

117TH CONGRESS  
1ST SESSION

# S. 3379

To amend the Private Security Officer Employment Authorization Act of 2004 to establish a national criminal history background check system and criminal history review program for private security officers.

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## IN THE SENATE OF THE UNITED STATES

DECEMBER 14, 2021

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

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## A BILL

To amend the Private Security Officer Employment Authorization Act of 2004 to establish a national criminal history background check system and criminal history review program 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 “Private Security Offi-  
5 cer Screening Improvement Act of 2021”.

6 **SEC. 2. FINDINGS.**

7 Congress finds the following:

1           (1) There are approximately 1,000,000 private  
2 security officers in the United States, both contract  
3 and proprietary. Private security officers are consid-  
4 ered persons of trust by the public. They are en-  
5 trusted to safeguard and protect people and prop-  
6 erty, including nuclear power plants, schools, hos-  
7 pitals, banks, places of worship, living communities,  
8 shopping malls, and entertainment venues.

9           (2) The Next Generation Identification system  
10 of the Federal Bureau of Investigation (referred to  
11 in this section as the “FBI”) maintains fingerprints  
12 and criminal history records on more than  
13 79,000,000 individuals. FBI criminal history back-  
14 ground checks on private security officers have un-  
15 covered serious criminal convictions that did not  
16 show up in State and commercial criminal history  
17 background checks. Accordingly, it is clearly in the  
18 public interest for private security officers and appli-  
19 cants to be subject to FBI criminal history back-  
20 ground checks.

21           (3) Congress has worked with the States to  
22 make FBI criminal history background checks avail-  
23 able to employers of private security officers through  
24 the Private Security Officer Employment Authoriza-  
25 tion Act of 2004 (34 U.S.C. 41106) (referred to in

1 this section as the “PSOEAA”) and statutes enacted  
2 by dozens of States in compliance with Public Law  
3 92–544. The PSOEAA authorized employers of pri-  
4 vate security officers to request FBI criminal history  
5 background checks on their officers and applicants  
6 through a State agency. However, since the enact-  
7 ment of the PSOEAA in 2004, not all States have  
8 made FBI criminal history background checks avail-  
9 able to employers of private security officers. As a  
10 result, there are many private security officers and  
11 applicants for which employers are unable to obtain  
12 FBI criminal history background checks as author-  
13 ized by the PSOEAA.

14 **SEC. 3. NATIONAL CRIMINAL HISTORY BACKGROUND**  
15 **CHECK AND CRIMINAL HISTORY REVIEW**  
16 **PROGRAM.**

17 The Private Security Officer Employment Authoriza-  
18 tion Act of 2004 (34 U.S.C. 41106) is amended—

19 (1) in subsection (c)—

20 (A) in paragraph (2)(B), by inserting “or  
21 a designated entity” after “a State identifica-  
22 tion bureau”;

23 (B) by redesignating paragraph (5) as  
24 paragraph (7);

1 (C) by redesignating paragraphs (3) and  
2 (4) as paragraphs (4) and (5), respectively;

3 (D) by inserting after paragraph (2) the  
4 following:

5 “(3) DESIGNATED ENTITY.—The term ‘des-  
6 ignated entity’ means an entity designated by the  
7 Attorney General, which may not be a Federal agen-  
8 cy, to receive and process requests under subsection  
9 (d).”; and

10 (E) by inserting after paragraph (5), as so  
11 redesignated, the following:

12 “(6) STATE.—The term ‘State’ means a State,  
13 the District of Columbia, the Commonwealth of  
14 Puerto Rico, American Samoa, the Virgin Islands,  
15 Guam, and the Trust Territories of the Pacific.”;  
16 and

17 (2) in subsection (d)—

18 (A) in paragraph (1)—

19 (i) in subparagraph (A), by striking  
20 “the State identification bureau of a par-  
21 ticipating State” and inserting “a State  
22 identification bureau or a designated enti-  
23 ty”;

24 (ii) in subparagraph (B)(i), by strik-  
25 ing “to the State identification bureau of

1 the participating State the” and inserting  
2 “a”;

3 (iii) in subparagraph (C)—

4 (I) in the heading—

5 (aa) by striking “THE  
6 STATE” and inserting “A STATE”;  
7 and

8 (bb) by inserting “OR DES-  
9 IGNATED ENTITY” after “BU-  
10 REAU”;

11 (II) in the matter preceding  
12 clause (i), by striking “the State iden-  
13 tification bureau of a participating  
14 State” and inserting “a State identi-  
15 fication bureau or a designated enti-  
16 ty”; and

17 (III) in clause (ii), by inserting  
18 “or designated entity” after “State  
19 identification bureau”;

20 (iv) in subparagraph (D)—

21 (I) in clause (i), by striking “the  
22 State identification bureau” and in-  
23 serting “a State identification bureau  
24 or a designated entity”; and

25 (II) in clause (ii)—

1 (aa) in subclause (I), in the  
2 matter preceding item (aa)—

3 (AA) by striking “a  
4 participating” and inserting  
5 “employment in a”; and

6 (BB) by inserting  
7 “identification bureau or a  
8 designated entity” after “the  
9 State”; and

10 (bb) in subclause (II)—

11 (AA) by striking “a  
12 participating” and inserting  
13 “employment in a”; and

14 (BB) by inserting  
15 “identification bureau or a  
16 designated entity” after “the  
17 State”; and

18 (v) by adding at the end the following:

19 “(F) STATE CRIMINAL HISTORY CHECK.—  
20 A designated entity may, upon request from an  
21 authorized employer, complete a check of a  
22 State criminal history database.

23 “(G) DESIGNATED ENTITIES.—The Attor-  
24 ney General shall designate, and enter into an  
25 agreement with, one or more entities to receive

1 and process requests under this subsection.”;  
2 and

3 (B) in paragraph (4), by adding at the end  
4 the following:

5 “(D) FEDERAL PROGRAM COSTS.—

6 “(i) IN GENERAL.—In the case of a  
7 criminal history record information search  
8 submitted through a designated entity in  
9 accordance with this subsection, the fees  
10 collected by the designated entity shall be  
11 set at a level that will ensure the recovery  
12 of the full costs of providing all such serv-  
13 ices.

14 “(ii) REQUIREMENT.—The designated  
15 entity shall remit the appropriate portion  
16 of the fees collected under clause (i) to the  
17 Attorney General, which amount is in ac-  
18 cordance with the amount published in the  
19 Federal Register to be collected for the  
20 provision of a criminal history background  
21 check by the Federal Bureau of Investiga-  
22 tion.”.

23 **SEC. 4. REGULATIONS.**

24 Not later than 180 days after the date of enactment  
25 of this Act, the Attorney General shall issue such regula-

1 tions as may be necessary to carry out the amendments  
2 made by this Act.

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