

The legislative clerk read as follows:

A bill (S. 1743) to permit reviews of criminal records of applicants for private security officer employment.

There being no objection, the Senate proceeded to consider the bill.

Mr. KYL. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate; that any statements relating to this measure be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1743) was read the third time and passed, as follows:

S. 1743

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

#### SECTION 1. SHORT TITLE.

This Act may be cited as the "Private Security Officer Employment Authorization Act of 2003".

#### SEC. 2. FINDINGS.

Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by helping to reduce and prevent crime;

(3) such private security officers protect individuals, property, and proprietary information, and provide protection to such diverse operations as banks, hospitals, research and development centers, manufacturing facilities, defense and aerospace contractors, high technology businesses, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, office complexes, schools, residential properties, apartment complexes, gated communities, and others;

(4) sworn law enforcement officers provide significant services to the citizens of the United States in its public areas, and are supplemented by private security officers;

(5) the threat of additional terrorist attacks requires cooperation between public and private sectors and demands professional, reliable, and responsible security officers for the protection of people, facilities, and institutions;

(6) the trend in the Nation toward growth in such security services has accelerated rapidly;

(7) such growth makes available more public sector law enforcement officers to combat serious and violent crimes, including terrorism;

(8) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(9) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

#### SEC. 3. DEFINITIONS.

In this Act:

(1) **EMPLOYEE.**—The term "employee" includes both a current employee and an applicant for employment as a private security officer.

(2) **AUTHORIZED EMPLOYER.**—The term "authorized employer" means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) **PRIVATE SECURITY OFFICER.**—The term "private security officer"—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this Act if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) **SECURITY SERVICES.**—The term "security services" means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) **STATE IDENTIFICATION BUREAU.**—The term "State identification bureau" means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

#### SEC. 4. CRIMINAL HISTORY RECORD INFORMATION SEARCH.

(a) **IN GENERAL.**—

(1) **SUBMISSION OF FINGERPRINTS.**—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this Act.

(2) **EMPLOYEE RIGHTS.**—

(A) **PERMISSION.**—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this Act.

(B) **ACCESS.**—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this Act.

(3) **PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.**—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this Act, submitted through the State identification bureau of a participating State, the Attorney General shall—

(A) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(B) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(4) **USE OF INFORMATION.**—

(A) **IN GENERAL.**—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in subparagraph (B).

(B) **TERMS.**—In the case of—

(i) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(I) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(II) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(ii) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this Act in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(5) **FREQUENCY OF REQUESTS.**—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(b) **REGULATIONS.**—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this Act, including—

(1) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(2) standards for qualification as an authorized employer; and

(3) the imposition of reasonable fees necessary for conducting the background checks.

(c) **CRIMINAL PENALTIES FOR USE OF INFORMATION.**—Whoever knowingly and intentionally uses any information obtained pursuant to this Act other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(d) **USER FEES.**—

(1) **IN GENERAL.**—The Director of the Federal Bureau of Investigation may—

(A) collect fees to process background checks provided for by this Act; and

(B) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(2) **LIMITATIONS.**—Any fee collected under this subsection—

(A) shall, consistent with Public Law 101-515 and Public Law 104-99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in paragraph (1);

(B) shall be available for expenditure only to pay the costs of such activities and services; and

(C) shall remain available until expended.

(3) **STATE COSTS.**—Nothing in this Act shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this Act.

(e) **STATE OPT OUT.**—A State may decline to participate in the background check system authorized by this Act by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this subsection.

#### MEASURE READ THE FIRST TIME—S. 1875

Mr. KYL. Mr. President, I understand that S. 1875, which was introduced earlier today, is at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the first time.

The assistant legislative clerk read as follows:

A bill (S. 1875) to amend the Employee Retirement Income Security Act of 1974, the

Public Health Service Act, and the Internal Revenue Code of 1986 to extend the mental health benefits parity provisions for an additional year.

Mr. KYL. Mr. President, I now ask for its second reading and object to further proceedings on the matter.

The PRESIDING OFFICER. Objection is heard. The bill will receive its second reading on the next legislative day.

#### APPOINTMENT OF ADDITIONAL CONFEREES

Mr. KYL. Mr. President, I ask unanimous consent that the number of conferees appointed for H.R. 2673, the Agriculture appropriations bill for fiscal year 2004, be expanded to include the following additional members of the Senate Appropriations Committee: Senators DOMENICI, SHELBY, GREGG, CAMPBELL, HUTCHISON, DEWINE, INOUE, HOLLINGS, LEAHY, MIKULSKI, REID, and MURRAY.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### ORDERS FOR TUESDAY, NOVEMBER 18, 2003

Mr. KYL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m., Tuesday, November 18. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved for their use later in the day, and the Senate then proceed to executive session to consider the nomination of Thomas Dorr, with the time until 10:30 a.m. equally divided between the chairman and ranking member of the Agriculture Committee, or their designees; provided, that at 10:30 a.m., the Senate proceed to the two cloture votes in relation to the nomination; that following the two votes, and regardless of the outcome of either vote, the Senate return to legislative session and resume consideration of H.R. 2861, the VA-HUD appropriations bill. I further ask unanimous consent that the Senate recess from 12:30 p.m. to 2:15 p.m. for the weekly party luncheons.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### PROGRAM

Mr. KYL. Mr. President, for the information of all Senators, tomorrow the Senate will consider the nomination of Thomas Dorr to be Under Secretary of Agriculture for Rural Development and to be a member of the board of directors of the Commodity Credit Corporation. At 10:30 a.m., the Senate will proceed to two cloture votes in relation to the nomination. Those two votes will be the first votes of tomorrow's session.

Following the two cloture votes, the Senate will resume consideration of the VA-HUD appropriations bill. It is the hope and expectation of the majority leader that we will be able to dispose of the remaining amendments quickly and move to vote on passage of the bill.

For the remainder of the day, the Senate will consider any legislative or executive items that are available for action. Last week, we reached a unanimous consent agreement limiting the debate on the nomination of Robert Clark to be a lieutenant general in the Army, and the Senate may take up the nomination tomorrow. In addition, the Senate may take up appropriations conference reports as they become available. Therefore, Senators should expect rollcall votes throughout the day tomorrow.

#### ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. KYL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:41 p.m., adjourned until Tuesday, November 18, 2003, at 9:30 a.m.

#### NOMINATIONS

Executive nominations received by the Senate November 17, 2003:

##### DEPARTMENT OF TRANSPORTATION

FRANCIS MULVEY, OF MARYLAND, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2007, VICE WAYNE O. BURKES, RESIGNED.

W. DOUGLAS BUTTREY, OF TENNESSEE, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2008, VICE LINDA JOAN MORGAN, RESIGNED.

##### DEPARTMENT OF STATE

JAMES C. OBERWETTER, OF TEXAS, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE KINGDOM OF SAUDI ARABIA.

GLYN T. DAVIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS THE POLITICAL DIRECTOR FOR THE UNITED STATES PRESIDENCY OF THE G-8.

##### CORPORATION FOR PUBLIC BROADCASTING

GAY HART GAINES, OF FLORIDA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE CORPORATION FOR PUBLIC BROADCASTING FOR A TERM EXPIRING JANUARY 31, 2010, VICE RITAJEAN HARTUNG BUTTERWORTH, TERM EXPIRING.

##### IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTIONS 531 AND 1552:

##### To be lieutenant colonel

ROBERT G. CATES III, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE, UNDER TITLE 10, U.S.C., SECTIONS 624 AND 1552:

##### To be lieutenant colonel

MARY J. QUINN, 0000

THE FOLLOWING NAMED OFFICERS FOR A REGULAR APPOINTMENT IN THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

##### To be lieutenant colonel

CHRISTOPHER C. ERICKSON, 0000  
MARK A. MCCLAIN, 0000

##### IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

CHERYL KYLE, 0000  
TERRY C. WASHAM, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

##### To be colonel

JOHN D. MCGOWAN II, 0000  
KENNETH E. NETTLES, 0000

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

##### To be colonel

VERNAL G. ANDERSON, 0000  
DONALD J. KERR, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SPECIALIST CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

##### To be colonel

GASTON P. BATHALON, 0000  
STEVEN D. HUNTE, 0000  
PAULA J. RUTAN, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

WILLIAM B. CARR JR., 0000

I NOMINATE THE FOLLOWING NAMED INDIVIDUALS FOR APPOINTMENT IN THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

JOHN E. ATWOOD, 0000  
CRAIG B. COLLIER, 0000  
WILLIAM E. ZOESCH, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

##### To be colonel

CHERYL KYLE, 0000  
TERRY C. WASHAM, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 624 AND 3064:

##### To be colonel

MICHAEL A. BULEY, 0000  
DAVID S. ROLFE, 0000  
PAUL W. SCHMIDT, 0000  
DAVID R. SCHUCKENBROCK, 0000  
PETER J. SCHULTHEISS, 0000  
JOHN P. SKVORAK, 0000  
STANLEY E. SMITH, 0000  
BOLE E. WALTERS, 0000  
GARY M. ZAUCHA, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY NURSE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTRISK(\*) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

##### To be colonel

JULIA A. ADAMS, 0000  
CARYL J. DOWELL, 0000  
ELLEN E. FORSTER, 0000  
HOGSTON S. HAGA, 0000  
MARGARET A. HAWTHORNE, 0000  
BARBARA J. HECTOR, 0000  
JOSEPH J. HELMINIAK, 0000  
TEMPSIE L. JONES, 0000  
RONALD S. KEEN, 0000  
JAMES M. LARSEN, 0000  
PATTI A. \*LEDERER, 0000  
STEPHEN W. LOMAX, 0000  
CONSTANCE J. MOORE, 0000  
JOHN H. MORSE, 0000  
WAYNE C. NYGREN, 0000  
DIANA L. RUZICKA, 0000  
FATEMEH T. STRITTMATTER, 0000  
JANET L. WILSON, 0000

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY MEDICAL SERVICE CORPS AND FOR REGULAR APPOINTMENT (IDENTIFIED BY AN ASTRISK(\*) UNDER TITLE 10, U.S.C., SECTIONS 624, 531, AND 3064:

##### To be colonel

STEPHEN G. BEARDSLEY III, 0000  
FRED H. BROWN JR., 0000  
WAYNE W. CLARK, 0000  
KAYLENE M. CURTIS, 0000  
MARK K. DAVIS, 0000  
HAROLD C. \*DICKENS, 0000  
BEAU J. FREUND, 0000  
DAVID E. FULBRIGHT, 0000  
JOHN A. GIDDENS, 0000  
DONALD L. GOODE, 0000  
RONALD A. HAMILTON, 0000  
CHRISTOPHER J. HARRINGTON, 0000  
MARK W. HEGERLE, 0000  
SHEILA A. HOBBS, 0000  
RICHARD N. JOHNSON, 0000  
GEORGE W. KORCH, 0000  
MICHAEL J. KRUKAR, 0000  
TIMOTHY E. LAMB, 0000  
VASEAL M. LEWIS, 0000  
ANGEL L. LUGO, 0000  
COLEEN K. MARTINEZ, 0000  
WENDY L. MARTINSON, 0000  
REGINALD A. MILLER, 0000  
ULMONT C. NANTON JR., 0000  
ANTONIO F. REYES, 0000  
JAMES S. RICE, 0000  
MARTHA A. SANDERS, 0000  
EDWARD R. SCHOWALTER III, 0000  
JOHN C. SHERO, 0000  
PATRICK O. WILSON, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY AND FOR REGULAR APPOINTMENT UNDER TITLE 10, U.S.C., SECTIONS 624 AND 531:

##### To be lieutenant colonel

GARY R. MCMEEN, 0000