

105TH CONGRESS  
1ST SESSION

# H. R. 2184

To permit reviews of criminal records of applicants for private security officer employment, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JULY 17, 1997

Mr. BRYANT introduced the following bill; which was referred to the Committee on Education and the Workforce, 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 permit reviews of criminal records of applicants for private security officer employment, and for other purposes.

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 Quality Assurance Act of 1997”.

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 public law enforcement by helping to reduce  
3           and prevent crime;

4           (3) the private security industry provides nu-  
5           merous opportunities for entry-level job applicants,  
6           including individuals suffering from unemployment  
7           due to economic conditions or dislocations;

8           (4) such private security officers protect indi-  
9           viduals, tangible and intangible property and propri-  
10          etary information and provide protection to such di-  
11          verse operations as banks, hospitals, chemical com-  
12          panies, oil and gas refineries, airports, communica-  
13          tion facilities and operations, office complexes,  
14          schools, residential properties, apartment complexes,  
15          gated communities and many others;

16          (5) sworn law enforcement officers provide sig-  
17          nificant services to the citizens of the United States  
18          in its public areas, and are only supplemented by  
19          private security officers who provide prevention and  
20          reporting services in support of, but not in place of,  
21          regular sworn police;

22          (6) given the growth of large private shopping  
23          malls, and the consequent reduction in the number  
24          of public shopping streets, the American public is  
25          more likely to have contact with private security per-

1       sonnel in the course of a day than with sworn law  
2       enforcement officers;

3               (7) the trend in the Nation toward growth in  
4       such security services has accelerated rapidly as the  
5       per capita number of public sector law enforcement  
6       officers has decreased;

7               (8) such growth serves important public policy  
8       goals in making available more public sector law en-  
9       forcement officers to combat serious and violent  
10      crimes;

11              (9) regardless of the differences in their duties,  
12      skill, and responsibilities, the public has difficulty in  
13      discerning the difference between sworn law enforce-  
14      ment officers and private security personnel;

15              (10) the American public demands the employ-  
16      ment of qualified, well-trained private security per-  
17      sonnel as an adjunct, but not a replacement for  
18      sworn law enforcement officers; and

19              (11) private security officers and applicants for  
20      private security officer positions should be screened  
21      as thoroughly as possible, particularly since many  
22      private security officers bear weapons.

23 **SEC. 3. BACKGROUND CHECKS.**

24              (a) IN GENERAL.—(1) At the request of an employer  
25      of private security officers, an association of employers of

1 private security officers, designated for the purpose of this  
2 section by the Attorney General, must submit to the Attor-  
3 ney General fingerprints or other methods of positive iden-  
4 tification of an employee of such employer for purposes  
5 of a background check.

6 (2) An employer may seek authorization from its em-  
7 ployees to submit their fingerprints for purposes of a back-  
8 ground check.

9 (3) Upon receipt of fingerprints from an association  
10 designated under this section, the Attorney General shall  
11 search the records of the Interstate Information Index of  
12 the National Crime Information Center and the Identifica-  
13 tion Division of the Federal Bureau of Investigation, and  
14 shall provide any identification and criminal history  
15 records corresponding to the fingerprints to the requesting  
16 association within 30 business days.

17 (4) The Attorney General shall, to the maximum ex-  
18 tent possible, encourage the use of the best technology  
19 available in compiling criminal history information and in  
20 responding to requests under this section.

21 (5) An association designated under this section shall  
22 submit employee fingerprints to the Attorney General for  
23 identification and appropriate processing within one busi-  
24 ness day of receiving them. Such an association shall also  
25 transfer a copy of the identification and criminal history

1 records that it receives from the Attorney General to the  
2 requesting employer within one business day of receiving  
3 them.

4 (6) An association designated under this section shall  
5 provide a copy to the appropriate licensing authorities or  
6 regulatory agencies in the States of the requests it makes  
7 on behalf of employers for identification and criminal his-  
8 tory records. The association shall also provide a copy of  
9 the information it transfers to employers to such States.

10 (b) REGULATIONS.—The Attorney General may pre-  
11 scribe such regulations as may be necessary to carry out  
12 this section, including measures relating to the security,  
13 confidentiality, accuracy, use, and dissemination of infor-  
14 mation and audits and recordkeeping and the imposition  
15 of fees necessary for the recovery of costs.

16 (c) REPORT.—The Attorney General shall report to  
17 the Senate and House Committees on the Judiciary 2  
18 years after the date of enactment of this bill on the num-  
19 ber of inquiries made by the association of employers  
20 under this section and their disposition.

21 **SEC. 4. CONFORMING AMENDMENTS.**

22 Subsection (d) of section 534 of title 28, United  
23 States Code, is amended by adding the following para-  
24 graph:

1           “(3) an association of employers of private se-  
2           curity officers designated by the Attorney General  
3           for purposes of conducting background checks on  
4           employees or prospective employees.”.

5 **SEC. 5. CRIMINAL PENALTY.**

6           Whoever knowingly and intentionally uses any infor-  
7           mation obtained pursuant to section 3 other than for the  
8           purpose of determining the suitability of an individual for  
9           employment as a private security officer shall be fined not  
10          more than \$50,000 or imprisoned for not more than two  
11          years, or both.

12 **SEC. 6. EMPLOYER LIABILITY.**

13          Where an employer of private security officers rea-  
14          sonably relies for employment determinations upon crimi-  
15          nal history information provided by the Attorney General,  
16          such employer shall not be liable in any action for damages  
17          based on such employment determinations.

18 **SEC. 7. DEFINITIONS.**

19          As used in this Act—

20                 (1) the term “Attorney General” includes any  
21                 person or entity designated by the Attorney General,  
22                 including the Federal Bureau of Investigation;

23                 (2) the term “employee” includes an applicant  
24                 for employment;

1           (3) the term “employer” means any person  
2 that—

3           (A) provides, as an independent contractor,  
4 for consideration, the services of one or more  
5 private security officers (possibly including one-  
6 self); and

7           (B) is licensed by one or more States as a  
8 provider of private security services, or is cer-  
9 tified as such by the chief law enforcement offi-  
10 cer of one or more States;

11          (4) the term “fingerprint” includes any other  
12 method of positive identification approved by the At-  
13 torney General;

14          (5) the term “private security officer”—

15           (A) means an individual who performs se-  
16 curity services, full or part time, for consider-  
17 ation as an independent contractor or an em-  
18 ployee, whether armed or unarmed and in uni-  
19 form or plain clothes whose primary duty is to  
20 perform security services, but

21           (B) does not include—

22           (i) sworn police officers who have law  
23 enforcement powers in the State,

1 (ii) attorneys, accountants, and other  
2 professionals who are otherwise licensed in  
3 the State,

4 (iii) employees whose duties are pri-  
5 marily internal audit or credit functions,

6 (iv) persons whose duties may inciden-  
7 tally include the reporting or apprehension  
8 of shoplifters or trespassers,

9 (v) an individual on active duty in the  
10 military service,

11 (vi) employees of electronic security  
12 system companies acting as technicians or  
13 monitors,

14 (vii) employees whose duties primarily  
15 involve the secure movement of prisoners,  
16 or

17 (viii) employees of armored vehicle  
18 companies;

19 (6) the term “security services” means the per-  
20 formance of one or more of the following:

21 (A) the observation or reporting of intru-  
22 sion, larceny, vandalism, fire or trespass;

23 (B) the deterrence of theft or misappro-  
24 priation of any goods, money, or other item of  
25 value;

1 (C) the observation or reporting of any un-  
2 lawful activity;

3 (D) the protection of individuals or prop-  
4 erty, including proprietary information, from  
5 harm or misappropriation;

6 (E) the control of access to premises being  
7 protected;

8 (F) the maintenance of order and safety at  
9 athletic, entertainment, or other public activi-  
10 ties; and

11 (G) the provision of canine services for  
12 protecting premises or for the detection of any  
13 unlawful device or substance; and

14 (7) the term “State” means any of the several  
15 States, the District of Columbia, the Commonwealth  
16 of Puerto Rico, the United States Virgin Islands,  
17 American Samoa, Guam, and the Commonwealth of  
18 the Northern Mariana Islands.

19 **SEC. 8. USER FEES.**

20 Notwithstanding any other provision of law, the At-  
21 torney General may collect a user fee for a request, under  
22 any applicable law, for an individual’s criminal history in-  
23 formation.

1 **SEC. 9. EFFECTIVE DATE.**

2       The effective date of this Act shall be July 1, 1999.

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