

113TH CONGRESS
2D SESSION

S. 2647

To amend the National Child Protection Act of 1993 to establish a permanent background check system for private security officers.

IN THE SENATE OF THE UNITED STATES

JULY 23, 2014

Mr. TOOMEY introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To amend the National Child Protection Act of 1993 to establish a permanent background check system for private security officers.

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 “Security Officer
5 Screening Improvement Act of 2014”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

8 (1) The Integrated Automated Fingerprint
9 Identification System of the Federal Bureau of In-

1 investigation maintains fingerprints and criminal his-
 2 tory records on more than 71,000,000 individuals.

3 (2) Congress has worked with the States to
 4 make criminal history background checks available
 5 to employers of private security officers through the
 6 Private Security Officer Employment Authorization
 7 Act of 2004 (28 U.S.C. 534 note) and statutes en-
 8 acted by dozens of States in compliance with Public
 9 Law 92–544. However, there are still numerous per-
 10 sons employed as private security officers, entrusted
 11 to safeguard and protect people and property, who
 12 do not undergo criminal history background checks
 13 authorized by Federal and State law.

14 **SEC. 3. BACKGROUND CHECKS.**

15 The National Child Protection Act of 1993 (42
 16 U.S.C. 5119 et seq.) is amended—

17 (1) by redesignating section 5 as section 6; and

18 (2) by inserting after section 4 the following:

19 **“SEC. 5. PROGRAM FOR NATIONAL CRIMINAL HISTORY**
 20 **BACKGROUND CHECKS.**

21 **“(a) DEFINITIONS.—**In this section—

22 **“(1)** the term ‘background check designee’
 23 means the entity designated by the Attorney General
 24 under subsection (b)(3) to carry out the duties de-
 25 scribed in subsection (c);

1 “(2) the term ‘covered entity’ means any person
2 that employs a private security officer;

3 “(3) the term ‘covered individual’ means an in-
4 dividual who is employed or applying for employ-
5 ment as a private security officer;

6 “(4) the term ‘criminal history review designee’
7 means the entity designated by the Attorney General
8 under subsection (b)(2) to carry out the criminal
9 history review program;

10 “(5) the term ‘criminal history review program’
11 means the program established under subsection (d);

12 “(6) the term ‘qualified State program’ means
13 a program of a State authorized agency that pro-
14 vides access to national criminal history background
15 checks, as authorized by Federal or State law;

16 “(7) the term ‘private security officer’ has the
17 meaning given the term in subsection (c)(3) of the
18 Private Security Officer Employment Authorization
19 Act of 2004 (28 U.S.C. 534 note); and

20 “(8) the term ‘State’ means a State of the
21 United States, the District of Columbia, the Com-
22 monwealth of Puerto Rico, American Samoa, the
23 Virgin Islands, Guam, the Commonwealth of the
24 Northern Mariana Islands, the Federated States of

1 Micronesia, the Republic of the Marshall Islands,
2 and the Republic of Palau.

3 “(b) ESTABLISHMENT OF PROGRAM.—

4 “(1) PURPOSE.—The purpose of this subsection
5 is to facilitate widespread access to State and na-
6 tional criminal history background checks, not other-
7 wise authorized by Federal or State law, on private
8 security officers and prospective private security offi-
9 cers.

10 “(2) IN GENERAL.—Not later than 1 year after
11 the date of enactment of the Security Officer
12 Screening Improvement Act of 2014, the Attorney
13 General shall establish—

14 “(A) policies and procedures to carry out
15 the duties described in subsection (c); and

16 “(B) a criminal history review program in
17 accordance with subsection (d).

18 “(3) DESIGNEES.—The Attorney General may
19 designate 1 or more Federal Government agencies to
20 carry out the duties described in subsection (c).

21 “(c) ACCESS TO STATE AND NATIONAL BACK-
22 GROUND CHECKS.—

23 “(1) DUTIES.—The Attorney General shall—

1 “(A) inform covered entities about how to
2 request State and national background
3 checks—

4 “(i) for covered entities located in a
5 State with a qualified State program, by
6 referring the covered entity to the State
7 authorized agency; or

8 “(ii) for covered entities located in a
9 State without a qualified State program,
10 by providing information on alternative
11 methods of obtaining a State and national
12 background check;

13 “(B) complete a check of the national
14 criminal history background check system; and

15 “(C) provide information received in re-
16 sponse to such national criminal history back-
17 ground check to the criminal history review des-
18 ignee.

19 “(2) REQUIRED INFORMATION.—A request for
20 a State and national criminal history background
21 check shall include—

22 “(A) the fingerprints of the covered indi-
23 vidual;

1 “(B) other documents required by State
2 law for a State criminal history background
3 check; and

4 “(C) the appropriate fee.

5 “(3) FEES.—The Attorney General shall, in ad-
6 dition to the fee for the non-criminal justice, non-law
7 enforcement national criminal history background
8 check authorized under title II of the Department of
9 Justice Appropriations Act, 1991 under the heading
10 ‘SALARIES AND EXPENSES’ under the heading ‘FED-
11 ERAL BUREAU OF INVESTIGATION’ (Public Law
12 101–105; 28 U.S.C. 534 note)—

13 “(A) collect a fee to offset the costs of car-
14 rying out the duties described in subsection (d),
15 in an amount equal to the cost of conducting
16 the criminal history review; and

17 “(B) remit such fee to the Federal Bureau
18 of Investigation.

19 “(d) CRIMINAL HISTORY REVIEW PROGRAM.—

20 “(1) PURPOSE.—The purpose of this subsection
21 is to provide covered entities with reliable and accu-
22 rate information regarding the fitness of the covered
23 individuals for performing security services.

24 “(2) REQUIREMENTS.—The Attorney General
25 or designee shall—

1 “(A) establish procedures to securely re-
2 ceive criminal history records;

3 “(B) make determinations regarding
4 whether the criminal history records received in
5 response to a criminal history background check
6 conducted under this section indicate that the
7 covered individual has a criminal history that
8 may bear on the covered individual’s fitness to
9 perform security services; and

10 “(C) convey to the covered entity that sub-
11 mitted the request for a State and national
12 criminal history background check—

13 “(i) the fitness and suitability of the
14 covered individual based solely on the cri-
15 teria described in paragraph (3); and

16 “(ii) instructions and guidance that
17 the covered entity should consult the Equal
18 Employment Opportunity Commission En-
19 forcement Guidance #915.002, dated April
20 25, 2012, ‘Consideration of Arrest and
21 Conviction Records in Employment Deci-
22 sions under Title VII of the Civil Rights
23 Act of 1964’, or any successor thereto,
24 issued by the United States Equal Employ-
25 ment Opportunity Commission.

1 “(3) CRIMINAL HISTORY REVIEW CRITERIA.—In
2 determining whether a criminal history record indi-
3 cates that a covered individual has a criminal history
4 that may bear on the fitness of the covered indi-
5 vidual to perform security services, the Attorney
6 General or designee shall employ the criteria used to
7 evaluate individuals under the Private Security Offi-
8 cer Employment Authorization Act of 2004 (28
9 U.S.C. 534 note).

10 “(4) APPLICATION PROCESSING.—

11 “(A) IN GENERAL.—The Attorney General
12 shall establish the process by which a covered
13 entity in a State without a qualified State pro-
14 gram may obtain a State and national criminal
15 history background check.

16 “(B) CHALLENGE TO COMPLETENESS OF
17 RECORD.—A covered individual may challenge
18 the completeness of any information in the
19 criminal history record of the individual by con-
20 tacting the Federal Bureau of Investigation
21 under the procedure set out in section 16.34 of
22 title 28, Code of Federal Regulations, or any
23 successor thereto.

1 “(5) PARTICIPATION IN PROGRAM.—The Attor-
2 ney General or designee shall determine whether an
3 entity is a covered entity.

4 “(6) PRIVACY OF INFORMATION.—

5 “(A) IN GENERAL.—Any entity authorized
6 to receive or transmit fingerprints or criminal
7 history records under this section—

8 “(i) shall use the fingerprints, crimi-
9 nal history records, or information in the
10 criminal history records only for the pur-
11 poses specifically set forth in this section;
12 and

13 “(ii) shall maintain adequate security
14 measures to ensure the confidentiality of
15 the fingerprints, the criminal history
16 records, and the information in the crimi-
17 nal history records.

18 “(B) RETENTION OF FINGERPRINTS BY
19 THE FBI.—In accordance with State or Federal
20 procedures, for the purpose of providing finger-
21 print verification, criminal investigation or sub-
22 sequent hit notification services, or for the re-
23 tention of criminal history, the Federal Bureau
24 of Investigation may retain any fingerprints

1 submitted to the Federal Bureau of Investiga-
2 tion under this section.

3 “(7) RULE OF CONSTRUCTION.—Nothing in
4 this subsection shall be construed to change or re-
5 place any background check program authorized by
6 Federal or State law on the day before the date of
7 enactment of the Security Officer Screening Im-
8 provement Act of 2014.”.

○