



EMPLOYER CERTIFICATION STATEMENT

Authorized Employer Name		Colorado Tax Identification Number	County
Physical Operating Address in Colorado (Street, City, State, and ZIP Code)			
Mailing Address (if different from above)			
Telephone Number ( )		Fax Number ( )	
Name of Business/Organization Head			Title
Name of Contact Person			Title
Contact Phone ( )	E-mail Address		
<p>According to Title 28, Code of Federal Regulations (CFR), Section 105.23(a), before an authorized employer may request a criminal history record information (CHRI) check of a private security officer (PSO) from a participating state, the authorized employer must provide the participating state (Colorado) with an executed certification, developed by the State Identification Bureau or relevant state agency (the Colorado Bureau of Investigation), for the purpose of processing requests for the CHRI checks under the Private Security Officer Employment Authorization Act of 2004.</p> <p>For the purpose of certifying the status of the above listed Authorized Employer under 28 CFR §105.23, I (the undersigned) hereby declare that the above listed Authorized Employer employs Private Security Officers who are not employees 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.</p> <p>A state and federal criminal history inquiry is not authorized in accordance with Public Law 108-458 for the following excluded employees: (1) Employees whose duties are primarily internal audit or credit functions, (2) Employees of electronic security system companies acting as technicians or monitors, and (3) Employees whose duties involve the secure movement of prisoners.</p> <p>I (the undersigned) am authorized under applicable state law to certify the status of the above listed Authorized Employer as an employer providing security, whether provided by a third party for consideration, or by employees as an internal, proprietary function, to protect people or property, including activities to: patrol, guard, or monitor property (including real property as well as tangible or intangible personal property such as records, merchandise, money, and equipment); protect against fire, theft, misappropriation, vandalism, violence, terrorism, and other illegal activity; safeguard persons; control access to real property and prevent trespass; or deter criminal activity on the Authorized Employer's or another's premises.</p> <p>Only requests for Colorado and federal CHRI of prospective and current private security officers of the above listed Authorized Employer will be submitted.</p> <p>I (the undersigned) further declare that the information obtained as a result of the Colorado and federal CHRI, including any determination by a state agency, will be used solely for the purpose of screening the prospective and current PSOs of the above listed agency, and that the above listed agency, as an authorized employer, will abide by other regulatory obligations.</p> <p><b>Executed under penalties of perjury, false statement, or other applicable state laws, I (the undersigned) declare that the foregoing is true and correct to the best of my knowledge and belief, on this _____ day of _____, 20_____.</b></p>			
Declarant Name (Printed)			
Declarant Signature			
<b>Please return the completed form to the Colorado Bureau of Investigation, 690 Kipling St, Ste 3000, Denver, CO 80215. Phone: (303) 239-4208</b>			
<b>CBI USE ONLY</b>			
Approved: <input type="checkbox"/> YES <input type="checkbox"/> NO Date: __/__/____			



## RULES AND REGULATIONS CONCERNING CRIMINAL HISTORY RECORDS OF PRIVATE SECURITY OFFICERS

### AUTHORITY TO ADOPT RULES AND REGULATIONS

The Colorado Bureau of Investigation is authorized by the provisions of the Private Security Officer Employment Authorization Act of 2004, Public Law 108-458, to adopt rules and regulations identifying those entities that may serve as qualified entities, as well as rules concerning criminal history records of private security officers.

### DEFINITIONS

The definitions provided in Section § 105.22 of the Code of Federal Regulations 28, Part 105, Subpart C, shall apply to these rules and regulations.

- (1) **Authorized employer** means any person that employs private security officers and is authorized by the regulations in this subpart to request a criminal history record information search of an employee through a state identification bureau. An employer is not authorized within the meaning of these regulations if it has not executed and submitted to the appropriate state agency the certification required in § 105.25(g), if its authority to do business in a State has been suspended or revoked pursuant to state law, or, in those states that regulate private security officers, the employer has been found to be out of compliance with any mandatory standards or requirements established by the appropriate regulatory agency or entity.
- (2) **Employee** means both a current employee and an applicant for employment as a private security officer.
- (3) **Charged**, with respect to a criminal felony, means being subject to a complaint, indictment, or information.
- (4) **Felony** means a crime punishable by imprisonment for more than one year, regardless of the period of imprisonment actually imposed.
- (5) **Participating State** means a State that has not elected to opt out of participating in the Act by statutory enactment or gubernatorial order. A State may decline to participate in the background check system authorized by the 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. The regulations in this subpart that pertain to States apply only to participating states.
- (6) **Person** means an individual, partnership, firm, company, corporation or institution that performs security services, whether for a third party for consideration or as an internal, proprietary function.
- (7) **Private Security Officer** 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 as may be excluded from coverage in these regulations, except that the term excludes:
  - a. Employees whose duties are primarily internal audit or credit functions;
  - b. Employees of electronic security system companies acting as technicians or monitors; or
  - c. Employees whose duties involve the secure movement of prisoners.
- (8) **Security services** means services, whether provided by a third party for consideration, or by employees as an internal, proprietary function, to protect people or property, including activities to: Patrol, guard, or monitor property (including real property as well as tangible or intangible personal property such as records, merchandise, money, and equipment); protect against fire, theft, misappropriation, vandalism, violence, terrorism, and other illegal activity; safeguard persons; control access to real property and prevent trespass; or deter criminal activity on the authorized employer's or another's premises. This definition does not cover services by the employees described in § 105.22(f) as excluded from the definition of *private security officer*.
- (9) **State Identification Bureau (SIB)** means the state agency designated by the Governor or other appropriate executive official or the state legislature to perform centralized recordkeeping functions for criminal history records and associated services in the States.

## PROCEDURE FOR REQUESTING CRIMINAL HISTORY RECORD CHECK

These procedures only apply to participating states. An authorized employer may obtain a State and national criminal history record check as authorized by section 6402 of Public Law 105–458 as follows:

- (1) An authorized employer is required to execute a certification to the State, developed by the SIB or the relevant state agency for purposes of accepting requests for these background checks, declaring that it is an authorized employer that employs private security officers; that all fingerprints and requests for criminal history background checks are being submitted for private security officers; that it will use the information obtained as a result of the state and national criminal history record checks solely for the purpose of screening its private security officers; and that it will abide by other regulatory obligations. To help ensure that only legitimate use is made of this authority, the certification shall be executed under penalties of perjury, false statement, or other applicable state laws.
- (2) An authorized employer must obtain a set of fingerprints and the written consent of its employee to submit those prints for a state and national criminal history record check. An authorized employer must submit the fingerprints and appropriate state and federal fees to the SIB in the manner specified by the SIB.
- (3) Upon receipt of an employee's fingerprints, the SIB shall perform a fingerprint-based search of its criminal records. If no relevant criminal record is found, the SIB shall submit the fingerprints to the FBI for a national search.
- (4) Upon the conclusion of the national search, the FBI will disseminate the results to the SIB.

## DISQUALIFICATIONS

Disqualifications are based upon the results of the state check and, if necessary, the national check.

- (1) If the State has standards for qualifying a private security officer, the SIB or other designated state agency shall apply those standards to the CHRI and notify the authorized employer of the results of the application of the state standards; or
- (2) If the State does not have standards for qualifying a private security officer, the SIB or other designated state agency shall notify an authorized employer as to the fact of whether an applicant has been:
  - a. Convicted of a felony;
  - b. Convicted of a lesser offense involving dishonesty or false statement if occurring within the previous ten years;
  - c. Convicted of a lesser offense involving the use or attempted use of physical force against the person of another if occurring within the previous ten years; or
  - d. Charged with a felony during the previous 365 days for which there has been no resolution.
- (3) The limitation periods set forth above shall be determined using the date the employee's fingerprints were submitted. An employee shall be considered charged with a criminal felony for which there has been no resolution during the preceding 365 days if the individual is the subject of a complaint, indictment, or information, issued within 365 days of the date that the fingerprints were taken, for a crime punishable by imprisonment for more than one year. The effect of various forms of post-conviction relief shall be determined by the law of the convicting jurisdiction.

## EMPLOYEE RIGHTS

An employee is entitled to:

- (1) Obtain a copy from the authorized employer of any information concerning the employee provided under these regulations to the authorized employer by the participating State;
- (2) Determine the status of his or her CHRI by contacting the SIB or other state agency providing information to the authorized employer; and
- (3) Challenge the CHRI by contacting the agency originating the record or complying with the procedures contained in 28 CFR 16.34.

## AUTHORIZED EMPLOYER'S RESPONSIBILITIES

An authorized employer is responsible for:

- (1) Executing and providing to the appropriate state agency the certification to the State required under § 105.23(a) before a State can accept requests on private security guard employees;
- (2) Obtaining the written consent of an employee to submit the employee's fingerprints for purposes of a CHRI check as described herein;
- (3) Submitting an employee's fingerprints and appropriate state and federal fees to the SIB not later than one year after the date the employee's consent is obtained;
- (4) Retaining an employee's written consent to submit his fingerprints for a criminal history record check for a period of no less than three years from the date the consent was last used to request a CHRI check;
- (5) Upon request, providing an employee with confidential access to and a copy of the information provided to the employer by the SIB; and
- (6) Maintaining the confidentiality and security of the information contained in a participating State's notification by:
  - a. Storing the information in a secure container located in a limited access office or space;
  - b. Limiting access to the information strictly to personnel involved in the employer's personnel and administration functions; and
  - c. Establishing internal rules on the handling and dissemination of such information and training personnel with such access on such rules, on the need to safeguard and control the information, and on the consequences of failing to abide by such rules.

Upon the CBI becoming aware of a violation that may jeopardize Colorado's access to federal criminal history information, the CBI shall have the option of suspending services pending resolution of the problem.