

108TH CONGRESS  
1ST SESSION

# S. 1665

To permit reviews of criminal records of applicants for private security officer employment.

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## IN THE SENATE OF THE UNITED STATES

SEPTEMBER 26, 2003

Mr. LEVIN (for himself, Mr. ALEXANDER, Mr. McCONNELL, Mr. LIEBERMAN, and Mr. SCHUMER) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

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## A BILL

To permit reviews of criminal records of applicants for private security officer employment.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Private Security Offi-  
5       cer Employment Authorization Act of 2003”.

6       **SEC. 2. FINDINGS.**

7       Congress finds that—

8               (1) employment of private security officers in  
9       the United States is growing rapidly;

1           (2) private security officers function as an ad-  
2           junct to, but not a replacement for, public law en-  
3           forcement by helping to reduce and prevent crime;

4           (3) such private security officers protect indi-  
5           viduals, property, and proprietary information, and  
6           provide protection to such diverse operations as  
7           banks, hospitals, research and development centers,  
8           manufacturing facilities, defense and aerospace con-  
9           tractors, high technology businesses, nuclear power  
10          plants, chemical companies, oil and gas refineries,  
11          airports, communication facilities and operations, of-  
12          fice complexes, schools, residential properties, apart-  
13          ment complexes, gated communities, and others;

14          (4) sworn law enforcement officers provide sig-  
15          nificant services to the citizens of the United States  
16          in its public areas, and are supplemented by private  
17          security officers;

18          (5) the threat of additional terrorist attacks re-  
19          quires cooperation between public and private sec-  
20          tors and demands professional, reliable, and respon-  
21          sible security officers for the protection of people, fa-  
22          cilities, and institutions;

23          (6) the trend in the Nation toward growth in  
24          such security services has accelerated rapidly;

1           (7) such growth makes available more public  
2 sector law enforcement officers to combat serious  
3 and violent crimes, including terrorism;

4           (8) the American public deserves the employ-  
5 ment of qualified, well-trained private security per-  
6 sonnel as an adjunct to sworn law enforcement offi-  
7 cers; and

8           (9) private security officers and applicants for  
9 private security officer positions should be thor-  
10 oughly screened and trained.

11 **SEC. 3. DEFINITIONS.**

12 In this Act:

13           (1) **EMPLOYEE.**—The term “employee” includes  
14 both a current employee and an applicant for em-  
15 ployment as a private security officer.

16           (2) **AUTHORIZED EMPLOYER.**—The term “au-  
17 thorized employer” means any person that—

18                   (A) employs private security officers; and

19                   (B) is authorized by regulations promul-  
20 gated by the Attorney General to request a  
21 criminal history record information search of an  
22 employee through a State identification bureau  
23 pursuant to this section.

24           (3) **PRIVATE SECURITY OFFICER.**— The term  
25 “private security officer”—

1 (A) means an individual other than an em-  
2 ployee of a Federal, State, or local government,  
3 whose primary duty is to perform security serv-  
4 ices, full- or part-time, for consideration, wheth-  
5 er armed or unarmed and in uniform or plain  
6 clothes; but

7 (B) does not include—

8 (i) employees whose duties are pri-  
9 marily internal audit or credit functions;

10 (ii) employees of electronic security  
11 system companies acting as technicians or  
12 monitors; or

13 (iii) employees whose duties primarily  
14 involve the secure movement of prisoners.

15 (4) SECURITY SERVICES.—The term “security  
16 services” means acts to protect people or property as  
17 defined by regulations promulgated by the Attorney  
18 General.

19 (5) STATE IDENTIFICATION BUREAU.—The  
20 term “State identification bureau” means the State  
21 entity designated by the Attorney General for the  
22 submission and receipt of criminal history record in-  
23 formation.

1 **SEC. 4. CRIMINAL HISTORY RECORD INFORMATION**

2 **SEARCH.**

3 (a) IN GENERAL.—

4 (1) SUBMISSION OF FINGERPRINTS.—An au-  
5 thorized employer may submit to the State identi-  
6 fication bureau of a participating State, fingerprints  
7 or other means of positive identification, as deter-  
8 mined by the Attorney General, of an employee of  
9 such employer for purposes of a criminal history  
10 record information search pursuant to this Act.

11 (2) EMPLOYEE RIGHTS.—

12 (A) PERMISSION.—An authorized employer  
13 shall obtain written consent from an employee  
14 to submit to the State identification bureau of  
15 a participating State the request to search the  
16 criminal history record information of the em-  
17 ployee under this Act.

18 (B) ACCESS.—An authorized employer  
19 shall provide to the employee confidential access  
20 to any information relating to the employee re-  
21 ceived by the authorized employer pursuant to  
22 this Act.

23 (3) PROVIDING INFORMATION TO THE STATE  
24 IDENTIFICATION BUREAU.—Upon receipt of a re-  
25 quest for a criminal history record information  
26 search from an authorized employer pursuant to this

1 Act, submitted through the State identification bu-  
2 reau of a participating State, the Attorney General  
3 shall—

4 (A) search the appropriate records of the  
5 Criminal Justice Information Services Division  
6 of the Federal Bureau of Investigation; and

7 (B) promptly provide any resulting identi-  
8 fication and criminal history record information  
9 to the submitting State identification bureau re-  
10 questing the information.

11 (4) USE OF INFORMATION.—

12 (A) IN GENERAL.—Upon receipt of the  
13 criminal history record information from the  
14 Attorney General by the State identification bu-  
15 reau, the information shall be used only as pro-  
16 vided in subparagraph (B).

17 (B) TERMS.—In the case of—

18 (i) a participating State that has no  
19 State standards for qualification to be a  
20 private security officer, the State shall no-  
21 tify an authorized employer as to the fact  
22 of whether an employee has been convicted  
23 of a felony, an offense involving dishonesty  
24 or a false statement if the conviction oc-  
25 curred during the previous 10 years, or an

1 offense involving the use or attempted use  
2 of physical force against the person of an-  
3 other if the conviction occurred during the  
4 previous 10 years; or

5 (ii) a participating State that has  
6 State standards for qualification to be a  
7 private security officer, the State shall use  
8 the information received pursuant to this  
9 Act in applying the State standards and  
10 shall only notify the employer of the re-  
11 sults of the application of the State stand-  
12 ards.

13 (5) FREQUENCY OF REQUESTS.—An authorized  
14 employer may request a criminal history record in-  
15 formation search for an employee only once every 12  
16 months of continuous employment by that employee  
17 unless the authorized employer has good cause to  
18 submit additional requests.

19 (b) REGULATIONS.—Not later than 180 days after  
20 the date of enactment of this Act, the Attorney General  
21 shall issue such final or interim final regulations as may  
22 be necessary to carry out this Act, including—

23 (1) measures relating to the security, confiden-  
24 tiality, accuracy, use, submission, dissemination, de-

1       struction of information and audits, and record-  
2       keeping;

3           (2) standards for qualification as an authorized  
4       employer; and

5           (3) the imposition of reasonable fees necessary  
6       for conducting the background checks.

7       (c) CRIMINAL PENALTY.—Whoever falsely certifies  
8       that he meets the applicable standards for an authorized  
9       employer or who knowingly and intentionally uses any in-  
10      formation obtained pursuant to this Act other than for  
11      the purpose of determining the suitability of an individual  
12      for employment as a private security officer shall be fined  
13      under title 18, United States Code, or imprisoned for not  
14      more than 2 years, or both.

15      (d) USER FEES.—

16           (1) IN GENERAL.—The Director of the Federal  
17      Bureau of Investigation may—

18           (A) collect fees to process background  
19      checks provided for by this Act; and

20           (B) establish such fees at a level to include  
21      an additional amount to defray expenses for the  
22      automation of fingerprint identification and  
23      criminal justice information services and associ-  
24      ated costs.

25           (2) LIMITATIONS.—

1           (A) IN GENERAL.—Any fee collected under  
2           this subsection shall be subject to the provisions  
3           of section 605 of division B of Public Law 108–  
4           7, with respect to the expenditure of fees.

5           (B) EFFECTIVE DATE.—This paragraph  
6           shall take effect on the date that is 180 days  
7           after the date of issuance of regulations under  
8           subsection (b).

9           (3) STATE COSTS.—Nothing in this Act shall be  
10          construed as restricting the right of a State to as-  
11          sess a reasonable fee on an authorized employer for  
12          the costs to the State of administering this Act.

13          (e) STATE OPT OUT.—A State may decline to partici-  
14          pate in the background check system authorized by this  
15          Act by enacting a law or issuing an order by the Governor  
16          (if consistent with State law) providing that the State is  
17          declining to participate pursuant to this subsection.

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