

110TH CONGRESS  
1ST SESSION

# H. R. 2703

To amend the Private Security Officer Employment Authorization Act of  
2004.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 13, 2007

Mr. ANDREWS introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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## A BILL

To amend the Private Security Officer Employment  
Authorization Act of 2004.

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 2007”.

1 **SEC. 2. REVIEWS OF CRIMINAL RECORDS OF APPLICANTS**  
2 **FOR PRIVATE SECURITY OFFICER EMPLOY-**  
3 **MENT.**

4 Section 6402 of the Private Security Officer Employ-  
5 ment Authorization Act of 2004 (28 U.S.C. 534 note) is  
6 amended—

7 (1) in subsection (c)(2)(B), by inserting “, or  
8 through an entity designated by the Attorney Gen-  
9 eral,” after “identification bureau”;

10 (2) in subsection (d)(1)—

11 (A) in subparagraph (A), by inserting “, or  
12 to an entity designated by the Attorney Gen-  
13 eral,” after “participating State”; and

14 (B) in subparagraph (B)—

15 (i) in clause (i), by striking “to the  
16 State identification bureau of the partici-  
17 pating State”;

18 (ii) by inserting after clause (ii) the  
19 following new clause:

20 “(iii) ACCURACY AND COMPLETE-  
21 NESS.—The Attorney General shall ensure  
22 that there is a process whereby a covered  
23 employee subject to a request for a Na-  
24 tional Crime Information Center criminal  
25 history records check under subsection  
26 (c)(1) will have the opportunity to provide

1 to the head of the National Crime Infor-  
2 mation Center of the Federal Bureau of  
3 Investigation information concerning the  
4 accuracy or completeness of such results.  
5 The covered employee involved must pro-  
6 vide such information within 30 days after  
7 the employee receives such results.”.

8 (C) in subparagraph (C)—

9 (i) in the heading, by inserting “OR  
10 AUTHORIZED EMPLOYER OR ENTITY” after  
11 bureau;

12 (ii) in the text following the heading,  
13 by striking “submitted through the State  
14 identification bureau of a participating  
15 State, the Attorney General shall” and in-  
16 serting “the Attorney General or an entity  
17 designated by the Attorney General shall”;  
18 and

19 (iii) in clause (ii), by inserting “or, if  
20 submitted through an entity designated by  
21 the Attorney General, to the employer or  
22 entity,” before “requesting the informa-  
23 tion”;

24 (D) in subparagraph (D)—

1 (i) in clause (i), by striking “the infor-  
2 mation shall be used only as provided in  
3 clause (ii)” and inserting “or by an au-  
4 thorized employer or entity, the informa-  
5 tion shall be used only as provided in this  
6 Act”; and

7 (ii) by amending clause (ii) to read as  
8 follows:

9 “(ii) PROHIBITION.—An authorized  
10 employer may not employ a covered em-  
11 ployee to provide a security service de-  
12 scribed in subparagraph (B), unless, in the  
13 case of—

14 “(I) a participating State that  
15 has no State standards for qualifica-  
16 tion to be a private security officer,  
17 the State shall notify an authorized  
18 employer as to the fact of whether the  
19 employee has any unpardoned convic-  
20 tion under any Federal or State law  
21 of any felony or any one or more of  
22 the following offenses, except that, for  
23 crimes other than those described in  
24 subsection (II), records will only be  
25 provided for convictions that occurred

1 during the previous 10 years or for  
2 which the employee completed serving  
3 a prison sentence within the previous  
4 5 years:

5 “(aa) Illegally using, car-  
6 rying, or possessing any firearm  
7 or other dangerous weapon.

8 “(bb) Making or possessing  
9 an instrument, the primary use  
10 of which would be to facilitate  
11 burglary, theft, or a similar  
12 crime.

13 “(cc) Buying or receiving  
14 stolen property.

15 “(dd) Unlawful entry of a  
16 building.

17 “(ee) Aiding escape from  
18 prison.

19 “(ff) Unlawfully possessing  
20 or distributing any illegal nar-  
21 cotic drug.

22 “(gg) Any act involving  
23 theft, including theft by decep-  
24 tion.

1 “(hh) Recklessly endan-  
2 gering another person.

3 “(ii) Making any threat of  
4 terror.

5 “(jj) Any crime of violence  
6 against another individual, in-  
7 cluding assault or battery, or any  
8 crime of violence against the  
9 property of an individual.

10 “(kk) Attempting or con-  
11 spiring to commit any of the of-  
12 fenses described in subclauses (I)  
13 through (X).

14 “(ll) Any other offense rel-  
15 evant to the ability of the covered  
16 employee to provide reliable secu-  
17 rity services, as specified by the  
18 Attorney General by regulation;

19 “(II) a participating State that  
20 has State standards for qualification  
21 to be a private security officer, the  
22 State shall use the information re-  
23 ceived pursuant to this Act in apply-  
24 ing the State standards and shall only  
25 notify the employer of the results of

1 the application of the State standards;  
2 or

3 “(III) an authorized employer or  
4 entity request through an entity des-  
5 ignated by the Attorney General, the  
6 Attorney General shall notify the au-  
7 thorized employer or entity as to the  
8 fact of whether an employee has any  
9 unpardoned conviction under any Fed-  
10 eral or State law of any felony or any  
11 one or more of the following offenses,  
12 except that, for crimes other than  
13 those described in subsection (II),  
14 records will only be provided for con-  
15 victions that occurred during the pre-  
16 vious 10 years or for which the cov-  
17 ered employee completed serving a  
18 prison sentence within the previous 5  
19 years:

20 “(aa) Illegally using, car-  
21 rying, or possessing any firearm  
22 or other dangerous weapon.

23 “(bb) Making or possessing  
24 an instrument, the primary use  
25 of which would be to facilitate

1 burglary, theft, or a similar  
2 crime.

3 “(cc) Buying or receiving  
4 stolen property.

5 “(dd) Unlawful entry of a  
6 building.

7 “(ee) Aiding escape from  
8 prison.

9 “(ff) Unlawfully possessing  
10 or distributing any illegal nar-  
11 cotic drug.

12 “(gg) Any act involving  
13 theft, including theft by decep-  
14 tion.

15 “(hh) Recklessly endan-  
16 gering another person.

17 “(ii) Making any threat of  
18 terror or engaging in any act of  
19 terror.

20 “(jj) Any crime of violence  
21 against another individual, in-  
22 cluding assault or battery, or any  
23 crime of violence against the  
24 property of an individual.



1                   “(kk) Attempting or con-  
 2                   spiring to commit any of the of-  
 3                   fenses described in subclauses (I)  
 4                   through (X).

5                   “(ll) Any other offense rel-  
 6                   evant to the ability of the covered  
 7                   employee to provide reliable secu-  
 8                   rity services, as specified by the  
 9                   Attorney General by regulation.”;

10                   (E) by redesignating subparagraph (E) as  
 11                   subparagraph (F), and by inserting after sub-  
 12                   paragraph (D) the following new subparagraph:

13                   “(E) NOTIFICATIONS.—With regard to  
 14                   records that are incomplete, notifications under  
 15                   subparagraph (D)(ii)(lll) shall also provide no-  
 16                   tice of any state(s) in which such records may  
 17                   be completed or verified.”; and

18                   (F) by adding at the end the following new  
 19                   subparagraph:

20                   “(G) RECORDS MANAGEMENT.—

21                   “(i) IN GENERAL.—An authorized em-  
 22                   ployer receiving any results from a crimi-  
 23                   nal history records check carried out under  
 24                   subsection (c)(1), with respect to a covered

1 employee, shall ensure each of the fol-  
2 lowing:

3 “(I) Such results are maintained  
4 confidentially.

5 “(II) Such results are not mis-  
6 used or disseminated to any person  
7 not involved in the employment deci-  
8 sion with respect to the covered em-  
9 ployee.

10 “(III) Subject to paragraph (2),  
11 such results are destroyed within one  
12 year after the latter of the following  
13 dates, with respect to such results:

14 “(aa) The first of the fol-  
15 lowing dates:

16 “(AA) The date of the  
17 decision whether to employ  
18 or continue to employ the  
19 covered employee.

20 “(BB) The date that is  
21 one year after the date on  
22 which the authorized em-  
23 ployer received the results.

24 “(bb) The date that is one  
25 year after the final disposition of

1 a claim or proceeding relating to  
2 the employment of the covered  
3 employee.

4 “(ii) NO DESTRUCTION OF RESULTS  
5 IF RELATED CLAIM PENDING.—In no case  
6 shall the results from a criminal history  
7 records check carried out under subsection  
8 (c)(1) be destroyed pursuant to paragraph  
9 (1)(C) while a claim or proceeding de-  
10 scribed in clause (ii) of such paragraph is  
11 pending.”;

12 (3) in subsection (d)(2)—

13 (A) by striking “and” at the end of sub-  
14 paragraph (B);

15 (B) by redesignating subparagraph (C) as  
16 subparagraph (E); and

17 (C) by inserting after subparagraph (B)  
18 the following new subparagraphs:

19 “(C) standards for the scope of access and  
20 the methods and time frames for providing ac-  
21 cess and responses for these checks, including a  
22 requirement that a participating state or the  
23 FBI or designated entity is required to respond  
24 to a submission by an authorized employer, en-  
25 tity, or consumer reporting agency within three

1 business days of the submission of the finger-  
2 prints supporting the request for the criminal  
3 history record check;

4 “(D) a process for providing access for em-  
5 ployers and entities to FBI-maintained criminal  
6 history records when access is unavailable  
7 through the state level because the state has  
8 not opted to provide such access or does not  
9 meet the standards set forth by the Attorney  
10 General; and”;

11 (4) by redesignating paragraphs (4) and (5) of  
12 subsection (d) as paragraphs (6) and (7), respec-  
13 tively, of such subsection; and

14 (5) by inserting after paragraph (3) of sub-  
15 section (d) the following new paragraphs:

16 “(4) NO LIABILITY FOR GOOD FAITH DETER-  
17 MINATIONS.—No authorized employer shall be liable  
18 for any determination made by such employer in  
19 good faith that an offense identified from a criminal  
20 history records check conducted under subsection (c)  
21 for such employer on a covered employee is within  
22 the scope of offenses described in paragraph  
23 (2)(D)(ii) for purposes of such employer making an  
24 employment decision with respect to such employee.

1           “(5) RULE OF CONSTRUCTION.—Nothing in  
2       paragraph (1) shall be construed as preventing an  
3       authorized employer from making an employment  
4       decision, with respect to a covered employee, based  
5       on any lawful reason not described in such sub-  
6       section, including the reason that the results of a  
7       criminal history records check conducted under sub-  
8       section (c)(1) (or any other information made avail-  
9       able to the employer) on such employee indicate that  
10      the employment of the employee would violate any  
11      applicable State law.”.

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