

Department of Legislative Services
 Maryland General Assembly
 2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1055
 Economic Matters

(Delegates Embry and Amprey)

Judicial Proceedings

**Security Guard Agencies, Security Guard Employers, and Security Guards –
 Standards and Certifications**

This bill prohibits a “security guard employer” from employing a security guard to provide security guard services unless the security guard is certified. The bill also establishes or alters training, liability insurance, notification, and recertification requirements for certified security guards. The Maryland Police Training and Standards Commission (MPTSC) must identify or establish training programs for certified security guards. Security guard agencies and employers must report use of force incidents by a security guard to the Secretary of State Police.

Fiscal Summary

State Effect: General fund expenditures increase by \$476,900 in FY 2024 for the Department of State Police (DSP) for staff and one-time technical systems upgrades. Out-years reflect annualization, inflation, and termination of one-time costs.

(in dollars)	FY 2024	FY 2025	FY 2026	FY 2027	FY 2028
Revenues	\$0	\$0	\$0	\$0	\$0
GF Expenditure	476,900	129,500	135,200	141,300	148,900
Net Effect	(\$476,900)	(\$129,500)	(\$135,200)	(\$141,300)	(\$148,900)

Note: () = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate increase; (-) = indeterminate decrease

Local Effect: The bill is not anticipated to materially affect local government operations or finances.

Small Business Effect: Meaningful.

Analysis

Bill Summary/Current Law:

Definitions

The bill establishes that a “security guard employer” means a person who employs security guards only to provide security guard services to the person, as distinguished from “a security guard agency” in current law, which conducts a business that provides security guard services to a third party. Under current law, security guard agencies must be licensed by DSP, but the bill does not require licensure of security guard employers. The bill expands the definition of “security guard” to include individuals employed by security guard employers.

Under current law, “security guard services” includes any activity that is performed for compensation as a security guard to protect any individual or property, except for activities of an individual while performing as a marine guard or ship watchmen, or as a special police officer, as specified. The bill specifies that “security guard services” also do not include activities performed by an unarmed employee of a bar, tavern, or restaurant.

Certification of Security Guards

Under current law and subject to specified exceptions, a licensed security guard agency may provide an individual for hire as a security guard only if the individual is certified by the Secretary of State Police as a security guard. A licensed security guard agency may provide an uncertified individual for hire as a security guard if (1) the security guard agency has submitted to the Secretary of State Police the application of the individual for certification as a security guard, fingerprint cards, and records fee, and the Secretary of State Police has not disapproved the application or (2) the individual has obtained and currently possesses certification by MPTSC as a police officer.

Under the bill, the same requirements and exceptions apply to security guard employers. However, the bill’s requirements do not prohibit a security guard employer from hiring security guards from a licensed security guard agency.

Qualifications and Requirements for Security Guards

Under current law, to qualify for certification as a security guard, an individual must meet specified criteria, including meeting the standards set by the Secretary of State Police, being an employee or an applicant for employment with a licensed security guard agency, and submitting to the licensed security guard agency specified information and fees. Under

the bill, the specified requirements are expanded to include being an employee or applicant of a security guard employer and being at least 18 years old.

The bill further expands the requirements for security guard certification to include:

- submission of a declaration under the penalties of perjury stating whether (1) the individual has been convicted of a disqualifying crime regarding controlled dangerous substances, or a crime of violence; (2) if currently or formerly employed as a police officer, the individual has had any formal findings by a court, hearing board, or other governmental entity of unlawful or excessive use of force or making a false statement during the individual's employment with the law enforcement agency; and (3) the individual plans to carry a handgun in the course of providing security guard services; and
- documentation that the individual has either (1) completed 12 hours of initial security training that is approved by MPTSC or (2) been employed as a police officer in the three years immediately preceding the application.

Certifications and Renewals

Under current law, by regulation, the Secretary of State Police must stagger the terms of the certifications. Unless a certification is renewed for a three-year term, the certification expires on the date the Secretary of State Police sets. At least 90 days before a certification expires, the applicant must mail to the Secretary of State Police a renewal application form, the amount of the renewal fee, and the amount of any late fee, as determined by the Secretary of State Police. An individual periodically may renew the certification for an additional three-year term, if the individual otherwise is entitled to be certified, pays to the Secretary of State Police specified fees, and submits to the Secretary of State Police a renewal application on a specified form.

The bill adds a requirement that applicants for recertification satisfactorily complete 8 hours of continuing security training that is approved by MPTSC and submit to the Secretary of State Police supporting documentation that demonstrates the completion of the training.

In addition, the bill requires, at least 90 days before a certification expires, the licensed security guard agency or security guard employer to submit a declaration to the Secretary of State Police under the penalties of perjury stating whether it knows that a certified security guard who provides security guard services on the security guard's agency's behalf or for a security guard employer no longer satisfies all of the criteria for certification, as specified.

Grounds for Denials, Reprimands, Suspensions, and Revocations

Under current law, subject to specified provisions regarding hearings, the Secretary of State Police may deny certification as a security guard to any applicant; reprimand or fine any individual certified as a security guard; or suspend, revoke, or refuse to renew the certification of an individual for specified offenses.

Under the bill, subject to similar provisions under current law, the Secretary of State Police must deny, revoke, or refuse to renew the certification of a security guard who (1) has been convicted of specified controlled dangerous substances crimes or a crime of violence; (2) has had any formal findings by a court, hearing board, or other governmental entity of unlawful or excessive use of force or of making a false statement during the security guard's employment as a police officer with a law enforcement agency; or (3) has not satisfactorily completed the required continuing security training, as specified.

Also under the bill, a licensed security guard agency or security guard employer must notify the Secretary of State Police within 48 hours if it knows that an individual who provides security guard services on its behalf or for it has been arrested for a crime of violence or a disqualifying crime related to controlled dangerous substances. Subject to provisions under the Administrative Procedure Act related to licenses, the Secretary of State Police may impose an emergency suspension of the certification of a security guard who has been arrested for specified offenses.

Continuing Training Programs

The bill establishes that MPTSC must identify initial and continuing training programs for security guard certification and renewal of certification. The training programs must include training on (1) relevant criminal law; (2) the appropriate use of force; (3) the use of alternatives to force; (4) the use of de-escalation techniques; and (5) promoting appropriate interactions with individuals who are under 18 years of age, have behavioral health or other disabilities, or are in crisis.

If MPTSC is unable to identify an initial or continuing training program that meet the bill's requirements, MPTSC must establish an initial or continuing training program that meets those requirements. MPTSC must prominently publish the list of those programs.

Handgun Permits for Security Guards

The bill establishes that a security guard must hold a valid permit to carry a handgun, as required under current law, before carrying a handgun while providing security guard services. A security guard may not carry a handgun while providing security guard services until (1) receiving approval to carry a handgun from the licensed security guard agency or

security guard employer; (2) notifying the Secretary of State Police of the intent of the security guard to carry a handgun while providing security guard services; and (3) the Secretary of State Police confirms that the security guard has a valid permit to carry a handgun and has not been convicted of a disqualifying crime, as specified.

Use of Force by Security Guards

The bill establishes that a security guard must report any use of force against a person while providing security guard services on behalf of the licensed security guard agency or for the security guard employer to the security guard agency or the security guard employer within 48 hours after the use of force on a form provided by the Secretary of State Police. A security guard is not required to report any use of force against a person within 48 hours after the use of force if the security guard is seriously injured or disabled. “Use of force” includes (1) the discharge of a firearm; (2) the discharge of pepper mace; and (3) the use of an electric control device, as specified. “Use of force” does not include mere presence, verbal commands, or escorting an individual with minimal resistance.

The bill also establishes that a licensed security guard agency or security guard employer must report any use of force by a security guard while providing security guard services on its behalf or for it to the Secretary of State Police within 48 hours after receiving the form, as specified. The use of force report must include specified information, including the type of encounter, the type of force used, and the location of the incident where force was used.

Agency Responsible for Acts of Employees

Under current law, a security guard agency that employs five or more individuals as security guards must (1) maintain commercial general liability insurance, including errors and omissions and completed operations with a \$1.0 million total aggregate minimum and (2) submit proof of the required insurance to the Secretary of State Police. Under the bill, security guard employers are subject to the same general liability insurance requirements as a security guard agency; the bill adds conforming language to this effect.

The bill adds a requirement for security guard agencies and employers to maintain general liability insurance if they employ fewer than five employees. Specifically, if they employ fewer than five security guards, they must (1) maintain commercial general liability insurance, including errors and omissions and completed operations with a \$500,000 total aggregate minimum and (2) submit proof of the required insurance to the Secretary of State Police. The bill adds conforming language related to this requirement.

State Fiscal Effect: DSP advises that it currently oversees the certification of more than 10,000 security guards in the State. To establish, administer, and enforce the expanded certification requirements, DSP requires additional staffing and resources, including

funding to reprogram its electronic licensing system. Under one interpretation, DSP can receive reports related to use of force by security guards with existing resources. An alternative interpretation is discussed below.

General fund expenditures increase by \$476,942 in fiscal 2024, which accounts for the bill's October 1, 2023 effective date. This estimate reflects the cost of hiring two administrative specialists to implement and oversee the expansion of registration requirements for security guards. It includes salaries, fringe benefits, one-time start-up costs (including technical systems upgrades), and ongoing operating expenses.

Positions	2.0
Salaries and Fringe Benefits	\$97,124
One-time Technical Systems Upgrades	365,000
Operating Expenses	<u>14,818</u>
Total FY 2024 State Expenditures	\$476,942

Future year expenditures reflect full salaries with annual increases and employee turnover as well as annual increases in ongoing operating expenses, and termination of one-time costs.

As noted above, this analysis assumes that DSP can receive reports related to use of force by security guards with existing resources because the bill does not authorize or require the department to investigate the reports. If the bill is interpreted to require DSP to investigate those reports, general fund expenditures increase further, potentially by an additional \$250,000. This represents the cost for two State Troopers to investigate use of force incidents, including the purchase of two vehicles to enable the investigators to conduct field work as part of their investigations.

The Department of Public Safety and Correctional Services advises that MPTSC can establish the required training programs with existing resources because it has existing training programs that can be easily adapted to this purpose.

The Department of General Services directly employs security guards but advises that the bill is not anticipated to materially affect department operations or finances.

Small Business Effect: Any small business that employs security guards directly must comply with the bill's requirements and is subject to additional oversight.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: SB 760 (Senator Carter) - Judicial Proceedings.

Information Source(s): Department of State Police; Department of Public Safety and Correctional Services; Department of General Services; Department of Legislative Services

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