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# A BILL FOR AN ACT

RELATING TO GUARDS.

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

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

4       "Discharge due to poor employment standing" includes:

5       (1)   Involuntary termination due to misconduct;

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

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

11      "Law enforcement officer" means a:

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

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

16      SECTION 2.   Section 463-8, Hawaii Revised Statutes, is  
17   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 due to poor  
3           employment standing from employment as a law  
4           enforcement officer; 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 due to poor employment standing from employment as a  
13 law enforcement officer; and

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

16 (c) The employer[7] 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 [eriminal]:

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 due to poor employment  
6       standing from employment as a law enforcement officer;  
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, department of  
16      transportation, and any police department of the several  
17      counties, upon request from an employer seeking information  
18      relevant to section (c)(1), shall disclose whether the  
19      prospective employee was discharged due to poor employment  
20      standing from employment with the department."



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

3       "**§463-9 Form of application for license or registration.**

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



1       (1) From each governmental agency for which the applicant  
2       served as a law enforcement officer, a statement of  
3       whether or not the applicant has been discharged due  
4       to poor employment standing from employment as a law  
5       enforcement officer; and

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

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

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

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



1       "(a) All guards, and all agents, operatives, and  
2 assistants employed by a guard agency, private business entity,  
3 or government agency who act in a guard capacity shall apply to  
4 register with the board, and meet the following registration,  
5 instruction, and training requirements prior to acting as a  
6 guard:

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

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

9       provided that the applicant may satisfy the

10       requirements of this paragraph by attesting that the

11       applicant possesses a high school education or its

12       equivalent;

13       (3) Not be presently suffering from any psychiatric or

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

15       related and detrimental to a person's performance in

16       the profession; [~~and~~]

17       (4) Not have been convicted in any jurisdiction of a crime

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

19       the individual to act as a guard, unless the

20       conviction has been annulled or expunged by court

21       order; provided that the individual shall submit to a





1 national criminal history record check as authorized  
2 by federal law, including but not limited to the  
3 Private Security Officer Employment Authorization Act  
4 of 2004, and specified in the rules of the board, and  
5 a criminal history record check from the Hawaii  
6 criminal justice data center under chapter 846[-]; and  
7 (5) Agree to refrain from possessing a firearm in the  
8 course of employment if the individual has been  
9 discharged due to poor employment standing from  
10 employment as a law enforcement officer.

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

13 SECTION 5. This Act does not affect rights and duties that  
14 matured, penalties that were incurred, and proceedings that were  
15 begun before its effective date.

16 SECTION 6. Statutory material to be repealed is bracketed  
17 and stricken. New statutory material is underscored.

18 SECTION 7. This Act shall take effect on July 1, 2018.  
19



**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. (SD1)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

