to this act is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

Sec. 9. K.S.A. 1987 Supp. 75-748 is hereby amended to read as follows: 75-748. Any person found guilty in a court of competent jurisdiction of violating any provision of this act is guilty of a class A misdemeanor.

New Sec. 10. Every polygraphist licensed by the board shall meet the continuing education requirements set forth in the rules and regulations adopted by the board. Evidence of continuing education hours shall be attached to and submitted with renewal applications.

Sec. 11. K.S.A. 1987 Supp. 75-749 is hereby amended to read as follows: 75-749. If any provisions of this act or the application thereof to any person or circumstances is held invalid the invalidity does not affect other provisions or applications of this act which can be

given effect without the invalid provisions or applications and to this end the provisions of this act are severable.

New Sec. 12. This act shall take effect and be in force from and after its publication in the Kansas register.

2/4/88

Mary Mudrick

Attachment #3

AN ACT concerning private investigative or security operations and polygraphists; providing for the licensure and regulation thereof, establishing the Kansas board of investigative professions; amending K.S.A. 75-7b01, 75-7b03, 75-7b04, 75-7b06, 75-7b07, 75-7b08, 75-7b09, 75-7b10, 75-7b11, 75-7b12, 75-7b15, 75-7b16, 75-7b17, 75-7b18, 75-7b20 and K.S.A. 75-7b21 and K.S.A. 1987 Supp. 75-7b13 and repealing the existing sections; also, repealing K.S.A. 75-7b05, 75-7b19 and 75-7b20 and K.S.A. 1987 Supp. 75-7b14 and 75-740, 75-741, 75-742, 75-743, 75-744, 75-745, 75-746, 75-747, 75-748 and 75-749.

Be it enacted by the Legislature of the State of Kansas:

Section 1. K.S.A. 75-7b01 is hereby amended to read as follows:

75-7b01. (a) "Board" means the Kansas board of investigative professions.

(a) (b) "Detective business" means the furnishing of, making of or agreeing to make any investigation for the purpose of obtaining information with reference to: Crime or wrongs done or threatened against the United States or any state or territory of the United States; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation or character of any person; the location, disposition or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer or investigating committee.

(b) (c) "Private detective" means any person, who, for any consideration whatsoever, engages in detective business.

(c) (d) "Private detective agency" means a person who regularly employs any other person, other than an organization, to engage in detective business.

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(d) (e) "Private patrol operator" means a person who, for any consideration whatsoever, agrees to furnish or furnishes a watchman, guard, patrolman or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers or property of any kind, or performs the service of such watchman, guard, patrolman or other person for any such purposes.

(e) (f) "Law enforcement officer" means law enforcement officer as defined by K.S.A. 21-3110.

(f) (g) "Organization" means a corporation, trust, estate, partnership, cooperative or association.

(g) (h) "Person" means an individual or organization any natural person, firm, association, partnership, corporation, government agency or subdivision, or any employee or agent thereof.

(h) (i) "Firearm permit" means a permit for the limited authority to carry a firearm by one licensed as a private detective.

(i) (j) "Firearm" means:

(1) A pistol or revolver which is designed to be fired by the use of a single hand and which is designed to fire or capable of firing fixed cartridge ammunition; or

(2) any other weapon which will or is designed to expel a projectile by the action of an explosive and which is designed to be fired by the use of a single hand.

(j) (k) "Client" means any natural person, firm, association, partnership, corporation, government agency or subdivision or any employee or agent thereof, who engages the services of a private detective, polygraphist or polygraphist intern.

(1) "Polygraph" means any mechanical or electronic instrument or device, regardless of the name or design of the instrument or device, that is capable of simultaneously measuring and permanently recording at least:

(1) Cardiovascular reactions;

(2) respirations; and

(3) electrodermal response,

which is used to test or question individuals to determine the truthfulness of the individual's responses.

(m) "Polygraphist" means a person licensed by the board to conduct polygraph examinations.

(n) "Polygraph examination" means the procedure by which a polygraphist renders an opinion, using instrumentation described herein, as to the veracity of statements made by the person being examined. At a minimum, an examination consists of:

- (1) The pre-test interview;
- (2) chart production and analysis; and
- (3) the post-test interview, if a post-test interview is done.

(o) "Intern" means a person licensed by the board to conduct polygraph examinations as a trainee.

New Sec. 2. (a) There is hereby established, under the jurisdiction of the attorney general, the Kansas board of investigative professions.

(b) The board shall consist of five members to be appointed by the attorney general. No person shall be eligible for appointment as a member of the board unless such person is a citizen of the United States and is, and has been for a minimum of one year immediately preceding the appointment, a resident of Kansas.

(c) Board members shall include:

(1) A privately employed licensed polygraphist with a private investigator's license;

(2) a licensed polygraphist employed by a law enforcement agency;

(3) a licensed polygraphist employed either privately or by a law enforcement agency; and

(4) a licensed private investigator not licensed as a polygraphist. Privately employed board members shall have personally conducted at least 500 polygraph examinations during the five years immediately preceding the appointment. Board members employed by law enforcement agencies shall have personally conducted at least 250 polygraph examinations during the five years time immediately preceding the appointment. The first members of the board appointed to these positions shall meet these qualifications, except for their lack of

licensure as polygraphists, and shall seek to become licensed as soon as possible after appointment to the board.

(d) The fifth member of the board shall be a voting public member. Such member shall be a registered voter and a person who is not and never has been a member, nor the spouse of a member, of any profession licensed or regulated under this act; and a person who does not have and never has had a material, financial interest in either the providing of the professional services regulated under this act, or an activity or organization directly related to any profession licensed or regulated under this act.

(e) Each member of the board appointed to serve a full term shall be appointed for a term of three years and shall serve until a successor is appointed and qualified, except of the first members of the board, one shall be appointed for a term of one year, two for terms of two years and two for terms of three years. Any member appointed to fill a vacancy shall be appointed for the unexpired term and shall serve until a successor is appointed and qualified.

(f) No two members shall reside in the same state judicial district at the time of their appointment.

(g) The attorney general may remove any member of the board for misconduct, inefficiency, incompetency or neglect of duty.

(h) A majority of the members of the board shall constitute a quorum.

(i) No member of the board shall receive any compensation for the performance of official duties as such member but members shall be entitled to reimbursement for mileage and expenses as provided by K.S.A. 75-3223, and amendments thereto.

New Sec. 3. (a) The members of the board shall conduct the first meeting as soon as practicable after appointment. The members shall immediately organize by electing a chairperson and vice-chairperson, and elections for these positions shall be conducted annually.

(b) The board shall have the power to prescribe and use a seal; adopt rules and regulations deemed necessary for the administration of this act; conduct examinations and issue licenses; fix and collect fees

for the issuance and renewal of licenses, including fees for background investigations, late renewal, and for the conducting of examinations required by this act; administer oaths and hear testimony regarding disciplinary actions as provided in Sec. 16 or Sec. 17 or preparatory to the filing of a complaint pursuant to Sec. 16; require, by summons or subpoena, the attendance and testimony of witnesses, and the production of books, papers and documents with respect to such testimony; employ such board personnel and incur such other expense as it deems necessary for the effectual administration of this act within appropriations therefor; and to do and perform all other acts and things committed to its charge and administration by this act or incidental thereto.

(c) The board shall cause a record to be kept of all its proceedings and shall preserve all complaints and all affidavits and other verified documents.

New Sec. 4. (a) The board shall set the amount of the fees which this act authorizes and requires by rules and regulations adopted pursuant to section 3. The fees shall be set at a level to produce revenue which shall not exceed the cost and expense of administering this act.

(b) The board shall remit all moneys received by or for it from fees, charges or penalties to the state treasurer at least monthly. Upon receipt of each such remittance the state treasurer shall deposit the entire amount thereof in the state treasury and the same shall be credited to the board of investigative professions fee fund which is hereby created. All costs and expenses of administering this act shall be paid from this fund. All expenditures from such fund shall be made in accordance with appropriation acts upon warrants of the director of accounts and reports issued pursuant to vouchers approved by the chairperson or by a person or persons designated by the chairperson.

Sec. 5. K.S.A. 75-7b03 is hereby amended to read as follows: 75-7b03. The following persons shall not be deemed to be engaging in detective business:

(a) A person employed exclusively and regularly by one employer in connection only with the affairs of such employer and where there exists an employer-employee relationship;

(b) any officer or employee of the United States, or of this state or a political subdivision thereof while engaged in the performance of the officer's or employee's official duties;

(c) a person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons;

(d) a charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit;

(e) an attorney performing duties as an attorney;

(f) a licensed collection agency or an employee thereof while acting within the scope of employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or a debtor's property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof;

(g) admitted insurers, agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them;

(h) the legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage in connection with the recovery of such personal property;

(i) any bank subject to the jurisdiction of the state bank commissioner of the state of Kansas or the comptroller of currency of the United States;

(j) a person engaged solely in the business of securing information about persons or property from public records;

(k) an insurance adjuster which, for the purpose of this act, means any person who, for any consideration whatsoever, adjusts or otherwise participates in the disposal of any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business; or

(l) a private patrol operator.

(m) a polygraphist or polygraphist intern licensed by the state, performing duties in connection with polygraph examinations.

Sec. 6. K.S.A. 75-7b04 is hereby amended to read as follows:
75-7b04. (a) Every person desiring to be licensed in Kansas as a private detective or private detective agency shall make application therefore to the attorney general board of investigative professions. An application for a private detective license under this act shall be on a form prescribed by the attorney general board and accompanied by the required application fee. An application shall be verified and shall include:

- (1) The full name and business address of the applicant;
- (2) the name under which the applicant intends to do business;
- (3) a statement as to the general nature of the business in which the applicant intends to engage;
- (4) a statement as to the classification or classifications under which the applicant desires to be qualified;
- (5) if the applicant is an organization, the full name and residence address of each of its partners, officers, directors or associates;
- (6) two recent photographs of the applicant, of a type prescribed by the attorney general board, and two classifiable sets of the applicant's fingerprints;
- (7) a verified statement of the applicant's experience and qualifications; and
- (8) such other information, evidence, statements or documents as may be required by the attorney general board.

(b) If an applicant is a resident of this state, the application shall be approved, as to each resident person signing the application, by five or more reputable citizens of the community in which the applicant resides or transacts business, or in which the applicant proposes to own, conduct, manage or maintain the bureau, agency, sub-agency, office or branch office for which the license is desired. If an applicant is not a resident of this state, the application shall be approved, as to each nonresident person signing the application, by five or more reputable citizens of the community in which the applicant resides, and the

If an applicant has been a resident of this state for less than twelve months, the application shall be approved as to each resident and person signing the application by five or more reputable citizens of the community in either the community in which the applicant previously resided or in which the applicant resides or transacts business currently. The certificate of approval shall be verified and acknowledged by such nonresident citizens before an officer authorized to take oaths and acknowledgment of deeds.

Each citizen approving an application shall subscribe and affirm as true, under the penalties of perjury, that:

(1) The citizen has personally known the persons signing the application for a period of at least five years prior to the filing of the application, except that the attorney general board may lessen such period if the person signing the application has been honorably discharged from the military service of the United States within the six-year period immediately preceding the date application is submitted;

(2) the citizen has read such application and believes each of the statements made therein to be true;

(3) the persons signing the application are honest, of good character and competent and not related or connected by blood or marriage to the citizen.

(c) Before an application for a license may be granted, the applicant or, if the applicant is an organization, all of the officers, directors, partners or associates shall:

(1) Be at least 21 years of age;

(2) be a citizen of the United States;

(3) be of good moral character a person who has not been convicted of a felony nor of any crime involving moral turpitude; and

(4) comply with such other qualifications as the attorney general board adopts by rules and regulations.

(d) After a hearing the attorney general may deny a license unless the applicant makes a showing satisfactory to the attorney general that the applicant or, if the applicant is an organization, that each of its officers, directors, partners or associates has not:--

(1) Committed any act which, if committed by a licensee, would be grounds for the suspension or revocation of a license under this act;

(2) committed any act constituting dishonesty or fraud;

(3) a bad moral character or a bad reputation for truth, honesty, and integrity;

(4) been convicted of a felony or any crime involving moral turpitude; dishonesty or illegally using, carrying, or possessing a dangerous weapon within 10 years immediately prior to the date of application;

(5) been refused a license under this act or had a license revoked in this state or in any other jurisdiction;

(6) been an officer, director, partner, associate or manager of any person who has been refused a license under this act or whose license has been revoked in this state or in any other jurisdiction;

(7) while unlicensed, committed or aided and abetted the commission of any act for which a license is required by this act; or

(8) knowingly made any false statement in the application.

(d) The board shall require as a condition of licensure as a private detective that the applicant or, if the applicant is an organization, any of its officers, directors, partners or associates:

(1) Pass a written examination as evidence of knowledge of detective business; and

(2) submit it to oral interview with the board or the board's designee.

(b) The board or the board's designee shall conduct a complete investigation of the background of each applicant for licensure as a private detective or, if the applicant is an organization, of each of the applicant's officers, directors, partners or associates, to determine whether the applicant is qualified for licensure under this section and amendments thereto.

Sec. 7. K.S.A. 75-7b06 is hereby amended to read as follows:
75-7b06. (a) The private detective license, when issued, shall be in such form as may be determined by the attorney general board and shall include the:

(1) Name of the licensee;

- (2) name under which the licensee is to operate; and
- (3) number and date of the license; and
- (4) a recent photograph of the licensee.

(b) The license at all times shall be posted in a conspicuous place in the principal place of business of the licensee. Upon the issuance of a license, a pocket card of such size, design and content as determined by the attorney general board shall be issued without charge to each licensee or, if the licensee is an organization, to each of its officers, directors, partners or associates. Such card shall be evidence that the licensee is duly licensed pursuant to this act. When any person to whom a card is issued terminates such person's position, office or association with the licensee, the card shall be surrendered to the licensee and, within five days thereafter, shall be mailed or delivered by the licensee to the attorney general board for cancellation. Within 30 days after any change of address or of any change in its officers, directors, partners or associates, a licensee shall notify the attorney general thereof board of the current address. The principal place of business may ~~be at a residence or at a business address, but it shall~~ be the place at which the licensee ~~maintains a permanent office.~~

(c) Applications, on forms prescribed by the attorney general board shall be submitted by all new officers or partners. The attorney general board may suspend or revoke a license issued under this act if the attorney general board determines that, at the time such person became an officer or partner of a licensee, such person did not meet the requirements of K.S.A. 75-7b04 and amendments thereto.

Sec. 8. K.S.A. 75-7b07 is hereby amended to read as follows:
75-7b07. (a) Any private detective license issued under this act shall ~~expire on December 31 of the year of its issuance~~ be valid for a maximum of two years and shall expire on December 31 of the second year. Renewal of any such license shall be made in the manner prescribed for obtaining an original license, including payment of the appropriate fees required by K.S.A. ~~75-7b05 and amendments thereto,~~ the board, except that:

(1) The signing of the application by five or more citizens as required by K.S.A. 75-7b04 and amendments thereto shall not be

required if such application for renewal is verified and acknowledged by the applicant before an officer authorized to administer oaths;

(2) the application upon renewal need only provide information required of original applicants if the information shown on the original application or any renewal thereof on file with the attorney general board is no longer accurate; and

(3) a new photograph ~~shall be submitted with the application for renewal only if the photograph on file with the attorney general board has been on file more than two years; and~~

(4) (3) additional information may be required by rules and regulations adopted by the attorney general board.

(b) A licensee shall at all times be legally responsible for the good conduct of each of the licensee's employees or agents while engaged in the business of the licensee, and the licensee is legally responsible for any acts committed by such licensee's employees or agents which are in violation of this act.

(c) A license issued under this act shall not be assignable.

Sec. 9. K.S.A. 75-7b08 is hereby amended to read as follows:
75-7b08. (a) Any private detective licensee or officer, director, partner or associate thereof shall divulge to the attorney general, any law enforcement officer or county attorney, or his or her representative, any information he or she may acquire as to any criminal offense, except such information as is privileged by law, but he or she shall not divulge to any other person, except as he or she may be required by law so to do, any information acquired by him or her except at the direction of the employer or client for whom the information was obtained.

(b) No private detective licensee or officer, director, partner, associate or employee thereof shall:

(1) Knowingly make any false report to his or her employer or client for whom information was being obtained;

(2) Cause any written report to be submitted to a client except by the licensee, and the person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such report are true and correct;

(3) Furnish or perform any services on a contingent or percentage basis, or make or enter into any agreement for furnishing services of any kind or character, by the terms or conditions of which agreement the compensation to be paid for such services to the licensee is partially or wholly contingent, or based upon a percentage of the amount of money or property recovered, or dependent in any way upon the result achieved.

(4) Use a badge in connection with the activities of the licensee's business;

(5) Use a title, wear a uniform, use an insignia or an identification card or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government or any political subdivision of a state government.

(6) Use an alias in connection with the activities of the licensee's business;

(7) Enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof;

(8) Appear as an assignee party in any proceeding involving claim and delivery, replevin or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien.

(9) Permit an unlicensed employee or agent in his or her own name to advertise, engage clients, furnish reports or present bills to clients, or in any manner whatever conduct business for which a license is required under this act; and all business of the licensee shall be conducted in the name of and under the control of the licensee; or

(10) Manufacture evidence.

Sec. 10. K.S.A. 75-7b09 is hereby amended to read as follows:
75-7b09. Each private detective licensee shall maintain a record containing such information relative to his or her employees as may be prescribed by the attorney general board. Such licensee shall file with the attorney general board the complete address of his or her principal place of business including the name and number of the street, or, if the street where the business is located is not numbered, the number of the post-office box. The principal place of business may be

at a residence or at a business address, but it shall be the place at which the licensee maintains a permanent office. The attorney general board may require the filing of other information for the purpose of identifying such principal place of business.

Sec. 11. K.S.A. 75-7b10 is hereby amended to read as follows:

75-7b10. Every advertisement by a private detective licensee soliciting or advertising business shall contain his or her name and address as they appear in the records of the attorney general board. A licensee shall not advertise or conduct business from any location other than that shown on the records of the attorney general board as his or her principal place of business unless he or she has received a branch office certificate for such location after compliance with the provisions of this act and such additional requirements necessary for the protection of the public as the attorney general board may prescribe by regulation. A private detective licensee shall notify the attorney general board in writing within ten (10) days after closing or changing the location of a branch office.

Sec. 12. K.S.A. 75-7b11 is hereby amended to read as follows:

75-7b11. (a) Except as provided in subsection (b), no private detective license shall be issued under this act unless the applicant (1) files with the attorney general board a corporate surety bond executed by a company authorized to do business in this state in the sum of \$10,000, or (2) files with the attorney general board a certificate of insurance showing that the applicant has general liability insurance providing coverage for bodily injury or property damage caused by negligence, errors or omissions, or intentional acts (including assault and battery) and for personal injury caused by libel, slander, false arrest, false imprisonment, invasion of privacy, wrongful entry, wrongful eviction or malicious prosecution, or (3) deposits \$10,000 in cash with the state treasurer. The bond or return of the deposit shall be conditioned on the faithful and honest conduct of business by such applicant.

(b) No applicant who is or will be employed by a licensee to engage in the business of the licensee shall be required to obtain such bond or certificate of insurance or make such deposit.

(c) The attorney general board shall approve each bond filed under this section as to form, execution and sufficiency of the sureties. Such bond shall be taken in the name of the people of this state and may be continuing in nature. The attorney general board shall approve any certificate of insurance filed under this section as to form, execution and sufficiency of coverage evidenced thereby.

(d) Any person injured by any unlawful act of an applicant or an applicant's employees or agents, whether licensed or not, may bring an action on the applicant's bond or deposit in such person's own name to recover damages suffered by reason of such unlawful act.

Sec. 13. K.S.A. 75-7b12 is hereby amended to read as follows:

75-7b12. (a) Every private detective licensee at all times shall maintain on file the surety bond, in full force and effect, or a valid certificate of insurance evidencing sufficient insurance in force or the deposit with the state treasurer, as required by K.S.A. 75-7b11 and amendments thereto. Upon failure to do so, the license of such licensee shall be suspended forthwith and shall not be reinstated until an application therefor, in the form prescribed by the attorney general board, is filed together with the bond or certificate of insurance or deposit required by this act.

(b) Bonds executed and filed with the attorney general board pursuant to this act shall remain in force and effect until the surety has terminated further liability by 30 days' notice to the attorney general board.

New Sec. 14. (a) On and after January 1, 1989, no person shall represent such person's self as a polygraphist, polygraph operator or polygraph examiner in connection with such person's name, or conduct or offer to conduct polygraph examinations for remuneration, monetary or otherwise, unless licensed as provided in this act. Nothing in the Act shall be construed to prevent the use or administration of polygraph examinations by law enforcement officials of another state or of the federal government in connection with their official duties.

(b) Any polygraph used by a polygraphist must be capable of simultaneously measuring and permanently recording at least:

(1) Cardiovascular reactions;

- (2) respiration; and
- (3) electrodermal response.

(c) Before a polygraphist shall begin a polygraph examination, the polygraphist shall receive a dated statement, signed in the polygraphist's presence, by the person to whom the examination is to be given, verifying that:

- (1) The person knows that taking the examination is a voluntary act on such person's part;
- (2) the person is aware of the option to decline to take the examination; and
- (3) the person consents to disclosing the results of the examination and to whom the results shall be given.

(d) No polygraphists shall ask any questions during any polygraph examination concerning:

- (1) Sexual behavior, unless such behavior is at issue or the examination is being conducted in the course of a criminal investigation or civil litigation;
- (2) the political or religious beliefs of the person being given the examination, unless these beliefs are at issue, and
- (3) beliefs, affiliation or lawful activities regarding unions or labor organizations, unless these beliefs are of issue.

(e) Nothing in this section shall be construed to prevent the use of polygraph examinations by a law enforcement agency in connection with noncriminal investigations or other inquiries involving officers, employees, or prospective employees of that agency nor shall this section be construed to serve as the basis or authority for any such officer, employee or prospective employees to decline or refuse to participate in a polygraph examination.

(f) All polygraph examinations shall be conducted under such testing conditions as are established by rules and regulations of the board.

New Sec. 15. (a) The board shall issue any qualified person a license as a polygraphist or as an intern. The license shall be valid for a maximum of two years and shall expire on December 31 of the second year. Any person who does not renew the license within 60 days

after the license renewal date shall pay a late renewal fee in addition to the required renewal fee. Any person who does not renew the license within two years after the license renewal date shall be subject to reexamination.

(b) The board shall adopt rules and regulations which designate the renewal date for polygraphist and intern licenses.

(c) Each application for the issuance of a polygraphist license or an intern license shall be made on a form furnished to the applicant, shall contain a statement that it is made under oath or affirmation and that its representations are true and correct to the best knowledge and belief of the person signing the application, subject to the penalties for perjury, and shall be accompanied by the required application fee. Each applicant for a license as a polygraphist or as an intern shall have attained the age of 21 years.

(d) Each applicant for a license as a polygraphist or as an intern shall meet the following requirements:

(1) be a person who has not been convicted of a felony nor of any crime involving moral turpitude;

(2) (A) have a bachelor's degree from a four-year accredited university or college recognized as such by the board; or

(B) have completed two years of study, or its equivalent, at such university or college; and (i) have had at least two years' investigative experience as approved by the board; or (ii) served a minimum of two years' internship under the supervision of a licensed examiner.

Official transcripts must be submitted to the board as proof for all college courses, technical courses and other educational credits claimed by the applicant.

(e) Each applicant for a license as a polygraphist or as an intern shall have satisfactorily completed a polygraphy training course, consisting of at least 250 hours of instruction, that is recognized by the board and offered by any accredited college or university or any other institution approved by the board to offer such instruction.

(f) Each applicant for a license as a polygraphist shall pass both a written and practical examination conducted or approved by the

board and shall pay the required examination fee before the license shall be granted. Any applicant who fails to pass the examination shall be permitted to take a subsequent examination once upon payment of a reexamination fee. If an applicant fails either the written or practical examination twice, the applicant is no longer eligible to take a subsequent examinations at the reexamination fee.

(g) Each applicant for a license as a polygraphist shall successfully complete an internship in accordance with rules and regulations adopted by the board under the personal supervision and control of a polygraphist before the license shall be granted. In cases where the geographical location of the intern is not conducive to the direct and immediate supervision and control of a polygraphist, the intern may be required to submit, on a timely and regular basis, such documents and papers as the supervisory polygraphist deems necessary to be evaluated in order to determine satisfactory performance and progress of the intern. No violation of any examinee's privacy and security shall occur as a result of the intern evaluation process. The internship shall continue until the intern has personally conducted at least 100 polygraph examinations, provided no internship shall continue longer than one year without permission of the board. Interns shall be given credit for polygraph examinations conducted prior to January 1, 1989.

(h) The board may waive the education, training, internship and examination requirement of this section and grant, upon payment of required fees, a polygraphist license without examination to any applicant upon presentation of satisfactory evidence that the applicant has been licensed or registered as a polygraphist in another state that has requirements for licensure substantially equivalent to the requirements for licensure in this act.

i) Any person who has been engaged in and provides satisfactory evidence of having been engaged in the occupation, business or profession of polygraph examination one year prior to the effective date of this Act, shall, upon application, be issued a polygraphist license. Application must be made within sixty (60) days of the effective date of this Act. Applicants must satisfy requirements of Sec. 15 (c) and (d)(1).

(j) Application, licensing and examination fees for applicants employed by municipal, county or state agencies shall be paid by the applicant's employer so long as the applicant's work as a polygraphist is restricted to the performance of official duties. Licenses paid for by municipal, county or state funds shall be labeled in such a manner as to distinguish the license from a private polygraphist's license.

(k) A polygraphist employed by a municipal, county or state agency is not prohibited by this act from conducting polygraph examinations outside the performance of official duties. However, if such examiner does administer polygraph examinations other than in the performance of official duties, the examiner must obtain a license as a private polygraphist and pay the appropriate fees.

(l) All licenses shall at all times be posted in a conspicuous place in the principal place of business of the licensee in this state. The board shall issue to each licensed polygraphist an identification card which must be in the examiner's possession when administering polygraph examinations at a location away from the normal place of business.

Sec. 16. K.S.A. 1987 Supp. 75-7b13 is hereby amended to read as follows: 75-7b13. (a) The attorney general board may deny, suspend, or revoke a license issued under this act, if the attorney general determines that the licensee or, if the licensee is an organization, any of its officers, directors, partners or associates has:

(1) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement thereof;

(2) Violated any provisions of this act;

(3) Violated any rule of the attorney general adopted pursuant to the authority contained in this act;

(4) Been convicted of a felony or any crime involving moral turpitude or illegally using, carrying, or possessing a dangerous weapon subsequent to or within ten (10) years prior to the issuance of the license; limit, restrict or refuse to renew, in accordance with the

Kansas administrative procedure act, any license required pursuant to this act for one or any combination of causes stated in subsection (b).

(b) The board may cause a complaint to be filed against any holder of any license required by this act or any person who has failed to renew or has surrendered a license for any one or any combination of the following causes:

(1) Use of any controlled substance as defined in subsection (e) of K.S.A. 65-4101, and amendments thereto, or alcoholic beverage to an extent that such use impairs a person's ability to perform the work of a private detective, polygraphist or intern;

(2) the person has been finally adjudicated and found guilty, or entered a plea of guilty in a criminal prosecution under the laws of any municipality, state, any territory of the United States or of the United States, for any offense reasonably related to the qualifications, functions or duties of a private detective, polygraphist or intern, for any offense an essential element of which is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether or not sentence is imposed;

(3) use of fraud, deception, misrepresentation or bribery in securing any license issued pursuant to this act or in obtaining permission to take any examination given or required pursuant to this act;

(4) obtaining or attempting to obtain any fee, charge, tuition or other compensation by fraud, deception or misrepresentation;

(5) incompetency, misconduct, gross negligence, fraud, misrepresentation or dishonesty in the performance of the functions or duties of a private detective, polygraphist or intern; "Dishonesty or fraud" as used in this section includes, in addition to other acts not specifically enumerated herein:

(A) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business;

(B) using illegal means in the collection or attempted collection of a debt or obligation;

(C) manufacturing evidence; and

(D) acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of the licensee's employment by such client or former client.

(6) violation of, or assisting, enabling or counseling any person to violate, any provision of this act, or of any rules and regulations adopted pursuant to this act;

(7) impersonation of any person holding a license or allowing any person to use the licensee's license or diploma from any school;

(8) denial of a license or other right to conduct business or disciplinary action against the holder of a license or other right to conduct business as a private detective, polygraphist or intern granted by another state, territory, federal agency or country upon grounds for which revocation or suspension is authorized in this state. A certified copy of the record or order of denial, suspension, limitation, revocation or other disciplinary action of the licensing authority of another state, agency of the United States government, territory of the United States government or county shall constitute *prima facie* evidence of such fact for purposes of this paragraph;

(9) an applicant or licensee is finally adjudged insane or incompetent by a court of competent jurisdiction;

(10) assisting, enabling or counselling any person to conduct or offer to conduct private detective business or polygraph examinations for remuneration, monetary or otherwise, who is not currently licensed to do so under this act;

(11) issuance of a license based upon a material mistake of fact;

(12) failure to display a valid license as required by rules and regulations adopted pursuant to this act;

(13) violation of any professional trust or confidence; or

(14) use of any advertisement or solicitation which is false, misleading or deceptive to the general public or persons to whom the advertisement or solicitation is primarily directed.

(5) (15) Impersonated impersonating, or permitted permitting or aided aiding and abetted abetting an employee to

impersonate, a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof;

(6) (16) Committed Committing or ~~permitted~~ permitting any employee to commit any act, while the license was expired, which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license;

(7) (17) Willfully ~~failed-~~ failing or ~~refused-~~ refusing to render to a client services or a report as agreed between the parties, and for which compensation has been paid or tendered in accordance with the agreement of the parties;

(8) (18) Committed Committing assault, battery or kidnapping, or used using force or violence on any person without proper justification;

(9) (19) Knowingly ~~violated-~~ violating, or ~~advised~~ advising, encouraged encouraging or ~~assisted~~ assisting the violation of, any court order or injunction in the course of business as a licensee;

(10) (20) Acted Acting as a runner or capper for any attorney; or

(11) (21) Committed Committing any act which is a ground for denial of an application for a license under this act.

(b) (c) The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this section, Section 15 or in K.S.A. 75-7b04, and a plea or verdict of guilty or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning thereof.

(c) (d) After the filing of the complaint, the proceedings shall be conducted in accordance with the Kansas administrative procedure act. Upon a finding that the grounds, provided in subsection (b), for disciplinary action are met, the board, singly or in combination, may censure or place the person named in the complaint on probation on such terms and conditions as the board deems appropriate for a period not to exceed five years; may suspend, limit or restrict as the board deems necessary, the person's license for a period not to exceed three years; or may revoke the person's license.

Sec. 18 (17). K.S.A. 75-7b15 is hereby amended to read as follows: 75-7b15. (a) Each private detective or detective agency operating as provided in this act, shall be required to keep a complete record of the business transactions of such detective or detective agency, and upon the order of the attorney general board, shall give free and full opportunity to inspect the same and to inspect reports made; but any information obtained by the attorney general board shall be kept confidential, except as may be necessary to commence and or prosecute any complaint or other legal proceedings. When any detective or detective agency requires any report of an agent or employee to be made verbally, a digest shall be made of such verbal report and this digest, together with the written reports shall be kept on file in the office of the private detective or detective agency.

(b) All polygraph charts; information or question sheets, or both; agreements to submit to a polygraph examination; polygraph examiner comments and opinions; written reports; documents and other pertinent papers concerning each polygraph examination shall be kept together and maintained for a period of two years following the examination, and upon request, shall be made available to the board or the board's designee. The board shall make such a request only upon receipt of a grievance or complaint or upon service of subpoena. In the case of polygraph examinations conducted by a law enforcement agency, only such reports, documents and papers as the law enforcement agency deems necessary to be made available, that is, polygrams, technique used, numerical finding, question sheet and identification of question type and placement (relevant, control, and irrelevant) shall be furnished.

(c) Any information received by the board pursuant to this section shall be kept confidential, except as may be necessary to commence or prosecute any complaint or other legal proceeding.

(b) (d) For the purpose of enforcing the provisions of this act, and in making investigations relating to any violation thereof or to the character, competency and integrity of the private detective, polygraphist or intern applicants or licensees hereunder and for the purpose of investigating the business, business practices and business methods of any applicant or licensee, or of the officers, directors,

partners or associates thereof, the attorney general board shall have the power to subpoena and bring before him or her any person in this state and require the production of any books, records or papers which he or she deems relevant to the inquiry. The attorney general board also may administer an oath to and take the testimony of any person, or cause his or her deposition to be taken, except that any applicant or licensee or officer, director, partner or associate thereof shall not be entitled to any fees or mileage. A subpoena issued under the section shall be governed by the code of civil procedure. Any person duly subpoenaed, who fails to obey such subpoena without reasonable cause or without such cause refuses to be examined or to answer any legal or pertinent question as to the character or qualification of such applicant or licensee or such applicant's or licensee's business, business practices and methods or such violations, shall be guilty of a class A misdemeanor. The testimony of witnesses in any investigative proceeding shall be under oath, and willful false swearing in any such proceeding shall be perjury.

Sec. 19: 18 K.S.A. 75-7b16 is hereby amended to read as follows: 75-7b16. Any motor vehicle owned or operated by any private detective licensee in the course of or as an incident to engaging in business in this state shall be registered in this state pursuant to the laws pertaining thereto.

Sec. 20: 19 K.S.A. 75-7b17 is hereby amended to read as follows: 75-7b17. (a) No private detective licensee may carry a firearm unless the licensee obtains a permit therefor, upon application to the attorney general. No permit shall be issued to any licensee unless such licensee:

(1) Demonstrates to the attorney general the need to carry a firearm in order to protect the licensee's life or property or to protect the life or property of a client of the licensee and submits such proof as required by the attorney general to establish the necessity for the issuance of a firearm permit; and

(2) has received training in the handling of firearms and the lawful use of force from a trainer certified pursuant to K.S.A. 75-7b20

75-7b21 and submits such proof as required by the attorney general to show satisfactory completion of such training.

(b) An application for a firearm permit by a licensee shall be made in the manner and form prescribed by the attorney general and shall be accompanied by a fee of \$10 \$50. Each ~~such application~~ shall be made ~~a part of and supplemental to such licensee's application for a license under this act.~~ The application shall contain, at a minimum:

- (1) The applicant's name and business and residence addresses;
- (2) the make or manufacturer's name, model, serial number, caliber, gauge and any other identifying information concerning the firearm or firearms to be carried by the applicant;
- (3) a full set of the applicant's fingerprints;
- (4) a color photograph of the applicant taken within 30 days prior to date of application and suitable for identification purposes;
- (5) such other information as deemed necessary by the attorney general.

(c) If the attorney general is satisfied that it is necessary for an applicant under this section to carry a firearm, the attorney general shall issue to such private detective licensee a firearm permit identification card, the form of which shall be approved by the attorney general. Such card shall bear the private detective licensee's color photograph, thumb prints and signature and a description of the firearm or firearms to be carried. Such permit shall be valid only for the calendar year in which it is issued, and the private detective licensee shall have such permit in possession when carrying a firearm. Identification cards and firearm permits shall be numbered consecutively, and the attorney general shall maintain a current file of all valid firearm permits.

(d) Any licensee granted a firearm permit must present the permit identification card upon request by a proper authority, including private persons upon private property, to demonstrate the licensee's permit to carry a firearm. Every private detective licensee possessing a valid firearm permit shall report to the attorney general any change of employment status, change of firearm or firearms to be carried, loss of identification card or change of personal or business address. Every

private detective licensee who discharges a firearm for any reason other than test firing or target practice shall report the discharge to the attorney general within 24 hours, together with a written report giving full particulars and reason for such discharge.

(e) The attorney general may suspend or revoke any firearm permit for cause. The licensee to whom the permit was issued shall be given notice immediately of the cause of the suspension or revocation and an opportunity for a hearing in accordance with the Kansas administrative procedure act. Upon hearing, the attorney general may make an order affirming, modifying or reversing the suspension or revocation. The attorney general may recall any identification card when in the attorney general's opinion the holder thereof no longer requires such firearm permit. The Attorney General shall have the power to adopt rules and regulations necessary for the administration of this section.

(f) A private detective licensee to whom a firearm permit is granted hereunder shall be deemed to have no greater justification in the use of force than a private person as prescribed by the Kansas criminal code, and nothing in this act shall be construed as limiting the civil liability of any such licensee with respect to the use of force.

(g) No firearm permit shall be issued to any:

- (1) Organization;
- (2) individual who has been declared, by any court of competent jurisdiction, to be incapacitated or mentally ill and has not been restored to capacity or mental health; or
- (3) individual who suffers from alcohol or narcotics addiction or dependence.

(h) Nothing in this act shall be construed to authorize the issuance of a firearm permit to a polygraphist or a polygraphist intern who is not also licensed as a private detective.

Sec.21 20. K.S.A. 75-7b18 is hereby amended to read as follows: 75-7b18. (a) The licensing and regulation of private detectives, and private detective agencies, polygraphists and interns shall be under the exclusive jurisdiction and control of the attorney general board of investigative professions, as provided by this act, and no city may adopt any ordinance which provides for the

licensing or regulation of private detectives or private detective agencies. Any such ordinance which is so adopted, or which has been adopted on or before the effective date of this act, is hereby declared null and void.

(b) ~~The attorney general shall adopt such rules and regulations as may be necessary to carry out the provisions of this act.~~

New Sec. 23. 21 (a) Upon application by the board and the necessary burden having been met, the district court may, without fee or bond, grant an injunction, restraining order or other order as may be appropriate to enjoin a person from:

(1) Offering to engage or engaging in the performance of any acts or practices for which a license is required upon a showing that such acts or practices were performed or offered to be performed without a license; or

(2) engaging in any practice or business authorized by a license issued pursuant to this act upon a showing that the holder presents a substantial probability of serious danger to the health, safety or welfare of any resident of this state.

(b) Any such action shall be commenced in the county in which the conduct occurred or in the county in which the defendant resides.

(c) Any action brought under this section shall be in addition to and not in lieu of any penalty provided by this act and may be brought concurrently with other actions to enforce this act.

New Sec. 22. Any agency action of the board of investigative professions pursuant to this act is subject to review in accordance with the act for judicial review and civil enforcement of agency actions.

New Sec. 23. Any person found guilty in a court of competent jurisdiction of knowingly falsifying the fingerprints or photographs required to be submitted under this act shall be guilty of a class E felony. Any person found guilty in a court of competent jurisdiction of violating any other provision of this act is guilty of a class A misdemeanor, unless otherwise specified.

New Sec. 24. Every polygraphist or intern licensed by the board shall meet the continuing education requirements set forth in the rules

and regulations adopted by the board. Evidence of continuing education hours shall be attached to and submitted with renewal applications.

New Sec. 25. If any provision of this act or the application thereof to any person or circumstances is held invalid the invalidity does not affect other provisions or applications of this act which can be given effect without the invalid provisions or applications and to this end the provisions of this act are severable.

New Sec. 26. K.S.A. 75-7b01, 75-7b03 through 75-7b12 and 75-7b15 through 75-7b21 and K.S.A. 1987 Supp. 75-7b13, 75-7b14 and 75-740 through 75-749 are hereby repealed.

New Sec. 27. This act shall take effect and be in force from and after its publication in the Kansas register.