

JAN 19 2018

A BILL FOR AN ACT

RELATING TO GUARDS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. Section 463-1, Hawaii Revised Statutes, is amended by adding two new definitions to be appropriately inserted and to read as follows:

"Discharge due to poor employment standing" includes:

(1) Involuntary termination due to misconduct;

(2) Resigning as an alternative to involuntary termination due to misconduct; or

(3) Resigning while under investigation, suspension, or during forced administrative desk duty pending investigation.

"Law enforcement officer" means a:

(1) Police officer employed by a police department located anywhere within the United States; or

(2) Person granted police powers by a federal, state, or county agency within the United States."

SECTION 2. Section 463-8, Hawaii Revised Statutes, is amended to read as follows:



1 "§463-8 Principal guards and guard agencies;
2 qualifications for license. (a) The board may grant a
3 principal guard license to any suitable individual, or a guard
4 agency license to any suitable firm making written application
5 therefor. The applicant, if an individual, or the principal
6 guard of a firm shall:

7 (1) Be not less than eighteen years of age;

8 (2) Have had a high school education or its equivalent;

9 (3) Have had experience reasonably equivalent to at least

10 four years of full-time guard work;

11 (4) Not be presently suffering from any psychiatric or

12 psychological disorder [~~which~~] that is directly

13 related and detrimental to a person's performance in

14 the profession;

15 (5) Not have been convicted in any jurisdiction of a crime

16 [~~which~~] that reflects unfavorably on the fitness of

17 the applicant to engage in the profession, unless the

18 conviction has been annulled or expunged by court

19 order; [~~and~~]

20 (6) If granted a license, have a restriction placed on the

21 individual's license that prevents the individual from



1 possessing a firearm in the course of employment if
2 the individual has been discharged from employment as
3 a law enforcement officer due to poor employment
4 standing; and

5 ~~[(6)]~~ (7) Possess a history of honesty, truthfulness,
6 financial integrity, and fair dealing.

7 A firm applying for a guard agency license shall have in its
8 employ an individual who is licensed and registered as a guard
9 pursuant to section 463-10.5 and who shall be designated as the
10 principal guard for the firm, and shall provide a bond as
11 required under section 463-12.

12 (b) A guard agency may employ as many agents, operatives,
13 and assistants in a guard capacity and as necessary for the
14 conduct of business; provided that the principal guard shall be
15 held responsible for, and have direct management and control of,
16 the agency and the agency's employees while they are acting
17 within the scope and purpose of the guard agency's business.

18 ~~[These employees]~~ Each employee, including the principal guard,
19 shall:

20 (1) Have had a high school education or its equivalent;



1 (2) Not be presently suffering from any psychiatric or
2 psychological disorder [~~which~~] that is directly
3 related and detrimental to a person's performance in
4 the profession;

5 (3) Not have been convicted in any jurisdiction of a crime
6 [~~which~~] that reflects unfavorably on the fitness of
7 the employee to engage in the profession, unless the
8 conviction has been annulled or expunged by court
9 order; [~~and~~]

10 (4) Be prohibited from possessing a firearm in the course
11 of employment if the individual has been discharged
12 from employment as a law enforcement officer due to
13 poor employment standing; and

14 [~~(4)~~] (5) Be registered with the board upon employment with
15 the agency.

16 (c) The employer[~~r~~] of a prospective employee in a guard
17 capacity, including a principal guard, with the written
18 authorization of the prospective employee, shall conduct a
19 [~~criminal~~]:

20 (1) Prior employment background check of the prospective
21 employee if the prospective employee has ever served



1 as a law enforcement officer. The background check,
2 at a minimum, shall request from each governmental
3 agency for which the applicant served as a law
4 enforcement officer, a statement of whether or not the
5 applicant has been discharged from employment as a law
6 enforcement officer due to poor employment standing;
7 and

8 (2) Criminal history records check, in accordance with
9 section 463-10.5 and the rules of the board adopted
10 pursuant thereto, of ~~[all new employees employed in a~~
11 ~~guard capacity]~~ the prospective employee directly
12 through the Hawaii criminal justice data center upon
13 certification to the board that the signature on the
14 authorization is authentic.

15 (d) The department of public safety and any police
16 department of the several counties, upon request from an
17 employer seeking information relevant to section (c)(1), shall
18 disclose whether the prospective employee was discharged from
19 employment with the department due to poor employment standing."

20 SECTION 3. Section 463-9, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§463-9 Form of application for license or registration.

2 (a) Application for a license or registration shall be made on
3 a form prescribed by the board which may require a statement of
4 the applicant's full name, age, date and place of birth,
5 residence and business address, the business or occupation the
6 applicant has engaged in for ten years immediately preceding the
7 date of the filing of the application with names and addresses
8 of employers, the date and place of any arrest or conviction of
9 a crime where there has not been any order annulling or
10 expunging the sentence or of any offense involving moral
11 turpitude, whether the applicant has received treatment for any
12 psychiatric or psychological disorder, or whether the treatment
13 has ever been recommended, and [~~such~~] any information, including
14 fingerprints of the applicant and [~~such~~] any other information
15 as the board may require to investigate the character,
16 competency, and integrity of the applicant. The board shall
17 conduct [~~such~~] the investigation of the applicant's background,
18 character, competency, and integrity as it deems appropriate,
19 and shall request [~~, in~~]:

20 (1) From each governmental agency for which the applicant
21 served as a law enforcement officer, a statement of



1 whether or not the applicant has been discharged from
2 employment as a law enforcement officer due to poor
3 employment standing; and

4 (2) In accordance with section 846-2.7, criminal history
5 records of the applicant from each jurisdiction in
6 which the application form indicates the applicant
7 lived for any substantial period of time.

8 (b) The department of public safety and the police
9 departments of the several counties, for the purposes of
10 subsection (a)(1), shall provide relevant information on request
11 to the director of commerce and consumer affairs.

12 (c) The Hawaii criminal justice data center, for the
13 purposes of subsection (a)(2), shall provide [such] relevant
14 information on request to the director of commerce and consumer
15 affairs."

16 SECTION 4. Section 463-10.5, Hawaii Revised Statutes, is
17 amended by amending subsection (a) to read as follows:

18 "(a) All guards, and all agents, operatives, and
19 assistants employed by a guard agency, private business entity,
20 or government agency who act in a guard capacity shall apply to
21 register with the board, and meet the following registration,



1 instruction, and training requirements prior to acting as a
2 guard:

- 3 (1) Be not less than eighteen years of age;
- 4 (2) Possess a high school education or its equivalent;
5 provided that the applicant may satisfy the
6 requirements of this paragraph by attesting that the
7 applicant possesses a high school education or its
8 equivalent;
- 9 (3) Not be presently suffering from any psychiatric or
10 psychological disorder [~~which~~] that is directly
11 related and detrimental to a person's performance in
12 the profession; [~~and~~]
- 13 (4) Not have been convicted in any jurisdiction of a crime
14 [~~which~~] that reflects unfavorably on the fitness of
15 the individual to act as a guard, unless the
16 conviction has been annulled or expunged by court
17 order; provided that the individual shall submit to a
18 national criminal history record check as authorized
19 by federal law, including but not limited to the
20 Private Security Officer Employment Authorization Act
21 of 2004, and specified in the rules of the board, and



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1 a criminal history record check from the Hawaii
 2 criminal justice data center under chapter 846[-]; and
 3 (5) Agree to refrain from possessing a firearm in the
 4 course of employment if the individual has been
 5 discharged from employment as a law enforcement
 6 officer due to poor employment standing.

7 The board shall determine whether an individual qualifies for
 8 registration pursuant to this subsection."

9 SECTION 5. This Act does not affect rights and duties that
 10 matured, penalties that were incurred, and proceedings that were
 11 begun before its effective date.

12 SECTION 6. Statutory material to be repealed is bracketed
 13 and stricken. New statutory material is underscored.

14 SECTION 7. This Act shall take effect on July 1, 2018.

15

INTRODUCED BY: Clerena K. Nishikawa
Randy H. Becker
for
Kal R. Rhee
Will Egan



S.B. NO. 2429

Report Title:

Guards; Background Checks; Prior Employment

Description:

Prohibits a security guard from possessing a firearm in the course of employment if the guard was discharged from employment as a law enforcement officer due to poor employment standing. Requires state and county law enforcement agencies to make appropriate disclosures.

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