

**Suggested
State
Legislation on
Criminal Justice
Standards and Goals**

37633

The Council of State Governments

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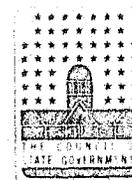
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Suggested State Legislation on Criminal Justice Standards and Goals

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This project was supported by Grant 75DF-99-0061 from the Law Enforcement Assistance Administration, U. S. Department of Justice. The contents of this publication do not necessarily reflect the views of the Law Enforcement Assistance Administration or the Council of State Governments.



THE COUNCIL OF STATE GOVERNMENTS
Lexington, Kentucky

Published September 1976 by
The Council of State Governments
Iron Works Pike, Lexington, Kentucky 40511
Printed in the United States of America

RM—591
Price: \$3.00

Contents

Foreword	v
Preface	vii
Suggested State Legislation	
Plea Negotiations Act	3
Diversion Program Act	9
Private Security Licensing and Regulatory Act.....	13

Foreword

On October 20, 1971, the National Advisory Commission on Criminal Justice Standards and Goals was appointed to formulate, for the first time, standards and goals for crime reduction. Task Force reports of the commission were issued in 1973. These standards and goals were promulgated as advisory, and were intended to be a starting point from which States and localities could begin to deal with some of the more persistent problems in criminal justice.

Since publication of the reports, there has been a continuing effort on the part of the Law Enforcement Assistance Administration to assist States and local governments in implementing these standards and goals. The model acts contained in this publication represent a vehicle for use by the States in this task. They provide, in draft legislation form, certain priority standards and goals for consideration by State Legislatures in the introduction of criminal justice legislation.

Lexington, Kentucky
September 1976

Brevard Crihfield
Executive Director
The Council of State Governments

Preface

In 1974 the Law Enforcement Assistance Administration and the Council of State Governments agreed that the annual Council publication, *Suggested State Legislation*, would provide a suitable vehicle through which assistance could be given to the States in the implementation of certain standards and goals of the National Advisory Commission on Criminal Justice Standards and Goals. The model acts contained in this volume are the result of that agreement. The acts also appear in the 1977 issue of *Suggested State Legislation*.

In December 1975, the Council's Section on Law and Justice began the process of distilling the some 500 National Advisory Commission standards, goals, and recommendations in order to arrive at a group of about 24 which would lend themselves to the legislative process. From this list and in consultation with the Law Enforcement Assistance Administration, priority standards were selected and draft legislation, incorporating specific National Advisory Commission standards, was prepared. The model legislation was then submitted to the regular process of the Committee on Suggested State Legislation. This process included discussion of the material by panels of the Committee, which includes members of State Legislatures, state officials, Commissioners on Interstate Cooperation, Commissioners on Uniform State Laws, Attorneys General, and legislative staff. Additionally, the Committee receives commentary and advice from various representatives of nongovernmental organizations. The material which is included in this volume and the 1977 issue of *Suggested State Legislation* is the product of that process, having been in some cases amended and approved by the Committee. Obviously, only that material receiving approval for inclusion in its annual publication is included here.

The model legislation dealing with the licensing and regulation of private security guards is the product of the Private Security Advisory Council, Law Enforcement Assistance Administration, U.S. Department of Justice.

We are pleased to be able to offer this material, and sincerely hope State Legislatures considering legislation in the areas of plea negotiations, licensing and regulation of private security guards, and diversion programs will find this material beneficial.

Suggested State Legislation

Plea Negotiations Act

Of all the procedures in the judicial process, perhaps the most difficult for persons both within and without the criminal justice system to comprehend is that of plea negotiation. Plea negotiations have also come under more criticism, whether justifiable or not, from the public and from persons within the criminal justice system than perhaps any other single judicial process. The process is criticized as being a bargaining session or a horse-trading process. The process is difficult for the offender to comprehend because seldom does he participate in the actual plea negotiation process. Plea negotiations are often viewed with a jaundiced eye by the public because an offender charged originally with a serious crime may later have the original charge reduced to a lesser offense and receive a relatively light sentence. The real problem in plea negotiation is its total lack of visibility.

The National Advisory Commission on Criminal Justice Standards and Goals, in its report on courts in Section 3.1, recommended the complete abolition of plea-bargaining in all criminal cases. The Plea Negotiations Act recognizes the inherent dangers in plea negotiation, but at the same time recognizes the necessity and the need for the process both from the standpoint of implementing diversion programs and from the standpoint of alleviating overly congested courts. The Plea Negotiations Act includes the recommendations, made by the National Advisory Commission on Criminal Justice Standards and Goals contained in the report on courts beginning in Section 3.2, that if plea negotiations, as recommended by the commission were not abolished, certain guidelines should be established to ensure that all constitutional protections and a sense of fairness to all parties are maintained.

The Plea Negotiations Act formalizes the plea-bargaining process. The intent of the legislation is to give plea negotiations a certain degree of visibility and comprehensiveness as far as both the offender and the public are concerned. The act requires a judicial record of the plea and of the agreement underlying it and its acceptance or rejection by the court and the reasons therefor. The act also provides for a set of plea negotiation practices, establishes a time limit prior to the trial date at which point all plea negotiations must cease in order to maintain accurate trial dockets, requires representation by counsel at any and all stages of the plea negotiation process, and contains a prohibition against coercion by either the prosecution or defense counsel to enter a plea. The act further sets forth criteria for acceptance of a negotiated plea by the court. The plea of "nolo contendere" is included in the act as an alternative plea for inclusion in those States in which such a plea is either constitutionally or statutorily available. Nothing in the act is intended to abrogate in any way a defendant's right to enter a plea of nolo contendere.

This act was prepared by the staff of the Criminal Justice Project of the Council of State Governments.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This act may be cited as the [State] Plea
2 Negotiations Act.

1 Section 2. [*Pleading by a Defendant.*]

2 (a) A defendant may plead not guilty or guilty [or, when allowed under
3 the law of the jurisdiction, nolo contendere]. A plea of guilty [or nolo
4 contendere] should be received only from the defendant himself in open
5 court.

6 [(b) A defendant may plead nolo contendere only with the consent
7 of the court. Such a plea should be accepted by the court only after due
8 consideration of the views of the parties and the interest of the public
9 in the effective administration of justice.]

1 Section 3. [*Pleading to Other Offenses.*] Upon entry of a plea of guilty
2 [or nolo contendere] or after conviction on a plea of not guilty, the
3 defendant's counsel may request permission for the defendant to enter a
4 plea of guilty [or nolo contendere] as to other crimes he has committed
5 which are within the jurisdiction of the coordinate courts of the State.
6 Upon written approval of the prosecuting attorney of the governmental
7 unit in which these crimes are charged or could be charged, the defendant
8 should be allowed to enter the plea [subject to the court's discretion to
9 refuse a nolo contendere plea]. Entry of such a plea constitutes a waiver
10 of: (1) venue, as to crimes committed in other governmental units of the
11 State, and (2) formal charges as to offenses not yet charged.

1 Section 4. [*Aid of Counsel; Time for Deliberation.*]

2 (a) A defendant shall not be called upon to plead until he has had an
3 opportunity to retain counsel or, if he is eligible for appointment of
4 counsel, until counsel has been appointed or waived; a defendant with
5 counsel shall not be required to enter a plea if his counsel makes a rea-
6 sonable request for additional time to hold a plea conference pursuant
7 to Section 5, or to represent the defendant's interests in other respects.

8 (b) Except as provided in subsection (a) of this section, a defendant
9 who has waived counsel shall not be called upon to plead within less than
10 seven days following the date he was held to answer or was otherwise
11 informed of the charge, and the court shall not accept a plea of guilty
12 [or nolo contendere] from such a defendant unless it is entered affirmed
13 at least three days after the defendant received advice from the court
14 required by Section 9.

15 (c) A defendant may be offered an opportunity to plead and a plea
16 may be accepted without regard to the time periods provided for in sub-
17 section (b) of this section if the offense of which he is convicted is not a

18 felony and if the sentence posed does not provide for his incarceration
19 unless he violates conditions of probation or a suspended sentence.

1 Section 5. [*Procedure for Plea Discussions.*] At the request of either
2 party, the parties shall meet to discuss the possibility that upon the de-
3 fendant's entry of a plea of guilty [or nolo contendere] to one or more
4 offenses, the prosecutor will not charge, will dismiss, or will move for
5 the dismissal of other charges, or will recommend or will not oppose a
6 particular sentence. The defendant must be represented by counsel in
7 such discussions and the defendant need not be present. The court shall
8 not participate in such discussions.

1 Section 6. [*Prosecutor's Regulations.*]

2 (a) [Each prosecution office in the State] shall formulate guidelines
3 and procedures with respect to plea discussions and plea agreements
4 designed to afford similarly situated defendants equal opportunities for
5 plea discussions and plea agreements.

Comment: A State should make a choice between having a single state official establish guidelines as distinguished from establishment of the guidelines by local officials.

6 (b) The written policy statement as provided in subsection (a) of this
7 section shall provide for consideration of the following factors by prose-
8 cuting attorneys involved in plea negotiations:

9 (1) The impact a formal trial would have on the offender and those
10 close to him, especially the likelihood and seriousness of financial hard-
11 ship and family disruption.

12 (2) The role that a negotiated plea agreement may play in rehabili-
13 tating the offender.

14 (3) The value of trial in fostering the community's sense of security
15 and confidence in law enforcement agencies.

16 (4) The assistance rendered by the offender:

17 (i) In the apprehension or conviction of other offenders.

18 (ii) In the prevention of crimes by others.

19 (iii) In the reduction of the impact of the offense on the victim.

20 (iv) In any other socially beneficial activities.

21 (c) The written statement of policy shall direct that before finalizing
22 any plea negotiations, the prosecuting attorney's staff shall obtain full
23 information on the offense and the offender. This information should
24 include information concerning the impact of the offense upon the victims,
25 the impact of the offense upon the community, the amount of police
26 resources expended in investigating the offense and apprehending the
27 defendant, any relationship between the defendant and organized crime,
28 and other matters similarly bearing upon the nature of the offense and
29 the offender.

1 Section 7. [*Improper Activities by a Prosecuting Attorney.*] No prosecuting attorney shall, in connection with plea negotiations, engage in, perform, or condone any of the following:

- 2 (1) Charging or threatening to charge the defendant with offenses for which the admissible evidence available to the prosecuting attorney is insufficient to support a guilty verdict.
- 3 (2) Charging or threatening to charge the defendant with a crime not ordinarily charged in the jurisdiction for conduct allegedly engaged in by him.
- 4 (3) Threatening the defendant that if he should plead not guilty his sentence may be more severe than that which is ordinarily imposed in the jurisdiction in similar cases on defendants who plead not guilty.
- 5 (4) Failing to grant full disclosure before the disposition negotiations of all exculpatory evidence.

6 Section 8. [*Preliminary Consideration of a Plea Agreement.*]

- 7 (a) If the parties have reached a proposed plea agreement they may, with the permission of the court, advise the court of the terms of the agreement and the reasons therefor in advance of the time for tender of the plea. The court may indicate to the parties whether it will concur in the proposed disposition. Any such concurrence shall be subject to the information contained in the pre-sentence report being consistent with representations made by the parties to the court.
- 8 (b) Whenever a plea of guilty is offered, the court shall inquire as to the existence of any agreement. The court shall review any negotiated plea agreement and make specific determinations relating to the acceptability of the agreement. Underlying an offered plea of guilty, the court shall make such determinations relating to the acceptability of a plea before accepting it.
- 9 (c) Before accepting a plea of guilty, the court shall require the defendant to make a detailed statement concerning the commission of the offense to which he is pleading guilty and any offenses of which he has been previously convicted. In the event that the plea is found unacceptable, the statement and any evidence obtained through use of it shall not be admissible against the defendant in any subsequent criminal prosecution.

10 Section 9. [*Defendant's Understanding of His Rights and Consequences of Plea.*] The court shall inquire personally of the defendant concerning his plea and its underlying negotiated agreement, and if any of the following circumstances are found, and cannot be corrected by the court, the court shall not accept the plea:

- 11 (1) That counsel was not present during the plea negotiations.
- 12 (2) That the defendant is not competent or does not understand the nature and consequence of the charges and proceedings against him.
- 13 (3) That the defendant was reasonably mistaken or ignorant as to

14 the law or facts related to his case and this affected his decision to enter into a plea agreement.

15 (4) That the defendant does not know his constitutional rights and how his plea of guilty will affect those rights. Rights that expressly should be waived upon the entry of a guilty plea include: the right to the privilege against compulsory self-incrimination, which includes the right to plead not guilty; the right to trial in which the State, or governmental unit, must prove the defendant's guilt beyond a reasonable doubt; the right to a trial by jury; the right to confrontation of one's accusers; the right to compulsory process to obtain favorable witnesses; and the right to effective assistance of counsel at trial.

16 (5) During plea negotiations the defendant was denied constitutional or significant substantive rights that he did not waive.

17 (6) The defendant did not know at the time he entered into the agreement the mandatory minimum sentence, if any, and the maximum sentence that may be imposed for the offense to which he pleads, or that the defendant was not aware of those facts at the time his plea was offered.

18 (7) The defendant had been offered improper inducements to enter a plea of guilty.

19 (8) That the admissible evidence is insufficient to support a guilty verdict on the offense for which the plea is offered, or to a related greater offense.

20 (9) The defendant continues to assert facts that, if true, establish that he is not guilty of the offense to which he seeks to plead.

21 (10) That accepting the plea would not serve the public interest. Accepting a plea of guilty would not serve the public interest if it:

- 22 (i) Places the safety of persons or valuable property in unreasonable jeopardy.
- 23 (ii) Depreciates the seriousness of the defendant's activity or otherwise promotes disrespect for the criminal justice system.
- 24 (iii) Gives inadequate weight to the defendant's rehabilitative needs.
- 25 (iv) Would result in conviction for an offense out of proportion to the seriousness with which the community would evaluate the defendant's conduct upon which the charge is based.

26 Section 10. [*Pre-sentence Investigation.*] The court may direct its probation service to conduct an investigation to assist it in ruling on a plea agreement. If the court believes it appropriate it may direct that such investigation be commenced at the time a plea agreement is presented for preliminary consideration pursuant to Section 8.

27 Section 11. [*Ruling on a Plea of Guilty.*] Before accepting a plea pursuant to a plea agreement, the court shall advise the parties whether it approves the agreement and will dispose of the case in accordance therewith. If the court should determine to disapprove the agreement and

5 not to dispose of the case in accordance therewith, it shall so inform the
 6 parties, not accept the defendant's plea of guilty [or nolo contendere], and
 7 then advise the defendant personally that he is not bound by the agree-
 8 ment. The court shall advise the parties of the reasons for which it re-
 9 jected the agreement and afford them an opportunity to modify the
 10 agreement accordingly. A decision by the court disapproving an agree-
 11 ment shall not be subject to appeal.

1 Section 12. [*Plea Discussion and Agreement Not Admissible.*] Unless
 2 the defendant subsequently enters a plea of guilty [or nolo contendere]
 3 which is not withdrawn, the fact that the defendant or his counsel and
 4 the prosecuting attorney engaged in plea discussions or made a plea
 5 agreement shall not be received in evidence or in favor of the defendant
 6 in any criminal or civil action or administrative proceeding.

1 Section 13. [*Verbatim Record of the Proceedings.*] A verbatim record
 2 of the proceedings at which the defendant enters a plea of guilty and of
 3 any preliminary consideration of a plea agreement by the court pursuant
 4 to Section 8 shall be made. Such record shall include the court's advice
 5 to the defendant and its inquiries of the defendant, defense counsel, and
 6 the prosecutor, and any responses. If the plea agreement has been reduced
 7 to writing it shall be made a part of the record; otherwise, the court shall
 8 require that the terms of the agreement be stated for the record and that
 9 the assent thereto of the defendant, his counsel, and the prosecutor be
 10 also recorded.

1 Section 14. [*Time Limit on Plea Negotiations.*] Each judicial district
 2 shall set a time limit prior to the date set for trial after which time plea
 3 negotiations may no longer be conducted. After the specific time limit
 4 has elapsed, only pleas to the official charge should be allowed, except
 5 in unusual circumstances and with the approval of the court and the
 6 prosecution.

1 Section 15. [*Severability.*] [Insert severability clause.]

1 Section 16. [*Repeal.*] [Insert repealer clause.]

1 Section 17. [*Effective Date.*] [Insert effective date.]

Diversion Program Act

Perhaps the most centralized theme running throughout all of the reports of the National Advisory Commission on Criminal Justice Standards and Goals on the entire criminal justice system is that of diversion. The term "diversion," as used within the framework of the criminal justice system, is the procedure of postponing prosecution of a criminal offense either temporarily or permanently. The purpose of diversion is to offer an offender an alternative method of rehabilitation, other than incarceration or probation, which will bring about the offender's future compliance with the law.

The process of diversion must utilize a wide range of agencies and services in order to provide an offender with the opportunity to rehabilitate himself prior to becoming inexorably entrenched in the criminal justice system. The process of diversion and the use of diversionary techniques by the prosecution, by courts, and by correctional personnel, are in large measure dependent upon a high degree of flexibility to achieve the desired end result of offender rehabilitation.

Presently, although the acceptance of the concept of diversion as a tool to alleviate many of the problems of the criminal justice system is almost universal, the use of diversionary techniques and the process of diversion itself have not been legislated in most States. The fact that diversionary techniques are not recognized statutorily gives rise to a very critical factor that persons or agencies employing diversion programs may well run the risk of considerable personal liability when the program, agency, or personnel employed for an offender's rehabilitative program may not be able to achieve a desirable end result. Such liability may well run to the States themselves in many instances.

While not in any way attempting to restrict the use of diversion programs by legislatively structuring such programs, the Diversion Program Act attempts to define criteria by which those using diversion could assess the circumstances and the individual's candidacy for entering the diversionary process. Standards set forth by the National Advisory Commission on Criminal Justice Standards and Goals in its report on corrections (Section 3.1 and following) are embodied in the model act establishing general criteria for the use of diversion. The act requires that upon enactment each district or county attorney shall prepare and issue regulations consistent with the criteria established by the act to provide office criteria for the use of diversion programs. The use of a pre-trial and even pre-charge conference at which the offender, the prosecution, defense counsel, and correctional personnel may discuss the offense, the offender's eligibility to enter into a diversion program, and the diversion program for the specific offender is a unique feature of the act. The act finally sets forth those instances in which diversion shall be appropriate before a formal decision to charge, to continue, or to prosecute an offense is made. The ultimate decision is still left to the prosecutor. Court approval of a diversion program is required only when the diversion program results from the dismissal of a charge or a continuance, or a suspended sentence based upon the successful completion of the rehabilitative program set forth for the offender.

This draft act was prepared by the staff of the Criminal Justice Project of the Council of State Governments.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This act may be cited as the [State] Diversion
2 Program Act.

1 Section 2. [*Definitions.*] As used in this act:

2 (1) "Diversion" means the procedure of postponing prosecution
3 either temporarily or permanently at any point in the judicial process
4 from the point at which the accused is charged until adjudication. The
5 purpose of diversion is to offer the offender an alternative method of
6 rehabilitation other than incarceration or probation which will bring
7 about the offender's future compliance with the law.

8 (2) "Dangerous offender" means a person who has committed an
9 offense, and whose history, character, and condition reveal a substantial
10 risk that he will be a danger to others, and whose conduct has been
11 characterized by a pattern of repetitive, compulsive, or aggressive
12 behavior with indifference to the consequences.

1 Section 3. [*Diversionary Conference.*]

2 (a) [Each district [county] attorney] shall prepare and issue guidelines
3 consistent with this act, providing for a diversion conference at which
4 the prosecutor, defense counsel, and offender may meet to discuss the
5 case. These regulations shall identify those classes of cases in which the
6 prosecutor may schedule a conference and shall further provide that the
7 prosecutor shall schedule a conference in any other case for which
8 defense counsel or the offender requests a conference or for which the
9 prosecutor believes a conference is desirable. To the extent the prosecutor
10 believes feasible in the effective administration of justice, such regula-
11 tions shall include guidelines concerning action which the prosecutor
12 will consider taking in certain types of cases or factual situations.

Comment: A State should make a choice between having a single state official establish guidelines as distinguished from establishment of the guidelines by local officials.

13 (b) At the diversion conference, the prosecutor shall afford either the
14 offender or his counsel the opportunity to advance arguments and present
15 facts bearing on the issues and shall inform the offender or his counsel
16 of his views and the reasons therefor in a manner that will give the
17 offender or his counsel the opportunity to respond. The parties may
18 discuss and agree upon a disposition of the case which may include dis-
19 missal or suspension of the prosecution. The parties may agree that a
20 particular disposition shall be conditioned upon the offender's participat-
21 ing in a supervised rehabilitation program.

22 (c) In any case in which the prosecutor is considering charging an
23 offense punishable by imprisonment for more than [1] year, the offender

24 must be represented by counsel.

25 (d) In all cases where an individual is found eligible for diversion, a
26 written report shall be made and retained on file in the prosecutor's office,
27 regardless of whether the individual is finally rejected or accepted for a
28 diversionary program. A copy of this report shall be provided to the
29 offender and the offender's counsel. In addition, copies may be provided
30 to those agencies which may be involved in developing treatment pro-
31 grams with the offender. All parties concerned shall take due care to
32 ensure the privacy of the diversionary reports.

33 (e) The process of diversion and the diversion conference, if such a
34 conference is held, cannot be used to coerce a guilty plea from an offend-
35 er, even though there is reasonable assumption of the offender's guilt.
36 [The offender, or an accused, shall not be required to enter any formal
37 plea to a charge made against him as a condition for participation in a
38 diversion program.] Participation in a diversion program shall not be
39 used in subsequent proceedings relative to a charge as evidence of an
40 admission of guilt.

41 (f) Each individual who is charged must be provided with a sheet of
42 facts about the diversion process.

43 (g) In any case in which an offender agrees to a specific diversion
44 program, a specific agreement shall be made between the prosecution
45 and the offender. This agreement shall include the terms of the diversion
46 program, the length of the program, and a section therein stating the
47 period of time after which the prosecutor will either move to dismiss
48 the charge or to seek a conviction based upon that charge. This agreement
49 must be signed by the offender and his counsel, if represented by counsel,
50 and filed in the prosecutor's office.

51 (h) No diversion or diversionary program will take place without the
52 written consent of the offender.

53 (i) Prior to formal entry into a diversion program, the prosecutor may
54 require the offender to inform him concerning the offender's past criminal
55 record, if any, his education and work record, his family history, his
56 medical or psychiatric treatment or care he has received, any psychologi-
57 cal test he has taken, and other information bearing on the prosecutor's
58 decision for an appropriate disposition of the case.

59 (j) If the case should go to trial, any statements made by an offender
60 or his counsel in connection with any pre-charge discussions concerning
61 diversion shall not be admissible in evidence.

1 Section 4. [*General Criteria.*] The written policies developed by the
2 prosecutor's offices shall contain policies for the diversion of offend-
3 ers. Prior to authorizing diversion, the following factors should be taken
4 into account:

5 (1) Whether there is substantial likelihood that justice will be served
6 and the community will be safe if the individual is placed in a diversion
7 program, or a decision is made simply not to prosecute his case.

8 (2) Whether the needs of an offender can better be met outside the
9 criminal justice system and if resources are available to meet these needs.

10 (3) Whether the offense neither caused nor threatened serious physi-
11 cal harm to persons or property, or the offender did not contemplate
12 that it would do so.

13 (4) Whether the offense was the result of circumstances unlikely
14 to recur.

15 (5) Whether the victim of the offense induced or facilitated the
16 offense.

17 (6) Whether there are substantial grounds tending to excuse or
18 justify the offense, though failing to establish a defense.

19 (7) Whether the offender acted under strong provocation.

20 (8) Whether the offender has no history of prior delinquency or
21 criminal activity, or has led a law-abiding life for a substantial time
22 before commission of the present offense.

23 (9) Whether the offender is likely to respond quickly to correctional
24 or rehabilitative treatment.

1 Section 5. [*Exclusions.*] An individual should not be considered for a
2 diversion program in those circumstances in which he has been known to
3 be unresponsive to previous diversionary programs. A diversion program
4 should not be considered for an individual who may be considered a
5 dangerous offender.

1 Section 6. [*Maintaining Dispositions List.*] [Each district [county]
2 attorney's] office shall maintain a current and complete listing of various
3 resource dispositions available to it. This listing shall be compiled and
4 evaluated in conjunction with law enforcement agencies, correctional
5 agencies, courts, and defense counsel. This listing shall be subject to
6 periodic review and evaluation, and shall be made public.

1 Section 7. [*Severability.*] [Insert severability clause.]

1 Section 8. [*Repeal.*] [Insert repealer clause.]

1 Section 9. [*Effective Date.*] [Insert effective date.]

Private Security Licensing and Regulatory Act

In its reports issued in 1973, the National Advisory Commission on Criminal Justice Standards and Goals recommended that all private security agencies should be required to obtain state licensing as a prerequisite for engaging in police-related security functions. The commission felt that licensing requirements would allow state control of important considerations such as the selection of standards for private police personnel, the educational criteria for employment, and the minimum training necessary for private police forces. States would then be able to control the activities of security forces by revoking or withdrawing licenses when minimum performance standards were not met. Prior to the issuance of the commission's recommendations in 1973, the Private Security Advisory Council to the U.S. Department of Justice Law Enforcement Assistance Administration had been meeting on a regular basis to furnish advisories to LEAA on the more effective use of private security in the national strategy to reduce crime. The advisory council had prepared many written reports concerning its findings to LEAA. It was a finding of the advisory council that an increasing number of States and municipalities were in the process of considering, or had already enacted, legislation related to the licensing and regulation of private security guards. After some two years of concentrated effort, including public hearings, the Private Security Advisory Council developed the Private Security Licensing and Regulatory Act.

The act requires licensing of all contract security companies; however, it exempts proprietary security (in-house) organizations from the licensing requirement. The act defines proprietary security organizations as a person who provides security services solely for the benefit of such person, thereby making some organizations such as shopping mall and stadium operators who provide such services for persons other than themselves contract security companies. The act requires applicants for a license to possess at least three years of security supervisory experience or to pass an examination. The act further recognizes two categories of private security without regard to the nature of their employer, i.e., armed private security officers and unarmed uniformed private security officers, and sets forth basic minimum training standards for each. An important consideration of this act is that it requires all training to be given and certified by a state-approved trainer. The act includes in its coverage all security guards, armored car guards, armed courier service guards, and alarm response runners. The minimum criteria for registration under the act as a private security guard are, of course, also set forth in the statute.

The Private Security Licensing and Regulatory Act was drafted by Dennis M. Crowley, Jr., and Richard D. Bickelman of the New England Bureau for Criminal Justice Services under the direction of the Private Security Advisory Council and its Chairman, Arthur J. Bilek.

Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This act may be cited as the [State] Private
2 Security Licensing and Regulatory Act.

1 Section 2. [*Definitions.*] As used in this act:

2 (1) "Alarm response runner" means an individual employed by a
3 contract security company or a proprietary security organization to
4 respond to security system signals, other than a person whose sole func-
5 tion is to maintain or repair a security system.

6 (2) "Armed courier service" means a person that transports or offers
7 to transport under armed security guard from one place or point to another
8 place or point, valuables, currency, documents, papers, maps, stocks,
9 bonds, checks, or any other item that requires expeditious delivery.

10 (3) "Armed private security officer" means an individual employed
11 by a contract security company or a proprietary security organization
12 whose principal duty is that of an armed security guard, armed armored
13 car service guard, armed courier service guard or armed alarm response
14 runner, and who at any time wears, carries, possesses, or has access to
15 a firearm in the performance of his duties.

16 (4) "Armored car service" means a person that transports or offers
17 to transport under armed security guard from one place or point to another
18 place or point, currency, jewels, stocks, bonds, paintings, or other
19 valuables of any kind, or other items in a specially equipped motor vehicle
20 which offers a high degree of security.

21 (5) "Branch office" means any office of a licensee within the State
22 other than its principal place of business within the State.

23 (6) "Certified trainer" means a person approved and certified by
24 the licensing authority as qualified to administer and certify to successful
25 completion of the minimum training requirements for private security
26 officers required by Section 36.

27 (7) "Contract security company" means a person engaging in the
28 business of providing, or undertakes to provide, a security guard, an
29 alarm response runner, armored car service, or armed courier service, as
30 defined in this act, on a contractual basis for another person.

31 (8) "Employer/employee relationship" means the performance of
32 any service for wages or under any contract of hire, written, oral, expressed
33 or implied by an individual, and provided the employer has control or
34 direction over the performance of such service both under this contract
35 or service and provided that such service is performed personally by
36 such individual.

37 (9) "Identification card" means a pocket card issued by a licensing
38 authority to a private security officer as evidence that the individual has
39 met the minimum qualifications required to perform duties of an unarmed
40 private security officer.

41 (10) "Licensee" means a person to whom a license is granted in
42 accordance with the provisions of this act.

43 (11) "Licensing authority" means the Secretary of State or other

44 appropriate department, agency, or bureau of the State designated to
45 administer and enforce this act.

46 (12) "Person" means an individual, firm, association, company,
47 partnership, corporation, nonprofit organization, institution, or similar
48 entity.

49 (13) "Police chief executive" means the elected or appointed police
50 administrator of any municipal, county, or state police department or
51 sheriff's department, such department having full law enforcement
52 powers in its jurisdiction.

53 (14) "Principal corporate officer" means the president, vice presi-
54 dent, treasurer, secretary, and comptroller, as well as any other person
55 who performs functions for the corporation corresponding to those
56 performed by the foregoing officers.

57 (15) "Proprietary security organization" means a person or depart-
58 ment of that person which employs a security guard, an alarm response
59 runner, armored car service, or armed courier services, as defined in
60 this act, solely for such person, and wherein an employer/employee
61 relationship exists.

62 (16) "Qualifying agent" means, in the case of a corporation, an
63 officer or an individual in a management capacity, or in the case of a
64 partnership, a general or unlimited partner, meeting the experience
65 qualifications set forth in this act for operating a contract security
66 company.

67 (17) "Registrant" means an individual who has a valid registration
68 card issued by the licensing authority.

69 (18) "Registration card" means the permanent permit issued by the
70 licensing authority to a registrant as evidence that the registrant has met
71 the minimum qualifications required by this act to perform the duties of
72 an armed private security officer.

73 (19) "Security alarm system" means an assembly of equipment and
74 devices (or a single device such as a solid-state unit which plugs directly
75 into a 110-volt AC line) designated to detect or signal an unauthorized
76 intrusion into, movement through, or exit from, a premise, or to signal an
77 attempted robbery or other criminal acts at a protected premise; with
78 respect to such signals, police and/or security guards or alarm response
79 runners are expected to respond. Fire alarm systems and alarm systems
80 which monitor temperature, humidity, or any other conditions not direct-
81 ly related to the detection of an unauthorized intrusion into premises or
82 an attempted robbery at a premises are excluded from the provisions of
83 this act.

84 (20) "Security guard" means an individual principally employed to
85 protect persons or property from criminal activities and whose duties
86 include, but are not limited to, the prevention of: unlawful intrusion or
87 entry, larceny, vandalism, abuse, arson, or trespass on private property;
88 or control regulation or direction of the flow or movements of the public,
89 whether by vehicle, on foot, or otherwise; and street patrol service or

90 merchant patrol service. Persons whose duties are limited to custodial or
91 observational duties or the reporting of administrative regulations only
92 are specifically excluded from this definition.

93 (21) "Street patrol service" means any contract security company
94 or proprietary security organization that utilizes foot patrols, motor
95 vehicles, or any other means of transportation in public areas or on public
96 thoroughfares in the performance of its security functions.

97 (22) "Sworn peace officer" means an individual who derives plenary
98 or special law enforcement powers from, and is an employee of, the
99 federal government, [State], or any political subdivision, agency, de-
100 partment, branch, or service of either, of any municipality, or of any
101 other unit of local government.

102 (23) "Unarmed private security officer" means an individual em-
103 ployed by a contract security company or a proprietary security organiza-
104 tion whose principal duty is that of a security guard, armored car service
105 guard, or alarm response runner; who never wears, carries, or has access
106 to a firearm in the performance of those duties; and who wears dress of
107 a distinctive design or fashion, or dress having any symbol, badge, emblem,
108 insignia, or device which identifies or tends to identify the wearer as a
109 security guard, alarm response runner, or armored car service guard.

1 Section 3. [*Establishment of a Licensing Authority.*]

2 (a) A Private Security Industry Regulatory Board is established,
3 hereinafter called the licensing authority or board, designated to carry
4 out the duties and functions conferred upon it by this act.

5 (b) The position of director of the Private Security Industry Regulatory
6 Board is created. He shall serve as the chief administrator of the board.
7 He shall not be a member of the board but shall be a full-time employee
8 of the board, fully compensable in an amount to be determined by the
9 Legislature. The director shall perform such duties as may be prescribed
10 by the board except those duties vested in the board by Section 10, and
11 shall have no financial or business interests or affiliations, contingent
12 or otherwise, in any person rendering private security services.

1 Section 4. [*Licensing Authority Seal.*] The licensing authority shall
2 have a seal, the form of which it shall prescribe.

1 Section 5. [*Board Meeting.*] The board shall consist of the following
2 members:

3 (1) The Attorney General or his duly designated representative
4 shall serve as an ex officio member of the board, and his service shall
5 not jeopardize his official capacity with the State.

6 (2) The director of the [department of public safety] or his duly
7 designated representative shall serve as an ex officio member of the
8 board, and his service shall not jeopardize his official capacity with
9 the State.

10 (3) One police chief executive appointed by the Governor subject
11 to legislative confirmation.

12 (4) Two members shall be appointed by the Governor, subject to
13 legislative confirmation, who are licensed under the provision of this act,
14 who have been engaged for a period of three years in the rendering of
15 private security services and are not employed by or affiliated with any
16 other member of the board.

17 (5) Two members shall be appointed by the Governor, subject to
18 legislative confirmation, who are selected from the public at large, who
19 are citizens of the United States and residents of the State and are not
20 now or in the past employed by or affiliated with a person rendering
21 private security services.

22 (6) Two members shall be appointed by the Governor, subject to
23 legislative confirmation, who are citizens of the United States and resi-
24 dents of the State and are full-time managers responsible for a proprie-
25 tary security organization function.

1 Section 6. [*Chairmanship of Board.*] The Governor shall designate one
2 appointee to sit as chairman of the licensing authority for that member's
3 full term.

1 Section 7. [*Voting Powers and Procedures.*]

2 (a) No action shall be taken by the board unless a quorum of the
3 membership of the board is present.

4 (b) All powers, duties, and responsibilities conferred upon the board
5 by this act may be exercised or taken by a majority vote of the necessary
6 quorum then present.

1 Section 8. [*Terms of Office.*]

2 (a) The director of the [department of public safety] and the Attorney
3 General, or their representatives, shall serve on the board during their
4 terms of office and shall perform the duties required by this act in addi-
5 tion to those duties required of them in other official capacities.

6 (b) The appointed members of the board shall serve six-year terms,
7 their terms to be staggered by the appointment of the initial appointees
8 as follows: the police chief executive and one proprietary security organi-
9 zation manager for an initial term of two years; one licensee and one
10 public at-large member for an initial term of four years; and the remaining
11 members for initial terms of six years.

1 Section 9. [*Vacancies.*] The Governor shall, subject to legislative
2 confirmation, fill vacancies occurring among appointed members of the
3 board with appointments for the duration of the unexpired term.
4 Appointees must meet the qualification for that position to be filled as
5 stipulated in Section 5.

1 Section 10. [*Powers of the Licensing Authority Relating to Rules and*
2 *Regulations; Petitions.*] The following powers are vested in the licensing
3 authority:

4 (1) Promulgation of rules and regulations which are reasonable,
5 proper, and necessary to carry out the functions of the licensing authority;
6 investigations limited to determinations as to whether the provisions of
7 this act are being complied with or violated; enforcement of the provisions
8 of this act; establishment of procedures for the preparation and process-
9 ing of examinations, applications, license certificates, registration and
10 identification cards, renewals, appeals, hearings, and rulemaking pro-
11 ceedings; and determination of the qualifications of licensees and private
12 security officers consistent with the provisions of this act.

13 (2) An interested person may petition the licensing authority to
14 enact, amend, or repeal any rule or regulation within the scope of sub-
15 section (1) of this section. The licensing authority shall prescribe by rule
16 the form for such petitions and procedures for their submission, considera-
17 tion, and disposition.

1 Section 11. [*Subpoenas; Oaths; Contempt Powers.*]

2 (a) In any investigation conducted under the provisions of this act,
3 the licensing authority may issue subpoenas to compel the attendance of
4 witnesses and the production of relevant books, accounts, records, and
5 documents. The officer conducting a hearing may administer oaths and
6 may require testimony or evidence to be given under oath.

7 (b) If a witness refuses to obey a subpoena or to give any evidence
8 relevant to proper inquiry by the licensing authority, the licensing authori-
9 ty may petition a court of competent jurisdiction in the State to compel
10 the witness to obey the subpoena or to give the evidence. The court shall
11 promptly issue process to the witness and shall hold a hearing on the
12 petition as soon as possible. If the witness then refuses, without reasonable
13 cause or legal grounds, to be examined or to give evidence relevant to
14 proper inquiry by the licensing authority, the court may cite the witness
15 for contempt.

1 Section 12. [*Public Notice and Hearing on Proposed Rulemaking.*]

2 [For information under this topic, follow the State's Administrative
3 Procedures Act.]

1 Section 13. [*Requirement for License.*]

2 (a) It shall be unlawful and punishable, as provided in Section 42 of
3 this act, for any person to engage in the business of a contract security
4 company in the State without having first obtained a contract security
5 company license from the state licensing authority, subject to subsection
6 (b) of this section.

7 (b) Every person engaged in the contract security company business
8 in the State on the effective date of this act shall have 180 days to apply

9 to the licensing authority for a license to operate a contract security
10 company. Any such person filing a timely application may continue to
11 engage in business pending a final determination of the application.

12 (c) Unless there is a separate statute currently in effect in the State
13 by which an alarm, armed courier service, or armored car business is
14 licensed and regulated, all provisions of this act shall apply equally to
15 the businesses which shall be considered as contract security companies.
16 If there is a separate statute in effect in the State by which alarm, armed
17 courier service, and armored car businesses are licensed and regulated,
18 the licensing provisions of this statute shall not apply to such businesses
19 unless such businesses are also engaged in the business of providing
20 security guard services.

1 Section 14. [*Form of Application.*]

2 (a) Application for license required by the provisions of this act shall
3 be filed with the licensing authority on a form provided by the licensing
4 authority. If the applicant is an individual, the application shall be sub-
5 scribed and sworn to by such person. If the applicant is a partnership,
6 the application shall be subscribed and sworn to by each partner. If the
7 applicant is a corporation, the application shall be subscribed and sworn
8 to by at least one principal corporate officer. The application shall contain:

9 (1) The full name and business address of the applicant and, if the
10 applicant is a corporation or partnership, the name and address of the
11 qualifying agent.

12 (2) The name under which the applicant intends to do business.

13 (3) The address of the principal place of business and all branch
14 offices of the applicant in the State, and the corporate headquarters of
15 the business if outside of the State.

16 (4) If the applicant is a corporation, the correct legal name, the
17 State of incorporation, and the date it qualified to do business in the State.

18 (5) A list of principal officers of the corporation and the business
19 address, residence address, and the office or position held by each officer
20 in the corporation.

21 (6) (i) For each applicant, or if the applicant is a partnership, for
22 each partner, or if the applicant is a corporation, for the qualifying agent,
23 the following information: (A) full name, (B) age, (C) date and place of
24 birth, (D) all residences during the immediate past five years, (E) all
25 employment or occupations engaged in during the immediate past five
26 years, (F) two sets of classifiable fingerprints, (G) a photograph taken
27 within the last six months of a size prescribed by the licensing authority,
28 (H) a general physical description, (I) letters attesting to good moral
29 character from three reputable individuals not related by blood or marriage
30 who have known the applicant or qualifying agent for at least five years,
31 (J) three credit references from lending institutions or business firms
32 with whom the applicant or qualifying agent has established a credit
33 record, and (K) a list of all arrests, convictions, and pending criminal

34 charges in any jurisdiction, any felony, any crime involving moral turpi-
35 tude, or illegally using or possessing a dangerous weapon, for any of
36 which a full pardon (or similar relief) has not been granted.

37 (ii) For every required person, a statement of experience that
38 meets the qualifications of Section 15(a)(7).

39 (7) For each applicant which is a corporation or partnership, the
40 names and addresses of each principal officer, director, or partner,
41 whichever is applicable and unless the stock of such corporation is listed
42 on a national securities exchange or registered under Section 12 of the
43 Securities and Exchange Act of 1934, as amended, the names and ad-
44 dresses of all stockholders.

45 (b) The licensing authority may require that the application include
46 any other information which the licensing authority may reasonably deem
47 necessary to determine whether the applicant or individual signing the
48 application meets the requirements of this act or to establish the truth
49 of the facts set forth in the application.

50 (c) Any individual signing a license application must be at least [the
51 legal age for licensing generally established in the State] years of age.

1 Section 15. [*License Qualifications.*]

2 (a) Every applicant, or in the case of a partnership each partner, or
3 in the case of a corporation the qualifying agent, shall meet the following
4 qualifications before he may engage in the business of a contract security
5 company:

6 (1) Be of legal majority age.

7 (2) Be a citizen of the United States or a resident alien.

8 (3) Not have been convicted in any jurisdiction of any felony or of
9 any crime involving moral turpitude or illegally using or possessing a
10 dangerous weapon, for any of which a full pardon (or similar relief) has
11 not been granted.

12 (4) Not have been declared by any court of competent jurisdiction
13 incompetent by reason of mental defect or disease and has not been
14 restored.

15 (5) Not be suffering from habitual drunkenness or from narcotic
16 addiction or dependence.

17 (6) Be of good moral character.

18 (7) Possess three years' experience as a manager, supervisor, or
19 administrator with a contract security company or proprietary security
20 organization or possess three years' supervisory experience approved by
21 the licensing authority with any federal, U.S. military, state, county, or
22 municipal law enforcement agency.

23 (b) If the licensing authority determines that the applicant or qualify-
24 ing agent has not satisfactorily complied with subsection (a)(7) of this
25 section, it may require compliance with subsection (c) of this section.

26 (c) The licensing authority shall prepare and administer at least twice
27 annually examinations designed to measure an individual's knowledge

28 and competence in the contract security company business. An applicant
29 or qualifying agent successfully passing the licensing authority's examina-
30 tion may substitute that for the experience requirement of subsection
31 (a)(7) of this section.

1 Section 16. [*License Application—Investigation.*] After receipt of an
2 application for a license, the licensing authority shall conduct an investi-
3 gation to determine whether the facts set forth in the application are true
4 and shall compare, or request that [the appropriate state agency] compare
5 the fingerprints submitted with the application to fingerprints filed with
6 [the division of criminal identification, records and statistics of the state
7 department of corrections or its equivalent]. The licensing agency [or the
8 state agency comparing the fingerprints] shall also submit the finger-
9 prints to the Federal Bureau of Investigation for a search of the finger-
10 print files of that agency to determine if the individual fingerprinted has
11 any convictions recorded in the FBI files.

1 Section 17. [*Action on License Application.*] Within 30 days after
2 receipt of an application, the licensing authority shall either issue a
3 license to the applicant or notify the applicant of a denial of the license
4 application. In the event that additional information is required from the
5 applicant by the licensing authority to complete its investigation or
6 otherwise to satisfy the requirements of this act, or if the applicant has
7 not submitted all of the required information, the 30-day period for
8 action by the licensing authority shall commence when all such informa-
9 tion has been received by the licensing authority.

1 Section 18. [*Grounds for Denial of Application.*] The licensing authority
2 shall deny the application for a license if it finds that the applicant or
3 the qualifying agent or any of the applicant's owners, partners, or princi-
4 pal corporate officers have:

5 (1) Violated any of the provisions of this act or the rules and regula-
6 tions promulgated hereunder.

7 (2) Practiced fraud, deceit, or misrepresentation.

8 (3) Knowingly made a material misstatement in the application
9 for a license.

10 (4) Have not met the qualifications of Section 15(a).

1 Section 19. [*Procedure for Approval or Denial of Application; Hearings.*]

2 (a) The procedure of the licensing authority in approving or denying
3 an application shall be as follows:

4 (1) If the application is approved, the licensing authority shall
5 notify the applicant in writing that a license will be issued. Such notifica-
6 tion shall state that the license issued will expire in two years, unless
7 renewed in accordance with Sections 20 and 21 of this act, and shall
8 set forth the time within which application for renewal must be made.

9 (2) If the application is denied, the licensing authority shall notify
10 the applicant in writing and shall set forth the grounds for denial. If the
11 grounds for denial are subject to correction by the applicant, the notice
12 of denial shall so state and the applicant shall be given 10 days after
13 receipt of such notice or, upon application, a reasonable additional period
14 of time within which to make the required correction.

15 (b) If the application is denied, the applicant may within 30 days
16 after receipt of notice of denial from the licensing authority request a
17 hearing on the denial. Within 10 days after the filing of such request for
18 hearing by the applicant, the licensing authority shall schedule a hearing
19 to be held before the licensing authority after due notice to the applicant.
20 The hearing shall be held within 15 days after such notice is mailed to
21 the applicant, unless postponed at the request of the applicant. The
22 applicant shall have the right to make an oral presentation at the hearing,
23 including the right to present witnesses and to confront and cross-examine
24 adverse witnesses. The applicant may be represented by counsel. If the
25 hearing is before a hearing officer, the officer shall submit his report in
26 writing to the licensing authority within 10 days after the hearing. The
27 licensing authority shall issue its decisions within 10 days after the hearing
28 or within 10 days after receiving the report of the hearing officer. The
29 decision of the licensing authority shall be in writing and set forth the
30 licensing authority's findings and conclusions. A copy shall be promptly
31 mailed to the principal office of the applicant in the State.

1 Section 20. [*Renewal of License.*] Each license shall expire two years
2 after its date of issuance. Application for renewal of a license must be
3 received by the licensing authority on a form provided by the licensing
4 authority not less than 30 days prior to the expiration date of the license,
5 subject to the right of the licensing authority to refuse to renew a license
6 for any of the grounds set forth in Section 24(a), and it shall promptly
7 notify the licensee of its intent to refuse to renew the license. The licensee
8 may, within 15 days after receipt of the notice of intent to refuse to
9 renew a license, request a hearing on the refusal in the manner prescribed
10 by Section 24(b). A licensee shall be permitted to continue to engage in
11 the contract security company business while the renewal application
12 is pending.

1 Section 21. [*Application, License, and Renewal Fees.*]

2 (a) A nonrefundable application fee of [\$500] shall be remitted with
3 each initial license application.

4 (b) A fee of [\$250], refundable in the event the license renewal is
5 denied, shall be remitted with each application for renewal of a license.

1 Section 22. [*Form of License.*] The license, when issued, shall be in a
2 form prescribed by the licensing authority and shall include:

3 (1) The name of the licensee.

- 4 (2) The business name under which the licensee is to operate.
5 (3) The addresses of the locations where the licensee is authorized
6 to operate.
7 (4) The number and date of the license and its date of expiration.

1 Section 23. [*License—Transferability.*]

2 (a) No license issued pursuant to the provisions of this act shall be
3 assigned or transferred, either by operation of law or otherwise.

4 (b) If the license is held by an owner who is not already a licensee,
5 other than a corporation, and such owner shall die, become disabled, or
6 otherwise cease to engage in the business, the successor, heir, devisee, or
7 personal representative of the owner shall, within 30 days of the death,
8 disablement, or other termination of operation by the original licensee,
9 apply for a license on a form prescribed by the licensing authority, which
10 form shall include the same general information required by Section 14 of
11 this act. The transfers shall be subject to the same general requirements
12 and procedures set forth in Sections 15 through 20 to the extent such
13 sections are applicable.

14 (c) If a sale, assignment, transfer, merger, or consolidation of a
15 business licensed under this act is consummated, the purchaser, assignee,
16 transferee, surviving, or new corporation not already a licensee shall
17 immediately apply for a license on a form prescribed by the licensing
18 authority which shall include the general information required by Section
19 14. The purchaser, assignee, transferee, surviving, or new corporation
20 shall be subject to the same general requirements and procedures set
21 forth in Sections 15 through 20 to the extent that such sections are
22 applicable and may continue the operation of that licensed business until
23 notified by the licensing authority of its final decision on the new applica-
24 tion for a license.

25 (d) With good cause, the licensing authority may extend the period of
26 time for filing the application required by subsections (b) and (c) of this
27 section.

1 Section 24. [*Licenses—Revocation; Hearings; Appeals; Notices.*]

2 (a) Licenses may be revoked by the licensing authority in the manner
3 hereinafter set forth if the licensee or any of its owners, partners, princi-
4 pal corporate officers, or qualifying agent are found to have:

5 (1) Violated any of the provisions of this act or any rule or regulation
6 of the licensing authority which violation the licensing authority deter-
7 mines to reflect unfavorably upon the fitness of the licensee to engage in
8 the contract security company business.

9 (2) Knowingly and willfully given any false information of a material
10 nature in connection with an application for a license or a renewal or
11 reinstatement of a license or in a notice of transfer of a business licensed
12 under this act.

13 (3) Been convicted in any jurisdiction of a felony or a misdemeanor

14 if the licensing authority determines that such conviction reflects un-
15 favorably on the fitness of the applicant to engage in the contract security
16 company business.

17 (4) Committed any act while the license was not in effect which
18 would have been cause for the revocation of a license or grounds for the
19 denial of an application for a license.

20 (b) Prior to revocation of a license, the licensing authority shall
21 promptly notify the licensee of its intent to issue an order of revocation,
22 setting forth in reasonable detail the grounds for revocation. Within 30
23 days of receipt of notice of intent to revoke from the licensing authority,
24 the licensee may request a hearing. Within 10 days after the filing of a
25 request for hearing by the licensee, the licensing authority shall, upon
26 due notice to the licensee, schedule a hearing to be held before the
27 licensing authority or an officer designated by the licensing authority.
28 The hearing shall be held within 15 days after the notice is mailed to the
29 licensee, unless postponed at the request of the licensee. The licensee
30 shall have the right to make an oral presentation at the hearing, including
31 the right to present witnesses and to confront and cross-examine adverse
32 witnesses. The licensee may be represented by counsel. If the hearing is
33 held before a hearing officer, the officer shall submit his report in writing
34 to the licensing authority within 10 days after the hearing. The licensing
35 authority shall issue its decision within 10 days after the hearing or
36 within 10 days after receiving the report of the hearing officer. The
37 decision of the licensing authority shall be in writing and set forth the
38 licensing authority's findings and conclusions. A copy shall be promptly
39 mailed to the principal office of the licensee in the State.

40 (c) Within 90 days after the licensee has exhausted all rights of appeal
41 under this act or if the licensee does not seek a hearing after receipt of
42 a notice of intent to revoke, the licensee shall notify all of its clients
43 in the State of the revocation and maintain in its records a copy of the
44 notices. The licensee shall cease to perform any services for which it has
45 been licensed under this act within 60 days of its receipt of the final
46 notice of intent to revoke from the licensing authority.

47 (d) Under circumstances in which the licensing authority determines
48 that the public health, welfare, or safety may be jeopardized by the
49 termination of a licensee's services, the licensing authority may upon its
50 own motion or upon application by the licensee or any party affected by
51 such termination extend the time for the termination of the licensee's
52 operations, subject to reasonable, necessary and proper conditions or
53 restrictions it deems appropriate.

54 (e) After the licensing authority has issued a notice of intent to revoke
55 a license, the licensee may request that it be permitted to continue to
56 operate subject to the terms of a written order of consent issued by the
57 licensing authority requiring the licensee to correct the conditions set
58 forth as grounds for revocation in the notice of intent to revoke and
59 imposing reasonable conditions and restrictions on the licensee in the

60 conduct of its business. The licensing authority may grant or deny such a
61 request and may stay or postpone any proceeding being conducted
62 pursuant to subsection (b) of this section. Negotiations for an order of
63 consent may be requested at any time during revocation proceedings and
64 stay of pending proceedings during negotiations shall be within the sole
65 discretion of the licensing authority. If revocation proceedings are before
66 a court and the licensing authority and licensee have agreed upon the
67 terms of a proposed consent order, the licensing authority shall submit
68 the proposed order to the court which may approve or disapprove the
69 proposed order or require modification of the proposed consent order
70 before approval.

71 (f) The licensing authority shall enact reasonable rules and regulations
72 for determination of whether a licensee has complied with a consent order
73 issued pursuant to subsection (e) of this section. If the licensing authority
74 determines that a licensee has failed to comply, it may revoke the order
75 and conduct proceedings for revocation of the license. If the consent order
76 has been approved by a court, the licensing authority shall petition the
77 court for vacation of the order. The court shall hold a hearing to determine
78 if the order should be vacated. If the court vacates the consent order, the
79 licensing authority may initiate proceedings for revocation of the license.

1 Section 25. [*Posting and Surrender of License Certificate.*]

2 (a) Within 72 hours after receipt of the license certificate, the licensee
3 shall post and display the license certificate at all times in a conspicuous
4 place in his principal office in the State and copies thereof to be displayed
5 at all times in any other offices within the State where the licensee trans-
6 acts business with its customers so that all persons visiting such place or
7 places may readily see the license. Such license certificates or copies
8 thereof shall be subject to inspection at all reasonable times by the
9 licensing authority.

10 (b) It shall be unlawful for any person holding a license certificate to
11 knowingly and willfully post the license certificate or permit it to be
12 posted upon premises other than those described in the license certificate
13 or to knowingly and willfully alter the license certificate. Each license
14 certificate shall be surrendered to the licensing authority within 72 hours
15 after it has been revoked or after the licensee ceases to do business,
16 subject, however, to Section 24(d) and (e). If, however, the licensing
17 authority or a court of competent jurisdiction has pending before it any
18 matter relating to the renewal, revocation, or transfer of a license, the
19 licensee shall not be required to surrender the license until the matter
20 has been adjudicated and all appeals have been exhausted. When the
21 licensee receives final notice that his license has been revoked, a copy of
22 the notice shall be displayed and posted in close proximity to the license
23 certificate until the licensee terminates his operations.

1 Section 26. [*Change in Status of Licensee.*] The licensee shall notify

2 the licensing authority within 30 days of any change in its officers, direc-
3 tors, or material change in the information previously furnished or required
4 to be furnished to the licensing authority or any occurrence which could
5 reasonably be expected to affect the licensee's right to a license under
6 this statute.

1 Section 27. [*Application for Registration.*]

2 (a) Except as otherwise provided in this act, no person shall perform
3 the functions and duties of an armed private security officer in the State
4 without first having been registered with the licensing authority and issued
5 a registration card in the manner prescribed in the statute.

6 (b) Individuals required to obtain a registration card under this section
7 shall file for a registration card and, upon completion thereof, the licensee
8 or registrant shall immediately forward the application to the licensing
9 authority.

10 (c) Every applicant for a registration card shall make and deliver to
11 the licensee or the licensing authority a sworn application in writing upon
12 a form prescribed by the licensing authority containing the following
13 information:

14 (1) The name and address of the person which employs or will em-
15 ploy the applicant.

16 (2) Applicant's full name and current residence address.

17 (3) Date and place of birth.

18 (4) Social Security number.

19 (5) Telephone number, if any.

20 (6) Complete addresses for the past five years.

21 (7) List of all employers for the past five years.

22 (8) List of all arrests, convictions, and pending criminal charges in
23 any jurisdiction.

24 (9) Type of military discharge.

25 (10) General physical description.

26 (11) All names used by the applicant other than the name by which
27 the individual is currently known, with an explanation setting forth the
28 place or places where each name was used, the date or dates of each use,
29 and an explanation of why the names were used.

30 (12) Two sets of classifiable fingerprints recorded in the manner as
31 may be prescribed by the licensing authority.

32 (13) Two recent color photographs.

33 (14) A statement whether the applicant has ever been denied a
34 registration card and whether the card has been revoked or suspended in
35 any jurisdiction.

36 (15) A statement that the applicant will notify the licensing authority
37 of any material changes of information set forth in the application within
38 10 days after the change.

39 (16) A statement that the applicant does not suffer from habitual
40 drunkenness or from narcotic addiction or dependence and does not

41 possess any disability which would prevent him from performing the
42 duties of an armed private security officer.

43 (17) A statement from a certified trainer to the effect that the appli-
44 cant has completed the training required by Section 36(a) and (b).

45 (d) To be eligible to apply for a registration card an individual must:

46 (1) Be of legal majority age.

47 (2) Be a citizen of the United States or a resident alien.

48 (3) Not have been convicted in any jurisdiction of any felony or of
49 any crime involving moral turpitude or illegally using or possessing a
50 dangerous weapon, for any of which a full pardon (or similar relief) has
51 not been granted.

52 (4) Not have been declared by any court of competent jurisdiction
53 incompetent by reason of mental disease or defect and has not been
54 restored.

55 (5) Not suffer from habitual drunkenness or from narcotic addiction
56 or dependence.

57 (6) Be of good moral character.

58 (7) Not possess any disability which in the opinion of the licensing
59 authority prevents him from performing the duties of an armed private
60 security officer.

61 (e) The registration card shall be carried by an individual required to
62 be registered under this act whenever such individual is performing the
63 duties of an armed private security officer and shall be exhibited upon
64 request.

65 (f) Application for a registration card to the licensing authority shall
66 be accompanied by a [\$15] fee.

67 (g) A registration card shall entitle the registrant to perform the duties
68 of an armed private security officer provided the registrant continues in
69 the employ of the employer listed on the card and maintains his eligibility
70 to hold a registration card under the provisions of this act.

1 Section 28. [*Registration Card—Investigation.*] After receipt of an
2 application for a registration card, the licensing authority shall conduct
3 an investigation to determine whether the facts set forth in the applica-
4 tion are true and shall cause the applicant's fingerprints to be compared
5 with fingerprints filed with [the State's department or agency maintain-
6 ing criminal history records]. The licensing authority or that agency shall
7 within five days forward a copy of the fingerprint card of the applicant
8 to the Federal Bureau of Investigation and request a search of the finger-
9 print files of the FBI for any record of convictions of the registration
10 card applicant.

1 Section 29. [*Action on Registration Card Application.*] Action to ap-
2 prove or deny an application of an individual for a registration card shall
3 be taken as expeditiously as possible by the licensing authority but the
4 action shall be completed within 30 days after receipt of the application

5 unless the licensing authority shall require additional information from
6 the applicant. In that event or if additional facts are required to satisfy
7 the requirements of this act, or if the applicant has not submitted all the
8 information required, the period for the action by the licensing authority
9 shall commence when all information has been received by the licensing
10 authority. Upon acceptance of a registrant's application, the licensing
11 authority shall enter the registrant on its permanent register and issue to
12 the registrant a permanent registration card which shall be valid for
13 one year.

1 Section 30. [*Registration Cards—Denial, Suspension or Revocation;*
2 *Hearings, Notices.*]

3 (a) Registration cards shall be denied, suspended, or revoked by the
4 licensing authority in the manner hereinafter set forth if the cardholder
5 has:

- 6 (1) Failed to meet the qualifications of Section 27(d).
- 7 (2) Been found to have violated any of the provisions of this act or
8 any rule or regulation of the licensing authority if the licensing authority
9 determines that the violation reflects unfavorably upon the fitness of the
10 registrant to function as an armed private security officer.
- 11 (3) Knowingly and willfully giving any material false information
12 to the licensing authority in connection with an application for a registra-
13 tion card or a renewal or reinstatement of a registration card or in the
14 submission of any material fact to the licensing authority.

15 (4) Been convicted in any jurisdiction of a felony, a crime involving
16 moral turpitude, or illegally using or possessing a dangerous weapon,
17 for any of which a full pardon (or similar relief) has not been granted.

18 (b) Prior to denial, suspension, or revocation of a registration card,
19 the licensing authority shall promptly notify the registrant and the employ-
20 er with whom the cardholder is employed of the proposed action setting
21 forth in reasonable detail the grounds for denial, suspension, or revoca-
22 tion. The registrant may request a hearing in the same manner and in
23 accordance with the same procedures as that provided in Section 24(b).

24 (c) In the event that the licensing authority denies, suspends, or re-
25 vokes a registration card, the cardholder, upon receipt of the notice of
26 denial, suspension, or revocation, shall immediately cease to perform the
27 duties of an armed private security officer.

28 (d) Both the cardholder and the employer shall be notified by the
29 licensing authority of final action to deny, suspend, or revoke a registra-
30 tion card.

1 Section 31. [*Renewal of Registration Card—Notification of Changes.*]

2 (a) Registration cards issued by the licensing authority shall be valid
3 for a period of one year. A registration card renewal form must be filed
4 by the cardholder with the licensing authority not less than 30 days
5 prior to the expiration of the card. The fee for renewal of the card shall

6 be [\$5]. The renewal application shall include a statement by the regis-
7 trant that the registrant continues to meet the qualifications for an armed
8 private security officer as set forth in Section 27(c). The renewal applica-
9 tion shall be accompanied by a statement from a certified trainer that the
10 registrant has satisfactorily completed the prescribed refresher training
11 required by Section 36. A renewed registration card shall be valid for
12 one year.

13 (b) The licensing authority may refuse to renew a registration card
14 for any of the grounds set forth in Section 27(d) and it shall promptly
15 notify the cardholder of its intent to refuse to renew the license. The
16 cardholder may, within 15 days after receipt of the notice, request a
17 hearing on the refusal in the same manner and in accordance with the
18 same procedure as that provided in Section 24(b).

19 (c) Licensees and employers subject to this act shall notify the
20 licensing authority within 10 days after the death or termination of em-
21 ployment of any of its employees who are registrants.

22 (d) Licensees and employers subject to this act shall immediately
23 notify the licensing authority upon receipt of information relating to a
24 registrant's continuing eligibility to hold a card under the provisions
25 of this act.

1 Section 32. [*Transferability of Registration Cards.*]

2 (a) In the event that a registrant terminates employment with one
3 employer and is reemployed within five business days as an armed private
4 security officer with another employer, the registrant shall within 24
5 hours of reemployment submit to the licensing authority a notice of the
6 change on a form prescribed by the licensing authority, together with a
7 transfer fee of [\$5]. The licensing authority shall issue a new registration
8 card reflecting the name of the new employer. Upon receipt of the new
9 card, the registrant must immediately return the old card to the licensing
10 authority. The registrant may continue to work as an armed private
11 security officer for the new employer while the licensing authority is
12 processing the application.

13 (b) A registrant who terminates employment and who is not reem-
14 ployed as an armed private security officer within five business days
15 shall, within 24 hours of the fifth business day, surrender the registration
16 card to the employer. The employer shall return the cancelled registration
17 card to the licensing authority within five business days by placing it in
18 the U.S. mail addressed to the licensing authority. If the registrant fails
19 to surrender the card as required by this subsection, the employer shall
20 notify the licensing authority of that fact within 10 business days after
21 the registrant terminated employment.

22 (c) Any individual who changes his permanent residence to this State
23 from any other State which the licensing authority determines has selec-
24 tion, training, and all other similar requirements at least equal to those
25 required by this act, and who holds a valid registration, commission,

26 identification, or similar card issued by that State through a licensee
 27 which is licensed by that State and who wishes to continue to be employed
 28 by that licensee, may apply for a registration card on a form prescribed
 29 by the licensing authority upon payment of a processing fee of [\$5] and
 30 certification by the licensee that the individual has completed the training
 31 prescribed by that State. The licensing authority shall issue the individual
 32 a registration card.

33 (d) A registration card issued by any other State of the United States
 34 shall be valid in this State for a period of 90 days, provided the registrant
 35 is on temporary assignment for the employer shown on his registration
 36 card.

1 Section 33. [*Expiration and Renewal during Suspension of Use of a*
 2 *Registration Card.*] A registration card shall be subject to expiration and
 3 renewal during the period in which the holder of the card is subject to
 4 an order of suspension.

1 Section 34. [*Activities of Registrants during Suspension of Use of a*
 2 *Registration Card.*] After a registrant has received a notice of suspension
 3 or revocation of his registration card, the individual shall not perform the
 4 duties of an armed private security officer unless specifically authorized
 5 to do so by order of the licensing authority or by [a court of competent
 6 jurisdiction within the State].

1 Section 35. [*Firearms.*]

2 (a) It shall be unlawful for any person performing the duties of an
 3 armed private security officer to carry a firearm in the performance of
 4 those duties without having first been issued a registration card by the
 5 licensing authority.

6 (b) A registration card will grant authority to the holder, while in the
 7 performance of his duties, to carry a standard police .38 caliber handgun
 8 or any other firearm approved by the licensing authority not otherwise
 9 prohibited by any state law and with which the registrant has met the
 10 training requirements of Section 36. The use of any firearm not approved
 11 by the licensing authority is prohibited.

12 (c) The registrant must be in possession of the registration card when
 13 carrying a firearm and shall exhibit it upon request. Registration cards
 14 shall authorize possession of an approved firearm only when the regis-
 15 trant is on duty or traveling directly to and from work.

16 (d) All firearms carried by authorized armed private security officers
 17 in the performance of their duties shall be owned by the employer and,
 18 if required by law, shall be fully registered with the proper agency or
 19 government. Personally owned weapons will not be carried by armed
 20 private security officers in the performance of their duties.

1 Section 36. [*Armed Private Security Officer Training Requirements.*]

2 (a) Prior to being issued a registration card, all armed private security
 3 officers shall receive at least eight hours of general training as prescribed
 4 by the licensing authority and be required to successfully pass an examina-
 5 tion on the prescribed material which includes the following topics:

6 (1) Orientation: two hours.

7 (2) Legal powers and limitations of a security officer: two hours.

8 (3) Emergency procedures: two hours.

9 (4) General duties: two hours.

10 (b) All armed private security officers shall also receive firearms
 11 training before being issued a firearm. The following minimum firearms
 12 preassignment training shall be required:

13 (1) Pre-issue weapon instruction and successful examination,
 14 including the following topics:

15 (i) Legal limitations on use of weapons.

16 (ii) Handling of a weapon.

17 (iii) Safety and maintenance.

18 (2) Minimum marksmanship qualification requirement: a minimum
 19 of 60 percent on any approved silhouette target course prescribed by the
 20 licensing authority.

21 (c) All armed private security officers must complete an annual eight-
 22 hour refresher course in the subjects prescribed by subsection (a) of this
 23 section and be requalified in the use of firearms prior to applying for a
 24 renewal registration card under the provisions of Section 31.

25 (d) Upon a registrant's completion of any training required in this
 26 section, the licensee, registrant, or employer shall furnish to the licensing
 27 authority a written notice of such completion signed by a certified trainer.

28 (e) All training required by this act shall be administered by a certified
 29 trainer who is approved by the licensing authority and meets the following
 30 minimum qualifications:

31 (1) Is of legal majority age.

32 (2) Has a minimum of one year supervisory experience with a
 33 contract security company, proprietary security organization, or with any
 34 federal, U.S. military, state, county, or municipal law enforcement agency.

35 (3) Is personally qualified to teach the training required by
 36 this act.

37 (f) The certified trainer may, at his discretion, instruct personally or
 38 use a combination of personal instruction, audio, and/or visual training
 39 aids. The certified trainer shall have authority to appoint one or more
 40 instructors to assist in the implementation of the training program.

1 Section 37. [*Employment by Nonlicensees.*] It is unlawful, as pro-
 2 vided in Section 42, for any person, other than a licensee, to employ an
 3 armed private security officer unless prior to employment that person
 4 shall notify the licensing authority on a form prescribed by the licensing
 5 authority of his intent to employ an armed private security officer; desig-
 6 nate an individual who will be responsible for the compliance with the

7 applicable provisions of this act on behalf of the officer; furnish the
8 licensing authority with evidence of insurance required by Section 41;
9 and furnish other information as the licensing authority may require.

1 Section 38. [*Fingerprinting and Application.*]

2 (a) Except as otherwise provided in this act, no person shall perform
3 the duties of an unarmed private security officer without having first sub-
4 mitted two sets of classifiable fingerprints to his employer and having
5 completed an employment application on a form approved by the licens-
6 ing authority.

7 (b) On or before the date an unarmed private security officer begins
8 employment, the employer must submit the employee's fingerprints and
9 the application to the licensing authority. The licensing authority shall
10 compare or request that [the appropriate state agency] compare the finger-
11 prints filed with the application to fingerprints filed with [the division of
12 criminal identification, records and statistics of the state department of
13 corrections, or its equivalent]. The licensing authority [or the state agency
14 comparing the fingerprints] shall also submit the fingerprints to the
15 Federal Bureau of Investigation for a search of the fingerprint files of
16 that agency.

17 (c) The application for an identification card shall be accompanied
18 by a [\$5] fee.

19 (d) Within 30 days after an employment application and fingerprints
20 have been submitted by an employer, the licensing authority shall inform
21 the employer of any criminal conviction data resulting from the records
22 search.

23 (e) No person may employ an individual as an unarmed private securi-
24 ty officer if the individual has been convicted in any jurisdiction of any
25 felony or of any crime involving moral turpitude or illegally using or
26 possessing a dangerous weapon, for any of which a full pardon (or similar
27 relief) has not been granted.

1 Section 39. [*Identification Card.*]

2 (a) The licensing authority shall issue an identification card for every
3 individual who has been subjected to a criminal history records check and
4 does not have a conviction for a felony or any crime as stated in Section
5 38(d). The identification card will be sent to the employer submitting the
6 fingerprint records and the card will then be issued to the employee if he
7 is still employed. Identification cards issued by the licensing authority
8 under this subsection shall be carried by that individual while performing
9 his duties and shall be exhibited upon request.

10 (b) In the event that a holder of an identification card terminates
11 employment with one employer and is reemployed within five business
12 days as an unarmed private security officer with another employer, the
13 holder shall within 24 hours of such reemployment submit to the licensing
14 authority a notice of the change on a form prescribed by the licensing

15 authority together with a transfer fee of [\$5]. The licensing authority
16 shall issue a new identification card reflecting the name of the new employ-
17 er. Upon receipt of that new card, the holder must immediately return the
18 old card to the licensing authority. The holder may continue to work as an
19 unarmed private security officer for the new employer while the licensing
20 authority is processing the application.

21 (c) The holder of an identification card who terminates employment
22 and who is not reemployed as an unarmed private security officer within
23 five business days shall, within 24 hours of the fifth business day, surrend-
24 er the identification card to the employer. The employer shall return the
25 cancelled identification card to the licensing authority within five business
26 days by placing the card in the U.S. mail addressed to the licensing
27 authority. If the holder fails to surrender the card as required by this
28 subsection, the employer shall notify the licensing authority of that fact
29 within 10 business days after the holder has terminated employment.

1 Section 40. [*Uniforms and Equipment.*]

2 (a) No individual, while performing the duties of an armed or unarmed
3 private security officer, shall wear or display any badge, insignia, device,
4 shield, patch or pattern which shall indicate or tend to indicate that he
5 is a sworn peace officer or which contains or includes the word "police"
6 or the equivalent thereof, or is similar in wording to any law enforcement
7 agency in this State.

8 (b) No person, while performing any private security services, shall
9 have or utilize any vehicle or equipment displaying the words "police,"
10 "law enforcement officer," or the equivalent thereof, or have any sign,
11 shield, marking, accessory, or insignia that may indicate that such vehicle
12 is a vehicle of a public law enforcement agency.

13 (c) If a private security officer is required to wear a uniform, it shall
14 be furnished by the employer. All military or police-style uniforms, except
15 for rainwear or other foul weather clothing, shall have affixed:

16 (1) Over the left breast pocket on the outermost garment and on
17 all caps worn by such persons, badges, distinct in design from those
18 utilized by law enforcement agencies within the State and approved by
19 the licensing authority.

20 (2) Over the right breast pocket on the outermost garment a plate
21 or tape of the size 3" x 1" with the words "Security Officer."

22 (d) An employer may require a reasonable deposit to secure the return
23 of the uniform, weapon, or any equipment provided by the employer.

1 Section 41. [*Insurance Requirements.*] All licensees and employers
2 of armed private security officers shall file with the licensing authority a
3 certificate of insurance evidencing comprehensive general liability
4 coverage for bodily injury, personal injury, and property damage with
5 endorsements for assault and battery and personal injury, including false
6 arrest, libel, slander, and invasion of privacy in the amount of [\$3,000]

7 for bodily or personal injury and [\$100,000] for property damage. Licen-
 8 sees shall also file endorsements for damage to property in their care,
 9 custody, and control, and for errors and omissions. Licensees and employ-
 10 ers of armed private security officers shall also file a certificate of Work-
 11 men's Compensation Insurance as required by the statutes of this State.
 12 The certificates shall provide that the insurance shall not be modified or
 13 cancelled unless 10 days' prior notice shall be given to the licensing
 14 authority. All persons required to be insured by this act must be insured
 15 by a carrier licensed in the State in which the insurance has been pur-
 16 chased or in this State.

1 Section 42. [*Unlawful Acts.*]

2 (a) It is unlawful for any person to knowingly commit any of the
 3 following:

4 (1) Provide contract security services without possessing a valid
 5 license.

6 (2) Employ any individual to perform the duties of an armed private
 7 security officer who is not the holder of a valid registration card or to
 8 employ any individual to perform the duties of an unarmed private
 9 security officer who has not filed an application for an identification
 10 card as required by Section 38.

11 (3) Publish any advertisement, letterhead, circular, statement, or
 12 phrase of any sort which suggests that the licensee is an official police
 13 agency or any other agency, instrumentality, or division of this State or
 14 any of its political subdivisions or of the federal government.

15 (4) Issue any badge or shield not in conformance with this act.

16 (5) Designate an individual as other than a private security officer.

17 (6) Knowingly make any false statement or material omission in
 18 any application filed with the licensing authority.

19 (7) Falsely represent that the person is the holder of a valid license
 20 or registration.

21 (8) Violate any provision of this act or any rule or regulation of the
 22 licensing authority.

23 (b) It is unlawful for any private security officer to knowingly commit
 24 any of the following:

25 (1) Fail to return immediately on demand or within 24 hours of
 26 termination of employment a firearm issued by an employer. Violation of
 27 this provision shall constitute a felony.

28 (2) To carry a firearm in the performance of his duties if not the
 29 holder of a valid registration card. Violation of this provision will consti-
 30 tute a felony.

31 (3) Fail to return immediately on demand or within seven days of
 32 termination of employment any uniform, badge, or other item of equip-
 33 ment issued to the private security officer by an employer.

34 (4) Make any statement which would reasonably cause another
 35 person to believe that the private security officer functions as a sworn

36 peace officer or other official of this State or of any of its political sub-
 37 divisions or agency of the federal government.

38 (5) Fail to comply with the regulations issued by the licensing
 39 authority or with any other requirements under the provisions of this act.

40 (6) Divulge to anyone other than his employer or to such persons
 41 as his employer may direct as may be required by law any information
 42 acquired during such employment that may compromise the security of
 43 any premises to which he shall have been assigned by the employer.

44 (7) Fail to return to the employer or the licensing authority a regis-
 45 tration card or identification card as required by the provisions of this act.

46 (8) Possess a license, registration card, or identification card issued
 47 to another person.

48 (9) Use any badge or shield not in conformance with this act.

49 (c) The violation of any of the provisions of this section, unless other-
 50 wise specified, shall constitute a misdemeanor punishable by a fine of
 51 not more than [\$1,000] or up to one year of imprisonment, or both. The
 52 licensing authority is also authorized to suspend or revoke a license,
 53 registration card, or identification card issued under this act.

1 Section 43. [*Sworn Police Officer.*] Any individual who is regularly
 2 employed as a sworn police officer and who also is employed as an armed
 3 or unarmed private security officer must comply with the requirements of
 4 this act.

1 Section 44. [*Fees and Deposits.*] Any fees payable by a registrant
 2 under this act and paid by a licensee on the registrant's behalf, or any
 3 deposits which may be required by licensee from a registrant under this
 4 act, may be deducted from any wages payable to the registrant by the
 5 licensee, provided that such deduction does not reduce the hourly wage
 6 below the applicable minimum wage law.

1 Section 45. [*Local Government Regulation of Contract Security Com-
 2 panies or Private Security Officers.*]

3 (a) From and after the effective date of this act, no governmental
 4 subdivision of this State shall enact any legislation, code, or ordinance, or
 5 promulgate any rules or regulations relating to the licensing, training, or
 6 regulation of contract security companies or individuals functioning as
 7 private security officers, armed or unarmed, other than the imposition of
 8 a bona fide business tax.

9 (b) Upon the effective date of this act, any provision of any legislation,
 10 code, or ordinance, or rules promulgated by any local governmental
 11 subdivision of this State relating to the licensing, training, or regulation
 12 of contract security companies or individuals functioning as private
 13 security officers, armed or unarmed, shall be deemed superseded by this
 14 act.

1 Section 46. [*Judicial Review.*]

2 (a) Any person aggrieved by any final action of the licensing authority
3 under this act shall have the right to judicial review by [a court of compe-
4 tent jurisdiction] within the State.

5 (b) In proceedings in any court pursuant to the provisions of this act,
6 trial shall be de novo. When a court has acquired jurisdiction, all adminis-
7 trative action taken prior thereto shall be stayed, except as provided in
8 Section 34. The rights of the parties shall be determined by the court
9 upon a trial of the matter or matters in controversy under rules governing
10 the trial of other civil suits in the same manner and to the same extent as
11 if the matter had been committed to the court in the first instance and
12 there had been no intervening administrative or executive action or
13 decision.

1 Section 47. [*Reciprocity.*] Full reciprocity shall be accorded to armed
2 and unarmed private security officers who are properly registered and
3 certified in another State having selection and training requirements at
4 least equal to the requirements of this State when the duties of these
5 individuals require them to operate across state lines.

1 Section 48. [*Severability.*] [Insert severability clause.]

1 Section 49. [*Repeal.*] [Insert repealer clause.]

1 Section 50. [*Effective Date.*] [Insert effective date.]

7 2/23/1960

END