

114TH CONGRESS
2D SESSION

S. 2534

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

FEBRUARY 10, 2016

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 2016”.

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 ‘covered entity’ means any person**
 23 **that employs a private security officer;**

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

4 “(3) the term ‘criminal history review designee’
5 means the entity, if any, designated by the Attorney
6 General under subsection (b)(3) to carry out the
7 criminal history review program;

8 “(4) the term ‘criminal history review program’
9 means the program established under subsection (d);

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

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

18 “(7) the term ‘State’ means a State of the
19 United States, the District of Columbia, the Com-
20 monwealth of Puerto Rico, American Samoa, the
21 Virgin Islands, Guam, the Commonwealth of the
22 Northern Mariana Islands, the Federated States of
23 Micronesia, the Republic of the Marshall Islands,
24 and the Republic of Palau.

25 “(b) ESTABLISHMENT OF PROGRAM.—

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

7 “(2) ESTABLISHMENT.—Not later than 1 year
 8 after the date of enactment of the Security Officer
 9 Screening Improvement Act of 2016, the Attorney
 10 General shall establish—

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

13 “(B) a criminal history review program in
 14 accordance with subsection (d).

15 “(3) DESIGNEES.—The Attorney General may
 16 designate one or more entities to carry out the du-
 17 ties described in subsection (c) or (d).

18 “(c) ACCESS TO STATE AND NATIONAL BACK-
 19 GROUND CHECKS.—

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

21 “(A) inform covered entities about how to
 22 request State and national background
 23 checks—

24 “(i) for covered entities located in a
 25 State with a qualified State program, by

1 referring the covered entity to the State
2 authorized agency; or

3 “(ii) for covered entities located in a
4 State without a qualified State program,
5 by providing information on alternative
6 methods of obtaining a State and national
7 background check;

8 “(B) complete a check of the national
9 criminal history background check system upon
10 request from a covered entity; and

11 “(C) provide information received in re-
12 sponse to such national criminal history back-
13 ground check to the criminal history review des-
14 ignee, if any.

15 “(2) REQUIRED INFORMATION.—A request for
16 a State and national criminal history background
17 check shall include—

18 “(A) the fingerprints of the covered indi-
19 vidual;

20 “(B) other documents required by State
21 law for a State criminal history background
22 check; and

23 “(C) the appropriate fee.

24 “(3) FEES.—The Attorney General shall, in ad-
25 dition to the fee for the non-criminal justice, non-law

1 enforcement national criminal history background
 2 check authorized under title II of the Department of
 3 Justice Appropriations Act, 1991 under the heading
 4 ‘SALARIES AND EXPENSES’ under the heading ‘FED-
 5 ERAL BUREAU OF INVESTIGATION’ (Public Law
 6 101–105; 28 U.S.C. 534 note)—

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

11 “(B) remit such fee to the Federal Bureau
 12 of Investigation.

13 “(d) CRIMINAL HISTORY REVIEW PROGRAM.—

14 “(1) PURPOSE.—The purpose of this subsection
 15 is to provide covered entities with reliable and accu-
 16 rate information regarding the fitness of covered in-
 17 dividuals for performing security services.

18 “(2) REQUIREMENTS.—The Attorney General
 19 shall—

20 “(A) establish procedures to securely re-
 21 ceive criminal history records;

22 “(B) make determinations regarding
 23 whether the criminal history records received in
 24 response to a criminal history background check
 25 conducted under this section indicate that the

1 covered individual has a criminal history that
2 may bear on the covered individual's fitness to
3 perform security services; and

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

7 “(i) the fitness and suitability of the
8 covered individual based solely on the cri-
9 teria described in paragraph (3); and

10 “(ii) that the covered entity should
11 consult the Equal Employment Oppor-
12 tunity Commission Enforcement Guidance
13 #915.002, dated April 25, 2012, ‘Consid-
14 eration of Arrest and Conviction Records
15 in Employment Decisions under Title VII
16 of the Civil Rights Act of 1964’, or any
17 successor thereto issued by the Equal Em-
18 ployment Opportunity Commission.

19 “(3) CRIMINAL HISTORY REVIEW CRITERIA.—In
20 determining whether a criminal history record indi-
21 cates that a covered individual has a criminal history
22 that may bear on the fitness of the covered indi-
23 vidual to perform security services, the Attorney
24 General shall employ the criteria used to evaluate in-
25 dividuals under the Private Security Officer Employ-

1 ment Authorization Act of 2004 (28 U.S.C. 534
2 note).

3 “(4) APPLICATION PROCESSING.—

4 “(A) IN GENERAL.—The Attorney General
5 shall establish the process by which a covered
6 entity in a State without a qualified State pro-
7 gram may obtain a State and national criminal
8 history background check.

9 “(B) CHALLENGE TO COMPLETENESS OF
10 RECORD.—A covered individual may challenge
11 the completeness of any information in the
12 criminal history record of the individual by con-
13 tacting the Federal Bureau of Investigation
14 under the procedure set out in section 16.34 of
15 title 28, Code of Federal Regulations, or any
16 successor thereto.

17 “(5) PARTICIPATION IN PROGRAM.—The Attor-
18 ney General shall determine whether an entity is a
19 covered entity.

20 “(6) PRIVACY OF INFORMATION.—

21 “(A) IN GENERAL.—Any entity authorized
22 to receive or transmit fingerprints or criminal
23 history records under this section—

24 “(i) shall use the fingerprints, crimi-
25 nal history records, or information in the

1 criminal history records only for the pur-
2 poses specifically set forth in this section;
3 and

4 “(ii) shall maintain adequate security
5 measures to ensure the confidentiality of
6 the fingerprints, the criminal history
7 records, and the information in the crimi-
8 nal history records.

9 “(B) RETENTION OF FINGERPRINTS BY
10 THE FBI.—In accordance with State or Federal
11 procedures, for the purpose of providing finger-
12 print verification, criminal investigation, or sub-
13 sequent hit notification services, or for the re-
14 tention of criminal history, the Federal Bureau
15 of Investigation may retain any fingerprints
16 submitted to the Federal Bureau of Investiga-
17 tion under this section.

18 “(7) RULE OF CONSTRUCTION.—Nothing in
19 this subsection shall be construed to change or re-
20 place any background check program authorized by
21 Federal or State law on the day before the date of
22 enactment of the Security Officer Screening Im-
23 provement Act of 2016.”.

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