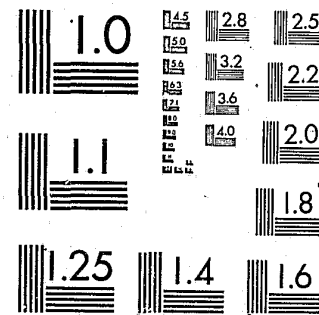


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# The COSG's Suggested State Legislation on Criminal Justice: Final Evaluation Report

The MITRE Corporation MTR-7994

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MITRE Technical Report  
MTR-7994

# The COSG's Suggested State Legislation on Criminal Justice: Final Evaluation Report

Michael B. Fischel

September 1978

Contract Sponsor: Council of State Governments  
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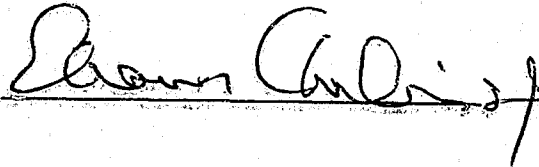
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MITRE Department  
and Project Approval:



#### ABSTRACT

This final report completes the evaluation of the Council of State Governments' Suggested State Legislation on Criminal Justice Standards and Goals project. Based on extensive telephone contacts with legislative drafting agencies throughout the states, this report examines the extent and the status of legislation, similar in intent to the Council's three legislative models, which has been drafted and considered by state legislatures since the dissemination of the Council's models to the states. Additionally, the use of the Council's model acts in the process of drafting this legislation is identified. Finally, based on discussions with senior bill draftsmen, an assessment is presented of the topics selected by the Council for model legislative treatment and of the general utility of the Suggested State Legislation (SSL) format in which the topics were provided to the states.

## TABLE OF CONTENTS

	<u>Page</u>
LIST OF ILLUSTRATIONS	vi
LIST OF TABLES	vi
EXECUTIVE SUMMARY	vii
1.0 INTRODUCTION	1
2.0 PROJECT HISTORY AND SUGGESTED STATE MODEL LEGISLATION	3
2.1 The Council and The Suggested State Legislation Process	3
2.2 The Standards and Goals Project - A Summary	5
2.3 The Standards and Goals Legislation	8
3.0 INTERIM EVALUATION REPORT FINDINGS	11
4.0 LEGISLATIVE IMPACT OF SUGGESTED STATE MODEL LEGISLATION	15
4.1 Evaluation Approach	15
4.2 State Legislation and the Use of Standards and Goals Project's Model Acts	20
4.3 Topic Appropriateness and the Utility of the Suggested State Legislation (SSL) Format	38
5.0 SUMMARY	43
APPENDIX I THE STANDARDS AND GOALS PROJECT'S MODEL ACTS	47
APPENDIX II CITATION AND STATUS OF LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS	79

# TABLE OF CONTENTS (Continued)

## LIST OF ILLUSTRATIONS

### Figure Number

- |   |   |
|---|---|
| 1 | MILESTONE EVENTS OF THE COUNCIL OF STATE GOVERNMENTS' STANDARDS AND GOALS PROJECT |
|---|---|

### Page

6

## LIST OF TABLES

### Table Number

- |     |   |
|-----|---|
| I   | STATE AGENCIES CONTACTED AND IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)          |
| II  | STATUS OF LEGISLATION IDENTIFIED DURING THE MITRE TELEPHONE SURVEY (FEBRUARY-MARCH 1978) OF STATE BILL-DRAFTING AGENCIES, AND ACKNOWLEDGE USE OF STANDARDS AND GOALS PROJECT MODEL ACTS |
| III | COMMENTS MADE BY STATE LEGISLATIVE BILL DRAFTSMEN CONCERNING THE UTILITY OF THE SSL FORMAT  |

21

36

41

# EXECUTIVE SUMMARY

This report completes an assessment of the Council of State Governments' Suggested State Legislation on Criminal Justice Standards and Goals project (Standards and Goals project). The Standards and Goals project was funded by the Law Enforcement Assistance Administration to permit the Council of State Governments to draft and disseminate model legislation reflecting recommendations of the National Advisory Commission on Criminal Justice Standards and Goals.

This is the second of two reports prepared by The MITRE Corporation concerning the conduct and results of the project. The information and findings of the first report (the Interim Evaluation Report, prepared in January 1977) are summarized in this final report. The development of the Standards and Goals project and the process which led to the selection of three full topics for draft legislation are described.

The three items of criminal justice legislation prepared by the Council were:

- a Plea Negotiations Act, which provides for formalization of the plea-bargaining process in order to give the process a degree of visibility to both the offender and the public;
- a Diversion Program Act, which defines criteria for the use of prosecutor-based diversion and requires local prosecutors to establish formal procedures for the use of diversion programs; and
- a Private Security Licensing and Regulatory Act, which establishes requirements for the state licensing of all contract security organizations and sets registration and training criteria for the employees of these companies.

Summarizing from the Interim Report, this report examines the activities which characterized the Standards and Goals project, describes the model acts that were its products, and reiterates the findings of the Interim Evaluation relating to: 1) the consistency of the Council's model acts with the NAC Standards and Goals cited as their source, and 2) the appropriateness of the topics represented by the model acts in terms of the perceptions of informed state level officials. These findings were that:

- The legislation was generally consistent with the NAC Standards and Goals they were intended to reflect.
- The Standards and Goals project's topic selections were needed and hence appropriate, as shown by:
  - the absence of enacted state legislation in the three topic areas of the Council's model acts, and
  - a survey of 40 State Standards and Goals projects, and of the Council's Advisory Panel for providing criminal justice assistance and information to the states.

An assessment of the legislative impact of the Council's model acts since their dissemination to the states is the focus of this final report. A telephone survey of state bill-drafting agencies conducted 18 months subsequent to the dissemination of the model acts to the states furnishes the basis for this assessment. The information gathered during the survey was provided by senior legislative bill draftsmen from every state.

Legislation similar to the Council's three model acts has been drafted 34 times since the dissemination of the model acts in August 1976. Though similar in intent, much of the legislation identified differed in language, format, and in the extent to which it approached and included many of the specific points of the Council's models. There were, however, some instances of near verbatim use of the models.

The status of the 34 items of legislation identified during the telephone survey varied. Of the 34 bills, 24 were either enacted or were in a position where enactment was possible.

According to the bill draftsmen, the Council's model acts were used to assist in the drafting of nearly half the legislation identified during the survey. (Since this represents only those instances where use of the acts was explicitly acknowledged by the bill draftsmen contacted during the telephone survey, it is more than likely that actual use of the models was more extensive than indicated by our survey.) While the acknowledged use of the models was evenly distributed among legislation in the three topic areas, the models were not used for any of the identified legislation which was enacted during the survey period, essentially because much of this legislation was conceived before the models were made available to the states. The models were, however, used in most of the identified legislation yet to be enacted but still in a favorable position for passage.

Two conclusions appear warranted from this examination of legislation drafted in the states similar to the Standards and Goals project's model acts. First, the substantial amount of attention given to legislation in the three topic areas confirm the Interim Report's preliminary finding that these topics were appropriate and timely choices by the project. Second, since the project's model acts, once available, received significant usage in the drafting of this legislation, continued use of the models as reference sources for drafting activities appears likely, as (and if) state legislatures continue to address the topic areas of the model acts.

Most draftsmen found all of the topic areas to be relevant concerns for model legislation, and many also provided comments regarding the general utility of the Suggested State Legislation (SSL) format in terms of promoting legislation in particular topic areas and for assisting bill draftsmen in developing the text of legislation. There was general agreement that the SSL model legislation format has been a useful source for providing new ideas, especially to legislators, in areas which are both topical and relevant to their states. There was less agreement, however, about the utility of the format as a tool for assisting bill draftsmen to develop the text of specific legislative proposals. A common, and perhaps significant, suggestion of the bill draftsmen contacted was that outlines or expanded commentaries concerning alternative proposals relating to particular topics might be more useful than fully developed model acts. In general, however, use of the SSL format appears to have been an effective approach to promoting criminal justice standards and goals legislation in the states.

## 1.0 INTRODUCTION

This document completes an assessment of the Council of State Governments' project, Suggested State Legislation on Criminal Justice Standards and Goals (hereafter, the Standards and Goals project). The Standards and Goals project was funded by the Law Enforcement Assistance Administration (LEAA) to have the Council of State Governments draft and disseminate model legislation representing recommendations of the National Advisory Commission on Criminal Justice (NAC) Standards and Goals.<sup>1</sup>

This is the second of two reports prepared by the MITRE Corporation concerning the conduct and results of this project. The first report, an interim evaluation prepared in January 1977, provided an assessment of the development of the Standards and Goals project and described the process by which topics for draft legislation were chosen.<sup>2</sup> It focused particular attention on those activities, including the deliberations of the Council of State Governments' (Council) project staff and the Council's Suggested State Legislation Committee, which led to the final approval of three model legislative bills:

- a Plea Negotiations Act;
- a Private Security Licensing and Regulatory Act; and
- a Division Program Act.

<sup>1</sup>On October 20, 1971, the National Advisory Commission on Criminal Justice Standards and Goals was appointed "to formulate for the first time national criminal justice standards and goals for crime reduction and prevention at the state and local level. See A National Strategy to Reduce Crime, U.S. Department of Justice, the Law Enforcement Assistance Administration, January 1973.

<sup>2</sup>Michael B. Fischel, The Council of State Governments' Suggested State Legislation on Criminal Justice Standards and Goals Project: Interim Evaluation Report, MITRE Corporation Technical Report-7459, January 1977; referred to as "Interim Evaluation Report" in this document.



This final report completes the evaluation of the Council's Standards and Goals project. Based on extensive telephone contacts with legislative drafting agencies throughout the states, this report examines the extent and the status of pieces of legislation, similar in intent to the Council's three legislative models, which have been drafted and considered by state legislatures since the dissemination of the Council's models to the states. Additionally, the use of the Council's model acts in the process of drafting this legislation is identified. Finally, based on discussions with senior bill draftsmen, an assessment of the topics selected by the Council for model legislative treatment and of the general utility of the Suggested State Legislation (SSL) format in which the topics were provided to the states is presented.

## 2.0 PROJECT HISTORY AND THE SUGGESTED STATE MODEL LEGISLATION

This section provides some background concerning the Council of State Governments and its Standards and Goals project. The major activities of the project, the process used to select the three topics for which model acts were prepared, and the substance of these three acts are summarized below.<sup>3</sup>

### 2.1 The Council and the Suggested State Legislation Process

The Council of State Governments was established in 1933 to assist state governments; improve their administrative practices; promote state-local and interstate cooperation; facilitate state-federal relations; and generally to serve as a vehicle for bringing together all elements of state government.

The states, then, look to the Council for the provision of assistance and information; the Council is expected to keep the state decision-makers abreast of legislative matters of potential interest. Through one of its key committees, the Committee on Suggested State Legislation (SSL), the Council maintains a close liaison with state legislators, legislative research, service, drafting agencies and other state officials influential in the legislative process.

Each year, the SSL Committee formulates and drafts acts (and statements) relating to a variety of legislative topics which are of interest to the states. These proposals are widely disseminated to the states by the Council through their highly regarded annual

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<sup>3</sup>See Fischel, op. cit., pp. 9-38 for an expanded account of these materials.



publication (distributed since 1941), Suggested State Legislation. The SSL Committee is composed of a cross-section of state officials: Commissioners on Interstate Cooperation, Commissioners on Uniform State Laws, Attorneys General, legislators, legislative staff, and others.

In developing the SSL publication, the Council receives proposals for consideration from a number of sources. These include:

- state officials;
- organizations of state officials;
- special state committees or agencies;
- public service organizations;
- the Council's own staff;
- private sources; and
- the Federal Government.

Some proposals are based on existing statutes. In other instances, drafts of acts are developed by special subcommittees of the SSL Committee, by special drafting groups and through inter-governmental conferences. These drafts, together with commentary statements which outline the extent of the problem and the nature of suggested solutions, are sent for advance study to members of the Committee.

Proposals which receive approval by the SSL Committee are included in the annual SSL publication and are distributed, in the Fall of each year, to a wide array of state officials and agencies involved in the legislative process.

## 2.2 The Standards and Goals Project - A Summary

The Council of State Governments received a discretionary grant in November 1975 from the Law Enforcement Assistance Administration (LEAA) to: "produce draft legislation from certain priority standards and goals as promulgated by the National Advisory Commission on Criminal Justice Standards and Goals for use by state legislatures in preparing and introducing criminal justice bills in forthcoming legislative sessions."<sup>4</sup> This grant recognized the Council's SSL process as a particularly useful means of drafting model standards and goals legislation and of disseminating it to key persons in the states to be used in the legislative process. The major premise, then, of the Council's Standards and Goals project was that selecting and drafting model legislation reflecting LEAA's priority standards and goals through the Council's SSL process, and publishing this legislation in a prestigious volume, would ensure that the legislation would receive careful attention in most states.

Following the award of the grant supporting the Standards and Goals project in November 1975, there were several project milestones which can be used to summarize the key activities of the project.<sup>5</sup> Figure 1 provides a description of the sequence in which these milestone events resulted in the three model acts developed and disseminated by the project. The project efforts commenced in November 1975 with the hiring of a legislative draftsman to assist in the selection

<sup>4</sup>The Council of State Governments' RFP dated October 1, 1975, LEAA Grant No. 75DF-99-0061.

<sup>5</sup>The Interim Evaluation Report provides a more detailed account of project activities and the decisions which guided the major events of the project.

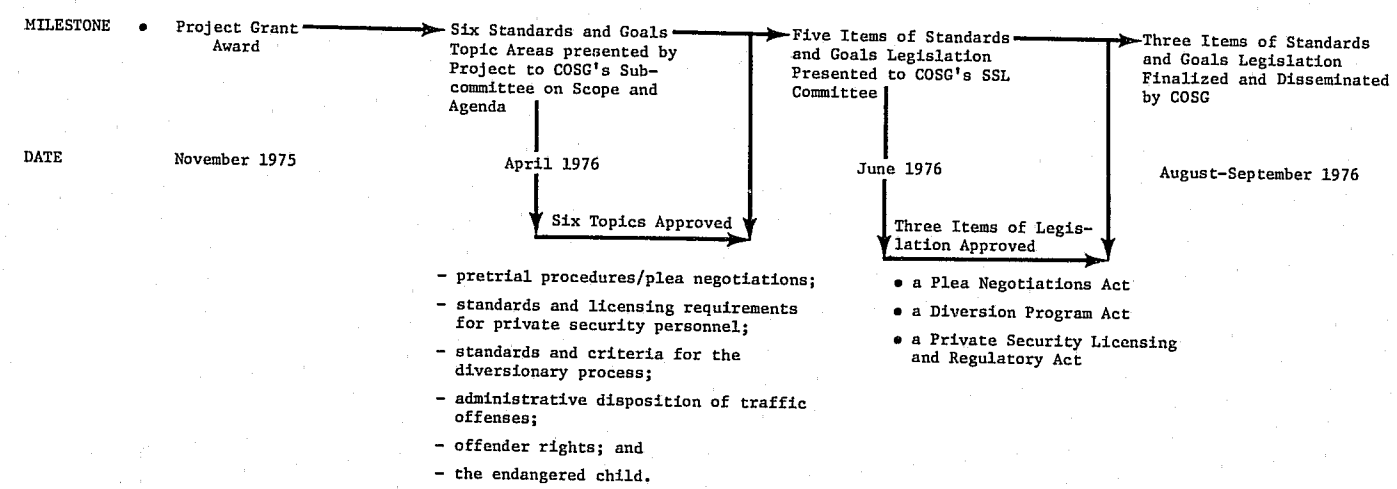


FIGURE 1  
MILESTONE EVENTS OF THE COUNCIL OF STATE GOVERNMENTS  
STANDARDS AND GOALS PROJECT

of topic areas and to perform the drafting of the model legislation. A listing of 25 standards and goals topics considered potential candidates for model SSL legislation was narrowed to six by the project. These six topics were:

- pretrial procedures/plea negotiations;
- standards and licensing requirements for private security personnel;
- standards and criteria for the diversionary process;
- administrative disposition of traffic offenses;
- offender rights; and
- the endangered child.

The six topic areas, as shown in Figure 1, were presented by the project in April 1976 to the Council's Subcommittee on Scope and Agenda where all six were approved as acceptable topics for model legislation. This approval meant that once the project drafted legislation, it would be placed on the agenda of the Council's SSL Committee for final approval for inclusion in the SSL publication.

Model legislation was drafted by the project in five of the six approved topic areas (all but the "endangered child") and presented to the SSL Committee in June 1976. In three of the five topic areas, model legislation was approved by the SSL Committee, meaning that this legislation warranted Suggested State Legislation status. The Committee's approval equated to a decision to include three model standards and goals acts in the Council's 1977 issue of Suggested State Legislation. Thus, three items of draft legislation:

- a Plea Negotiations Act;
- a Diversion Program Act; and
- a Private Security Licensing and Regulatory Act

were finalized by the Standards and Goals project staff, and published in this document in August 1976.<sup>6</sup> Dissemination of these model acts via this publication and via a separate one-time publication of the Standards and Goals project staff concluded the project's activities.<sup>7</sup>

### 2.3 The Standards and Goals Legislation

The model legislation developed and disseminated by the Standards and Goals project represented three major concerns and recommendations of the National Advisory Commission on Criminal Justice Standards and Goals.<sup>8</sup> As drafted by the Council, the Plea Negotiations Act would formalize the plea-bargaining process. It would give plea negotiations a certain degree of visibility and comprehensiveness for both the offender and the public. The act requires a judicial record of the plea and of the agreement upon which it is based and further requires that its acceptance or rejection by the court (and the reasons for either decision) be a matter of record. The act also provides for the establishment of a number of plea negotiation practices as it would:

<sup>6</sup>The Committee on Suggested State Legislation, 1977 Suggested State Legislation, Volume XXXVI, (Lexington, Ky.: The Council of State Governments, August 1976).

<sup>7</sup>This separate publication (a pamphlet), was mailed to a wider audience (SPA's, universities, special state criminal justice groups, etc.). Unlike the SSL document this pamphlet does not include other legislation but only the three items of Standards and Goals legislation. Copies of this publication may be obtained from the Council.

<sup>8</sup>See Appendix I for the full text of each item of Legislation; also see Fischel, op cit., pp. 30-40 for a more detailed description of this legislation and a comparison with the NAC Standards and Goals they were intended to reflect.

- establish a time limit prior to the trial date at which point all plea negotiations must end;
- require representation by council at any or all stages of the plea negotiations process;
- prohibit coercion by either the prosecution or defense counsel to enter a plea; and
- establish basic criteria for the acceptance of a negotiated plea by the court.

The Diversion Program Act drafted by the Council's Standards and Goals project would provide legislative authority throughout a state for the use of diversion as an alternative means of treatment by local prosecutors. The act establishes criteria by which those agencies using diversion could assess the circumstances and an individual's candidacy for participating in such programs. The act also would set forth several major standards for conducting diversion programs including requirements that:

- each district or county attorney prepare and issue regulations consistent with the criteria established by the act for guiding the use of diversion in their office;
- a pretrial and precharge conference be used to conduct discussions (between the offender, the prosecution, the defense counsel, and correctional personnel) concerning eligibility for entering a diversion program;
- local district or county attorneys maintain a current and complete listing of diversionary resources available for public scrutiny; and
- a written agreement be maintained, signed by the offender and counsel, between an offender and a prosecutor regarding a specific diversion program. This agreement is to include the terms of the program, the length of the program, and the time at which the prosecutor will either move for dismissal or proceed with the charge.

The Private Security Licensing and Regulatory Act, unlike the Plea Negotiations and Diversion Program Acts, was not an original product of the Standards and Goals project. Rather, it is a product of the Private Security Advisory Council sponsored by the LEAA.<sup>9</sup> This act would require the licensing of all contract security companies; however, it exempts proprietary security (in-house) organizations from the licensing requirement. The act defines a proprietary security organization as a person who provides security services solely for his own benefit, thereby making some organizations such as shopping mall and stadium operators, who provide such services for persons other than themselves, contract security companies. The act would require license applicants to possess at least three years of security supervisory experience or to pass an examination. The act further recognizes two categories of private security without regard to the nature of their employer, i.e., armed private security officers and unarmed uniformed private security officers, and establishes basic minimum training standards for each. An important consideration of this act is that it would require that all training be provided and certified by a state-approved trainer. The act includes in its coverage all security guards, armored car guards, armed courier service guards, and alarm response runners. Finally, minimum criteria for registration under the act as a private security guard are established by this act.

<sup>9</sup>For a complete description of the efforts of the Private Security Advisory Council, see Task Force on Private Security, A Report on the Regulation of Private Security Guard Services, U.S. Department of Justice, May 1976, Appendix K.

### 3.0 INTERIM EVALUATION REPORT FINDINGS

The Interim Evaluation Report of the Standards and Goals project prepared by MITRE described the development of the Standards and Goals project and examined the process by which topics for draft legislation were chosen and model acts were developed to reflect these topics (summarized in Sections 2.2 and 2.3 above). The Interim Evaluation Report also provided an analysis of the consistency of the model acts selected by the project in terms of the NAC Standards and Goals they were intended to represent and assessed the appropriateness of their topics in terms of legislation that existed in the states prior to their selection and the perceptions of informed state-level officials.

The analysis of the contents of the three model acts conducted for the Interim Evaluation Report revealed that while the Plea Negotiations and Diversion Program Acts, in a few instances, go beyond or differ from the specifics of the NAC recommendations, they were substantially consistent with the NAC Standards and Goals cited as their sources. The Plea Negotiations Act diverged the most from the NAC Standards and Goals as it incorporated some of the specific language and organization of the American Bar Association's Standards Relating to Pleas of Guilty. The Private Security Licensing and Regulatory Act, as previously noted, reiterated the model legislation developed by the LEAA-established Private Security Advisory Council. Finally the Diversion Program Act, in many instances, was more detailed and provided more specifics than the text of the NAC Standards and Goals, particularly with regard to the procedural consideration required by prosecutors for making diversion decisions.

The Interim Evaluation Report also examined the extent to which state legislation, similar in intent to the project's three model acts, had been enacted prior to the Council's selection of their topics.

This examination established that enactment in the states of legislation in two of the three topic areas, plea negotiations and diversion, was infrequent. The legislation identified in most cases was less comprehensive, and did not include many important provisions of the Council's models.

Existing legislation regulating the private security industry and licensing its personnel was found to be more widespread. However, most of this legislation did not approach the scope or delineate the stringent requirements of the Council's model act. This legislation often did not provide the strict investigation and enforcement of licensing requirements and the establishment of training requirements for armed security personnel. It was concluded that the substantial absence of enacted state legislation in the topic areas of the Council's model acts provided an initial indication of need for the topics selected by the Standards and Goals project.

Moreover, based on a survey of the directors (or senior staff members) of 40 state Standards and Goals projects and the Council's own Advisory Panel for providing criminal justice assistance and information to the states, the Interim Evaluation Report found further evidence that the topics of the three model acts were appropriate. Both groups surveyed clearly expressed a belief that state legislation was needed in each of the Standards and Goals topic areas. The adoption of state Standards and Goals in the areas of diversion and plea negotiations by a large proportion of the 40 states surveyed also substantiated, at least for two of the topics of the model acts, a recognized need in many states. However, despite indications that the topic selections were appropriate, there was some evidence from this survey that the likelihood of legislative activity regarding these topics might be diminished by other factors in the states. Fiscal implications, an opposing ideological climate (i.e., a

hardening attitude toward offenders in the face of rising crime rates), other priorities, and the receptivity of state legislators to the topics of the Council's model acts, were commonly cited as possible impediments. Given the multiplicity of actors who may determine what issues will be addressed by state legislatures, reliable predictions of the legislative impact of the Council's model could not be made at the time of the Interim Evaluation Report. An assessment of this impact therefore, is the major focus of this final evaluation report and is addressed in the following section.

#### 4.0 LEGISLATIVE IMPACT OF SUGGESTED STATE MODEL LEGISLATION

This section describes the approach used and presents the findings of MITRE's assessment of the legislative impact of the Council's Standards and Goals model legislation. In keeping with MITRE's original evaluation plan, this assessment relies primarily upon determining the extent to which the Council's three model acts have been utilized in state legislative drafting processes, and upon examining pieces of similar legislation which have been drafted in the states.

##### 4.1 Evaluation Approach

MITRE's approach for conducting the final assessment of the Council's Standards and Goals project is straightforward. First, legislation similar to the project's model acts, drafted in the states during the 18-month period subsequent to the dissemination of these acts, is identified. Second, in states where the drafting of legislation has occurred, a determination as to whether the Council's model acts contributed to the drafting of that legislation is made. Both the identification of legislation and the determination regarding the use of the Council's models are based on a telephone survey, conducted in February and March 1978, of legislative bill-drafting agencies in every state.

The telephone survey also provided the opportunity to seek from knowledgeable sources more information to assess the appropriateness of the Council's three Standards and Goals topic selections and the utility of the SSL format. The telephone survey allowed MITRE staff to discuss with legislative draftsmen in each state their perceptions regarding whether the Council's three legislative topic selections were appropriate subjects for model legislation. The general utility of the SSL format as a vehicle for promoting legislation and assisting in the drafting of legislation was also discussed.



Legislative bill-drafting agencies were the primary source of information for this assessment.<sup>10</sup> Typically, these agencies draft or assist in the drafting of legislation on a particular topic area at the request of a particular legislator or committee. Often legislation may be prepared by a legislator (and his staff), or sponsored by that legislator at the behest of a committee or interest group which developed the initial draft. In these cases, bill-drafting agencies typically review, adopt and amend proposed legislation to conform to each state's legislative format. Finally, as a matter of course, all proposed legislation must be filed with these agencies in order to be placed for consideration on the legislative calendar during a particular legislative session. Thus, these agencies are the locus of information about formal bill-drafting initiatives in the states.

State initiatives in two of the topic areas of the Council's model acts -- plea negotiations and diversion -- could occur in a state (with the same status as state law) through changes in state court rules as well as by legislation. In some instances the former type of change is not required to receive statutory approval. To account for these occurrences during the course of the telephone survey, MITRE often had to supplement its contacts with bill-drafting agencies by contacting state agencies responsible for judicial rule-making. Fortunately however, legislative bill-drafting agencies commonly were quite knowledgeable about court rule initiatives in their state. This was advantageous as it kept supplemental contacts to a minimum.

<sup>10</sup> These agencies go by a variety of names in the states. The most common designations include, Legislative Council, Legislative Reference Service, Revisor of Statutes, and Office of Legislative Services.

The telephone survey of state bill-drafting agencies was conducted during a four-week period in February and March 1978. A listing of agency contacts, provided in a directory of legislative agencies published by the Council of State Governments, was used to identify agency and individual contacts in all fifty states.<sup>11</sup>

For each contacted agency, the MITRE interviewer spoke initially with the senior bill-drafting official available, usually either the agency's staff director, assistant director, or the section chief responsible for drafting and filing criminal justice legislation. At this time, a standard description of the Council's Standards and Goals project and the nature of the project's three model acts was provided to each individual contacted. This description always concluded with an explanatory statement that the purpose of the call was to determine whether legislation similar to the model acts had been drafted by or filed with that agency during the 18-month period subsequent to the dissemination of the Council's model acts - September 1976 through February 1978. On the basis of this introduction, MITRE was referred to the appropriate individual (if not the initial contact) in the agency most likely to have ready access to this information. These individuals were typically senior-level bill draftsmen responsible for criminal justice legislation. Telephone call-backs were used extensively to provide those contacted with ample time to gather the required information. Correspondence was occasionally necessary to gain the cooperation of some agencies.

<sup>11</sup> The Council of State Governments, Principal Legislative Staff Offices, Lexington, Kentucky, September 1975.

When appropriate individuals were contacted they were asked to identify the drafting of legislation in their states with essentially the same intent as the Council's model acts. A general description of that legislation was requested (a copy of each item legislation was also requested), to ensure that any identified legislation was, in fact, similar to the Council's model acts. When the indication was that similar legislation had been drafted, further inquiry was made regarding the actual use of the Council's models by either the agency itself or by the legislative sponsor or known author of the bill. The status of the legislation at the time of the MITRE inquiry and the relevant statutory, House or Senate citation was obtained for each item of legislation identified.

Bill-drafting agency contacts in most states also were able to provide MITRE with complete information concerning the drafting of court rules in their states similar to the Council's Plea Negotiations and Diversion Program Acts. When this was not the case, the telephone survey procedure above was repeated with the appropriate court agency in the state.

Establishing contact with key bill drafters (and rule-makers) like those described above was also seen by MITRE as an opportunity to solicit their opinions about the appropriateness of the Standards and Goals topics represented in the Council's model acts and about the general utility of the SSL format to promote legislation and to assist in the actual drafting of that legislation. The opinions of draftsmen concerning the appropriateness of the topic selection provided information to supplement the assessment of topic selection made earlier in MITRE's Interim Evaluation Report. Key bill drafters contacted in each state were directly asked to comment on the Council's three topic selections as appropriate subjects for model legislation. Because these persons are at the apex of legislative activities in the states, their perceptions

regarding the topic selections of the project were considered valuable for evaluative purposes.

Finally, the utility of the SSL "model act" format was addressed during the telephone survey. Bill draftsmen contacted during the survey were asked about the usefulness of SSL models in promoting legislation and in performing their bill-drafting responsibilities. Although all of the respondents were not familiar with the specific model acts prepared by the Standards and Goals project, they all were knowledgeable about the Council's SSL efforts in general. Thus, comments made during the survey pertained to an assessment of a format of which the Standards and Goals project's model acts are but a small sample. An assessment of the appropriateness of this format, however, will be useful when the Council evaluates the advisability of using the SSL format for future efforts similar to the Standards and Goals project.

The findings of the telephone survey are limited in some respects. The extent to which legislative drafting activities in a state could be identified was limited by two factors. First, in most states the subject of draft legislation, which is the product or initiative of a committee or a particular legislator prior to the time it is filed for consideration, was confidential and could not be revealed by the agencies contacted. Second, legislative initiatives, proposals, and draft legislation often emanate from organizations outside the formal structure of the legislature or its service agencies - public interest groups, lobbyists, and Executive Branch agencies being the more common of these sources. Legislative activities of these organizations, which had yet to become part of the formal legislative process (sponsorship by a legislator and filing with the legislature), also were not identifiable for this assessment. Thus, legislative proposals which had culminated in formal activity by members of the state legislatures and which have been filed for consideration by the state legislature

were available for this assessment. For this reason, the draft legislation identified in this report provides only one indication of legislative activities possibly related to the Council's Standards and Goals project efforts.

The extent to which the use of the Council's three model acts could be linked with the development of the legislation identified during the telephone survey is also somewhat limited. First, the contacts in the bill-drafting agencies and even legislative sponsors of particular legislation could not always account for the diverse sources which could and were used to research and develop the legislation identified. Secondly, the Council's use of other sources (ABA, Federal Rules, etc.) to develop their own model acts precluded the assumption that similarities between the substance of legislation identified during the survey and the Council's model acts meant that the model acts were used as source materials. Thus, this assessment concluded that use had been made of the Council's model acts only when the statements of bill draftsmen indicated that it was in fact the case. Because this approach limits the analysis to those instances where such use was acknowledged by bill-draftsmen, the findings regarding the extent of use of the Council's models are, of course, conservative. To be sure, use of the models was no less than that found by MITRE during the survey. More likely, however, the use of the models far exceeded that indicated by the survey especially when considering the variety of persons and organizations that contribute to the legislative process that may have used these models in the course of their efforts.

4.2 State Legislation and the Use of the Standards and Goals Project's Model Acts

The MITRE telephone survey of state bill drafting agencies was conducted during February and March 1978. The results of this survey identified those instances where state legislation (or court rules) had been drafted that were similar to the Standards and Goals project's

TABLE I  
STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS <sup>2</sup>		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
ALABAMA	<ul style="list-style-type: none"><li>Legislative Council</li><li>Alabama Law Institute<sup>1</sup></li></ul>	No	Yes (Rule of Court)	No
ALASKA	<ul style="list-style-type: none"><li>Legislative Council</li></ul>	No	No	No
ARIZONA	<ul style="list-style-type: none"><li>Legislative Council</li><li>Administrative Director of the Supreme Court</li></ul>	No	No	No
ARKANSAS	<ul style="list-style-type: none"><li>Bureau of Legislative Research</li><li>Supreme Court of Arkansas</li></ul>	No	No	No

<sup>1</sup>Court Administrative Agencies cited throughout this table were contacted to supplement information provided by legislative agencies.

<sup>2</sup>Indicates legislation drafted between September 1976 and February 1978.

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
CALIFORNIA	• Legislative Council Bureau	No	No	Yes
COLORADO	• Legislative Drafting Office • State Court Administrator's Office	Yes	No	No
CONNECTICUT	• Legislative Legal Services • Chief Court Administrator	No	Yes	No
DELAWARE	• Legislative Council • Administrative Office of the Courts	Yes	No	Yes

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
FLORIDA	• Senate Legislative Services/House Bill Drafting Services • Court Administrator's Office	No	No	No
GEORGIA	• Office of Legisla- tive Council • Administrative Office of the Courts	No	No	No
HAWAII	• Office of Legis- lative Reference Bureau	No	No	No
IDAHO	• Legislative Council	No	No	No

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
ILLINOIS	•Legislative Reference Bureau	No	No	No
	•Administrative Office of the Courts			
INDIANA	•Legislative Council-Public Law Division	No	No	No
	•Division of State Court Administration			
IOWA	•Legislative Service Bureau	No	Yes	No
	•Court Administrator's Office			
KANSAS	•Revisor of Statutes	No	No	Yes

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
KENTUCKY	•Legislative Research Commission	Yes	No	No
	•Administrative Office of the Courts			
LOUISIANA	•Legislative Council	No	Yes	No
MAINE	•Legislative Research Office	Yes	No	No
	•Attorney General's Office			
MARYLAND	•Department of Legislative Reference	No	No	No
	•State Court Administrator's Office			

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
MASSACHUSETTS	<ul style="list-style-type: none"> <li>Legislative Research Bureau</li> <li>Counsel to Senate</li> <li>Counsel to House</li> <li>Attorney General Office</li> </ul>	Yes	No	No
MICHIGAN	<ul style="list-style-type: none"> <li>Legislative Council</li> <li>Office of Court Administration</li> </ul>	Yes	Yes	No
MINNESOTA	<ul style="list-style-type: none"> <li>Revisor of Statutes</li> <li>Supreme Court Administrator's Office</li> </ul>	Yes	No	No
MISSISSIPPI	<ul style="list-style-type: none"> <li>Legislative Services Office-House and Senate</li> <li>Supreme Court</li> </ul>	No	Yes	No

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
MISSOURI	<ul style="list-style-type: none"> <li>Committee on Legislative Research</li> </ul>	Yes	No	No
MONTANA	<ul style="list-style-type: none"> <li>Legislative Council</li> </ul>	No	No	No
NEBRASKA	<ul style="list-style-type: none"> <li>Revisor of Statutes</li> <li>State Court Administrator</li> </ul>	Yes	No	No
NEW JERSEY	<ul style="list-style-type: none"> <li>Division of Bill Drafting and Legal Services</li> <li>Administrative Office of the Courts</li> </ul>	No	No	Yes

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY	PLEA	DIVERSION
		PERSONNEL	NEGOTIATIONS	
NEW HAMPSHIRE	• Office of Legislative Services	Yes	No	No
	• Legislative Council Service	No	No	No
NEW MEXICO	• Legislative Bill Drafting Commission	No	No	No
	• Office of Court Administration	No	No	No
NEW YORK	• Legislative Council Bureau	No	No	No
NEVADA				

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY	PLEA	DIVERSION
		PERSONNEL	NEGOTIATIONS	
NORTH CAROLINA	• Division of Legislative Drafting	No	No	No
	• Administrative Office of the Courts	No	No	No
NORTH DAKOTA	• Legislative Council	Yes	No	No
	• Supreme Court Administrator	Yes	No	No
OKLAHOMA	• Legislative Council	No	No	No
	• Administrative Director of the Courts	No	No	No
OF	• Legislative Service Commission	No	No	Yes
	• Legislative Reference Bureau	No	No	Yes



TABLE I (continued)

STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
OREGON	•Office of Legis- lative Council	Yes	No	Yes
	•State Court Administrator			
PENNSYLVANIA	•Legislative Refer- ence Bureau	No	Yes	No
	•State Supreme Court •House and Senate Judiciary Committees			
RHODE ISLAND	•Legislative Council	No	Yes	No
SOUTH CAROLINA	•Legislative Council •Supreme Court Administrator	No	Yes	Yes

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE  
IDENTIFICATION OF LEGISLATION SIMILAR  
TO THE STANDARDS AND GOALS PROJECT'S  
MODEL ACTS DURING THE MITRE TELEPHONE  
SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
SOUTH DAKOTA	Legislative Re- search Council	No	Yes	No
TENNESSEE	•Legislative Council Committee	No	No	No
	•Supreme Court			
TEXAS	•Legislative Council •Supreme Court	No	Yes	No
UTAH	•Legislative Services Subcommittee	No	No	Yes

TABLE I (continued)

STATE AGENCIES CONTACTED AND THE IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
VERMONT	• Legislative Council • State Court Administrator	No	Yes	No
VIRGINIA	• Division of Legislative Services • Supreme Court	No	No	No
WASHINGTON	• Statute Law Committee • Supreme Court	Yes	No	No
WEST VIRGINIA	• Office of Legislative Services • State Court Administrator	No	No	No

TABLE I (concluded)

STATE AGENCIES CONTACTED AND THE IDENTIFICATION OF LEGISLATION SIMILAR TO THE STANDARDS AND GOALS PROJECT'S MODEL ACTS DURING THE MITRE TELEPHONE SURVEY (FEBRUARY AND MARCH 1978)

STATE	CONTACT ORGANIZATION(S)	DRAFT LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS		
		PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION
WISCONSIN	• Legislative Reference Bureau • Administrative Director of the Courts	Yes	No	No
WYOMING	• Legislative Service Office	No	No	No
50 STATES		14 Yes	12 Yes	8 Yes

three model acts. The legislation identified was drafted in the 18-month period subsequent to the dissemination of the model acts (September 1976 through February 1978). Table I provides a state-by-state breakdown of the bill-drafting agencies contacted in each state and, based on these contacts, indicates whether legislation similar to the model acts had been drafted during the period in question. The similarity between the legislation identified during the survey and the Council's model acts was established either by comparing the models with copies of the legislation provided by the contacted agencies or through discussions with bill draftsmen in these agencies concerning the contents of the legislation.

Table I indicates that since September 1976 when the models were disseminated nation-wide, legislation similar to the Council's model acts had been drafted 34 times.<sup>12</sup> In 26 states, legislation similar to one of the three model acts had been drafted; in four other states, legislation similar to two of the three Standards and Goals project's models had been drafted.

There was variation in the degree of similarity between legislation identified during the survey and the Council's models. In 11 cases, the legislation identified was a near verbatim adoption of the Council's model act. Though similar in basic intent, the other 23 items of legislation differed in language, format, and in the extent to which they approach and address many of the specific points of the Council's model acts. For example, most of the state legislation identified concerning plea negotiations, like the Council's model, provided for the statutory recognition of the practice; however, few of these bills set forth the same amount of detail concerning

<sup>12</sup>This includes two instances in which a court rule was drafted rather than legislation. These instances are not distinguished separately throughout the following analysis.

procedural requirements for prosecutors as did the model act. Similarly, legislation identified in the survey in the area of diversion commonly provided statutory recognition and authorization for the conduct of local diversion programs. Rarely, however, did they establish standard criteria for guiding entry into these programs at all or at the same level of specificity as did the Council's model act. In all cases, identified private security personnel legislation reflected proposals to establish new, or strengthen existing, authority to license or regulate security companies and their personnel. The bills varied, however, in actual coverage (i.e., contract or proprietary companies, guards or private detectives, etc.), in the regulatory mechanisms they would establish, and in the particular requirements and procedures for obtaining licenses, for revoking licenses, and for appeal in cases where licenses are revoked.

Table II presents, in summary form, the status of the 34 items of legislation identified as similar to the Council's models during the telephone survey.<sup>13</sup> Furthermore, this table provides an indication of the extent to which the Council's models were used to assist in the drafting of this legislation, as known by state bill-drafting agencies.<sup>14</sup> As shown in Table II, the status of the legislation identified at the time of the survey was distributed among a variety of possible categories. The most prominent categories were as follows: legislation was pending in a committee of one branch of the state legislature (10 of 34); the legislation had been enacted (9 of 34); or the legislation had been filed, but no action had been taken and/or the legislation had not been assigned to a committee during the

<sup>13</sup>Actual citations and more detail concerning the status of this legislation is presented in Appendix II.

<sup>14</sup>Occasionally, agency people and/or MITRE had to contact the personal staff of particular legislators or legislative committees to obtain this information.

TABLE II  
STATUS OF LEGISLATION IDENTIFIED  
DURING THE MITRE TELEPHONE SURVEY (FEB-MAR 1978)  
OF STATE BILL-DRAFTING AGENCIES  
AND ACKNOWLEDGED USE OF STANDARDS AND GOALS PROJECT MODEL ACTS

TOPIC AREA OF MODEL ACT				
STATUS OF LEGISLATION	PRIVATE SECURITY PERSONNEL	PLEA NEGOTIATIONS	DIVERSION	TOTAL
Filed - No action, and/or committee assignment	3 <sup>(1)*</sup>	2 <sup>(1)</sup>	3 <sup>(1)</sup>	8 <sup>(3)</sup>
Pending in committee	5 <sup>(2)</sup>	3 <sup>(3)</sup>	2 <sup>(2)**</sup>	10 <sup>(7)</sup>
Enacted	2	5	2	9
Reported out of committee, pending vote	1 <sup>(1)</sup>	--	--	1 <sup>(1)</sup>
Defeated by floor vote	2 <sup>(1)</sup>	--	--	2 <sup>(1)</sup>
Awaiting governor's signature	--	--	1	1
Not yet filed	1 <sup>(1)</sup>	1 <sup>(1)</sup>	--	2 <sup>(2)</sup>
Pending court rules	--	1 <sup>(1)</sup>	--	1 <sup>(1)</sup>
TOTAL	14 <sup>(6)</sup>	12 <sup>(6)</sup>	8 <sup>(3)</sup>	34 <sup>(15)</sup>

\* Numbers in parentheses indicate acknowledged use of SSL models in drafting.

\*\* One of these draft bills has passed the House and is pending in a Senate Committee.

session (8 of 34). Of the remaining 7 items of legislation, 5, by virtue of their status (reported out of committee, pending vote, awaiting governor's signature, not yet filed, and pending court rules) were still in position for possible enactment. Combining these 5 items of legislation, the 10 still pending in committee, and the 9 items of legislation that had been enacted, 24 statutes similar to the Council's model acts have either been enacted (9) or were in a favorable position for possible enactment (15) at the time of the survey. The extent of legislative activity and the serious consideration it appears to have obtained to date suggested by this analysis further confirms that the Council's selection of Standards and Goals topic areas was appropriate.

The actual use of the Council's model acts for assisting in the drafting of the legislation identified during the survey is an important indication of the success of the Standards and Goals project. Table II shows acknowledged use of the models in the drafting of nearly half (15 of 34) of the state legislation identified during the survey. This use of the models appears to have been distributed evenly among the three topic areas; 6 times of 14 items of private security personnel legislation; 6 times of 12 items of plea negotiation legislation; and, 3 times of 8 items of diversion legislation. It is notable that the Council's models apparently were not used for any of the identified legislation which was enacted during the time period addressed by the telephone survey. This is not surprising since it is common for legislation to be drafted and filed numerous times prior to its enactment. Thus, it appears likely that much of the legislation shown as "enacted" in Table II may have been first conceived prior to the time the Council's model acts were available to the states. Conversely, the use of the Council's models is prevalent in the majority (11 of 15) of bills yet to be enacted but in a favorable position for possible passage. That is, the Council's

models were used in seven of ten bills pending in committee; the one bill reported out of committee and awaiting a vote; the two bills not yet filed; and the pending court rule.

It seems clear from this examination that the topics of the Council's model acts have received a substantial amount of attention by state legislatures and that the acts have been used to assist in the drafting of similar legislation which has occurred in the states. Further, it appears that as state legislatures attempt new initiatives in the three topic areas reflected by the model acts, it is likely that the use of the models as reference sources for drafting activities will continue. Their use, of course, will depend upon the extent to which the three Standards and Goals topics remain areas of interest in individual states and new or expanded legislative attention to these topics result.

#### 4.3 Topic Appropriateness and the Utility of the Suggested State Legislation (SSL) Format

The MITRE telephone survey provided a unique opportunity to speak with senior-level bill draftsmen from every state. These discussions were particularly interesting for two reasons. First, the bill drafters were able to give their perceptions regarding the appropriateness of the topics selected by the Council's Standards and Goals project for model legislative treatment. Second, the discussions were conducted to allow these primary users of SSL materials (including but not limited to the Standards and Goals project's products) to comment upon the SSL format as a tool for encouraging and assisting state bill-drafting activities in a particular topic area.

Both MITRE's Interim Evaluation Report and the analysis in the previous section have indicated that the three topics of model Standards and Goals legislation selected by the Council were appropriate.

Prior to their selection by the Council, there was a minimal amount of existing legislation in these topic areas; and the consensus of state Standards and Goals project officials was that a clear cut need for legislation in these areas existed in many states.<sup>15</sup> Considerable bill drafting (as seen in Section 4.2 above) has occurred in these topic areas subsequent to the dissemination of the Council's model acts.

The discussions with bill draftsmen conducted during MITRE's telephone survey further confirmed the appropriateness of the Council's topic selections. Forty-one of the fifty senior legislative draftsmen contacted during the telephone survey found the topics to be appropriate issues for model legislation (though not necessarily in their state). In the opinion of six other draftsmen some, but not all, of the topic areas were appropriate. Only three draftsmen found all three topic areas selected by the Council inappropriate. It should be noted that when dissatisfaction with a particular topic area was expressed, it was usually based on philosophical (opposition to diversion or plea negotiations) grounds or on the belief that other selections would have been more appropriate.

The SSL model legislation format was chosen by the Council's Standards and Goals project because it was expected that this format would ensure that the topics reflected in the models would receive careful attention by key actors in the legislative process. It was also assumed that by presenting topics as proposed legislative drafts, they would be utilized by bill drafters specifically to assist in the drafting of the text of legislation in the particular topic areas.

<sup>15</sup>Fischel, op. cit. pp. 51-59

Discussions with the bill draftsmen contacted during MITRE's survey provided some indication of the utility of the SSL format, in general, in terms of both the expectations described above. Table III describes, in summary fashion, the comments made by the bill draftsmen contacted during the survey. It should be emphasized that the comments listed in the table were not made in response to questions regarding the utility of the three model acts drafted by the Standards and Goals project in particular; rather, they pertained generically to the SSL format as a tool for promoting and assisting, in general, the drafting of legislation.

Bill drafters frequently (30 times) commented (Table III) that the SSL drafts tended to promote legislation because they were a good basic research source for providing new ideas about legislation. Many bill drafters agreed that the drafts were an especially effective source of new ideas for legislators desiring to propose legislation in areas which were both topical and relevant to their states. Therefore, SSL drafts were also considered helpful to bill drafters in their use of the model as a resource for providing the legislators they serve with numerous reference points for initiating their own proposals.

The SSL format (Table III) appeared to be less useful as a tool for bill drafters in their efforts to actually revise, review, or develop specific legislative proposals. Many draftsmen felt that legislative models provided by the Council in the SSL format were difficult to adapt for their own purposes and thus were of minimal value in drafting the actual text of bills. Some draftsmen suggested that the draft legislative language and organization tended to impede the direct use of the SSL models in drafting statutory proposals. A few draftsmen were critical about other general aspects of the SSL models. Though not particularly related to the format of the models,

TABLE III  
COMMENTS MADE BY STATE LEGISLATIVE BILL  
DRAFTSMEN CONCERNING THE UTILITY OF THE SSL FORMAT

GENERIC COMMENTS	FREQUENCY OF COMMENTS*
SSL DRAFTS ARE GOOD BASIC SOURCE MATERIALS; GOOD STARTING POINT FOR NEW ISSUES; EXCELLENT REFERENCE FOR PROVIDING IDEAS TO LEGISLATORS; USEFUL WHEN TOPIC AREA AND SPECIFIC LEGISLATIVE NEED ARE MATCHED	30
SSL LEGISLATION DIFFICULT TO ADAPT TO STATE NEEDS; LEGISLATION POORLY DRAFTED; LANGUAGE AND FORMAT OF MODELS PROBLEMATIC	22
DISSEMINATION OF SSL MATERIALS INADEQUATE	4
SELECTION OF SSL ISSUES OFTEN NOT TIMELY	2
OUTLINES OF KEY ISSUES AND/OR COMMENTARIES ON LEGISLATIVE ALTERNATIVES IN TOPIC AREAS COULD BE MORE USEFUL THAN SPECIFIC DRAFTS	10
SSL DRAFTS REFLECT AN URBAN/LIBERAL BIAS; DRAFTS ARE TOO ADVOCATIVE	5

\* All draftsmen did not provide comments and some of those that did, made multiple remarks.



these draftsmen were concerned that the SSL materials were not disseminated adequately; that the model drafts themselves reflected an urban or liberal bias; and that some SSL models were too advocative in nature. These concerns, however, appeared to be idiosyncratic and not pervasive among those interviewed.

The comments of bill draftsmen described above suggest that they appear to regard the SSL format's utility more as a means of disseminating ideas for legislation than as a guide for developing the actual text or organization of specific legislation. Therefore, it is not surprising that Table III shows that a number of draftsmen (10) valued the commentaries which accompany most SSL drafts more than the drafts themselves. These draftsmen suggested (or implied) that in many cases expanded commentaries or detailed outlines of alternative proposals which might relate to a topic area would be more useful to their work than fully developed model acts. These comments imply that the utility of the SSL format as a means of promoting new legislative ideas might be further enhanced if the Council shifted its efforts from drafting specific legislative texts regarding SSL topics to developing more detailed outlines and commentaries concerning alternative legislative approaches to these topic areas.

The generic comments regarding the SSL format appear to support the Council's use of this format as a means for promoting criminal justice standards and goals legislation. Certainly, the findings of the telephone survey which indicated substantial use of the Standards and Goals project's models is testimony to the effectiveness of this approach. However, in light of the comments made by some draftsmen concerning the need for fully developed text model drafts, it is less clear whether alternative approaches might not have increased the impact of Standards and Goals projects on the drafting of state legislation.

## 5.0 SUMMARY

This report completes the evaluation of the Council of State Governments' project, Suggested State Legislation on Criminal Justice Standards and Goals first reported in an Interim Evaluation Report prepared by MITRE in January 1977. The Interim Evaluation Report examined the selection of topics and the drafting of three items of criminal justice legislation reflecting certain key issues from the National Advisory Commission on Criminal Justice Standards and Goals--the products of the Standards and Goals project:

- a Plea Negotiations Act, which provides for formalization of the plea-bargaining process in order to give the process a degree of visibility to both the offender and the public;
- a Diversion Program Act, which defines criteria for the use of prosecutor-based diversion and requires local prosecutors to establish formal procedures for the use of diversion programs; and
- a Private Security Licensing and Regulatory Act, which establishes requirements for the state licensing of all contract security organizations and sets registration and training criteria for the employees of these companies.

The process and major activities of the Standards and Goals project which led to the drafting of the three model acts and their inclusion in the 1977 publication of Suggested State Legislation for dissemination to the states are detailed in the Interim Evaluation Report. Descriptions of major activities of the project, including the deliberations of the project staff and the Councils Subcommittee on Scope and Agenda and Committee on Suggested State Legislation are summarized (Section 2.0) in this report. This report also provides a condensed version of the descriptions of the three model acts first presented in the Interim Evaluation Report.

In addition to summarizing the activities which characterized the Standards and Goals project and describing the model acts that were its products, this report reiterates the key findings of the Interim Evaluation. These findings related to: 1) the consistency of the Council's model act with the NAC Standards and Goals cited as their source, and 2) the appropriateness of the topics represented by the model acts in terms of state legislation that existed at the time of their selection by the Council and in terms of the perceptions of informed state level officials. In summary, these findings were that:

- an analysis of the model acts revealed that this legislation was generally consistent with the NAC Standards and Goals they were intended to reflect. Two of the acts were developed by the project staff; the Private Security Licensing And Regulatory Act was a reiteration of legislation previously drafted by the Private Security Advisory Council;
- the absence of enacted state legislation in the three topic areas of the Council's model acts provided a first indication that the Standards and Goals project's topic selections were appropriate; and
- a survey of 40 State Standards and Goals projects and the Council's Advisory Panel for providing criminal justice assistance and information to the states, also tended to confirm that the topics of the Council's model acts were appropriate.

An assessment of the legislative impact of the Council's model acts since their dissemination to the states has been the focus of this final report. A telephone survey of state bill-drafting agencies conducted 18 months subsequent to the dissemination of the model acts to the states provided the basis for this assessment. The information gathered during the survey was provided by senior legislative bill draftsmen from every state.

Legislation similar to the Council's three model acts has been drafted 34 times since the dissemination of the model acts in August 1976. Though similar in intent, much of the legislation identified

differed in language, format, and in the extent to which they approached and included many of the specific points of the Council's models. There were, however, some instances of near verbatim use of the models.

The status of the 34 items of legislation identified during the telephone survey varied. Twenty-four of the 34 bills identified as similar to the Standards and Goals project's model acts were either enacted or were in a position where enactment was possible.

According to the bill draftsmen, the Council's model acts were used to assist in the drafting of nearly half of the legislation identified during the survey. This represents only those instances where use of the acts was explicitly acknowledged by the bill draftsmen contacted during the telephone survey. More than likely actual use of the models was more extensive than our survey indicated. While the acknowledged use of the models was evenly distributed among legislation in the three topic areas, the models were not used for any of the identified legislation which was enacted during the survey period. It appears likely that much of this legislation was conceived before the models were made available to the states. The models were, however, used in most of the identified legislation yet to be enacted but still in a favorable position for passage.

Two conclusions appear warranted from this examination of legislation drafted in the states similar to the Standards and Goals project's model acts. First, the substantial amount of attention given to legislation in the three topic areas confirmed that these topics were appropriate and timely choices by the project. (This was a preliminary assertion of the Interim Evaluation Report.) Second, the project's model acts received significant usage in the drafting of

this legislation especially when legislation represented more recent legislative initiatives in a state. As (and if) state legislatures continue to address the topic areas of the model acts, continued use of the models as reference sources for drafting activities appears likely.

Discussions with senior bill draftsmen conducted during the survey of legislative bill-drafting agencies further confirmed the appropriateness of the Council's three topic selections. Most draftsmen found all of the topic areas to be relevant concerns for model legislation.

Draftsmen also provided numerous comments regarding the general utility of the Suggested State Legislation format in terms of promoting legislation in particular topic areas and for assisting bill draftsmen in developing the text of legislation. Draftsmen generally agreed that the SSL model legislation format has been a useful source for providing new ideas, especially to legislators, in areas which are both topical and relevant to their states. There was less agreement, however, about the utility of the format as a tool for assisting bill draftsmen to develop the text of specific legislative proposals. A common, and perhaps significant, suggestion of the bill draftsmen contacted was that outlines or expanded commentaries concerning alternative proposals relating to particular topics might be more useful than fully developed model acts. In general, however, use of the SSL format appears to have been an effective approach to promoting criminal justice standards and goals legislation in the states.

#### APPENDIX I

#### THE STANDARDS AND GOALS PROJECT'S MODEL ACTS

## PLEA NEGOTIATIONS ACT

### Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This act may be cited as the [State] Plea  
2 Negotiations Act.

1 Section 2. [*Pleading by a Defendant.*]

2 (a) A defendant may plead not guilty or guilty [or, when allowed under  
3 the law of the jurisdiction, nolo contendere]. A plea of guilty [or nolo  
4 contendere] should be received only from the defendant himself in open  
5 court.

6 [(b) A defendant may plead nolo contendere only with the consent  
7 of the court. Such a plea should be accepted by the court only after due  
8 consideration of the views of the parties and the interest of the public  
9 in the effective administration of justice.]

1 Section 3. [*Pleading to Other Offenses.*] Upon entry of a plea of guilty  
2 [or nolo contendere] or after conviction on a plea of not guilty, the  
3 defendant's counsel may request permission for the defendant to enter a  
4 plea of guilty [or nolo contendere] as to other crimes he has committed  
5 which are within the jurisdiction of the coordinate courts of the State.  
6 Upon written approval of the prosecuting attorney of the governmental  
7 unit in which these crimes are charged or could be charged, the defendant  
8 should be allowed to enter the plea [subject to the court's discretion to  
9 refuse a nolo contendere plea]. Entry of such a plea constitutes a waiver  
10 of: (1) venue, as to crimes committed in other governmental units of the  
11 State, and (2) formal charges as to offenses not yet charged.

1 Section 4. [*Aid of Counsel; Time for Deliberation.*]

2 (a) A defendant shall not be called upon to plead until he has had an  
3 opportunity to retain counsel or, if he is eligible for appointment of  
4 counsel, until counsel has been appointed or waived; a defendant with  
5 counsel shall not be required to enter a plea if his counsel makes a rea-  
6 sonable request for additional time to hold a plea conference pursuant  
7 to Section 5, or to represent the defendant's interests in other respects.

8 (b) Except as provided in subsection (a) of this section, a defendant  
9 who has waived counsel shall not be called upon to plead within less than  
10 seven days following the date he was held to answer or was otherwise  
11 informed of the charge, and the court shall not accept a plea of guilty  
12 [or nolo contendere] from such a defendant unless it is entered affirmed  
13 at least three days after the defendant received advice from the court  
14 required by Section 9.

15 (c) A defendant may be offered an opportunity to plead and a plea  
16 may be accepted without regard to the time periods provided for in sub-  
17 section (b) of this section if the offense of which he is convicted is not a

18 felony and if the sentence posed does not provide for his incarceration  
19 unless he violates conditions of probation or a suspended sentence.

1 Section 5. [*Procedure for Plea Discussions.*] At the request of either  
2 party, the parties shall meet to discuss the possibility that upon the de-  
3 fendant's entry of a plea of guilty [or nolo contendere] to one or more  
4 offenses, the prosecutor will not charge, will dismiss, or will move for  
5 the dismissal of other charges, or will recommend or will not oppose a  
6 particular sentence. The defendant must be represented by counsel in  
7 such discussions and the defendant need not be present. The court shall  
8 not participate in such discussions.

1 Section 6. [*Prosecutor's Regulations.*]

2 (a) [Each prosecution office in the State] shall formulate guidelines  
3 and procedures with respect to plea discussions and plea agreements  
4 designed to afford similarly situated defendants equal opportunities for  
5 plea discussions and plea agreements.

*Comment:* A State should make a choice between having a single state official establish guidelines as distinguished from establishment of the guidelines by local officials.

6 (b) The written policy statement as provided in subsection (a) of this  
7 section shall provide for consideration of the following factors by prose-  
8 cuting attorneys involved in plea negotiations:

9 (1) The impact a formal trial would have on the offender and those  
10 close to him, especially the likelihood and seriousness of financial hard-  
11 ship and family disruption.

12 (2) The role that a negotiated plea agreement may play in rehabili-  
13 tating the offender.

14 (3) The value of trial in fostering the community's sense of security  
15 and confidence in law enforcement agencies.

16 (4) The assistance rendered by the offender:

17 (i) In the apprehension or conviction of other offenders.

18 (ii) In the prevention of crimes by others.

19 (iii) In the reduction of the impact of the offense on the victim.

20 (iv) In any other socially beneficial activities.

21 (c) The written statement of policy shall direct that before finalizing  
22 any plea negotiations, the prosecuting attorney's staff shall obtain full  
23 information on the offense and the offender. This information should  
24 include information concerning the impact of the offense upon the victims,  
25 the impact of the offense upon the community, the amount of police  
26 resources expended in investigating the offense and apprehending the  
27 defendant, any relationship between the defendant and organized crime,  
28 and other matters similarly bearing upon the nature of the offense and  
29 the offender.

1 Section 7. [*Improper Activities by a Prosecuting Attorney.*] No prose-  
2 cuting attorney shall, in connection with plea negotiations, engage in,  
3 perform, or condone any of the following:

4 (1) Charging or threatening to charge the defendant with offenses  
5 for which the admissible evidence available to the prosecuting attorney  
6 is insufficient to support a guilty verdict.

7 (2) Charging or threatening to charge the defendant with a crime  
8 not ordinarily charged in the jurisdiction for conduct allegedly engaged  
9 in by him.

10 (3) Threatening the defendant that if he should plead not guilty  
11 his sentence may be more severe than that which is ordinarily imposed in  
12 the jurisdiction in similar cases on defendants who plead not guilty.

13 (4) Failing to grant full disclosure before the disposition negotia-  
14 tions of all exculpatory evidence.

1 Section 8. [*Preliminary Consideration of a Plea Agreement.*]

2 (a) If the parties have reached a proposed plea agreement they may,  
3 with the permission of the court, advise the court of the terms of the  
4 agreement and the reasons therefor in advance of the time for tender of  
5 the plea. The court may indicate to the parties whether it will concur in  
6 the proposed disposition. Any such concurrence shall be subject to the  
7 information contained in the pre-sentence report being consistent with  
8 representations made by the parties to the court.

9 (b) Whenever a plea of guilty is offered, the court shall inquire as  
10 to the existence of any agreement. The court shall review any negotiated  
11 plea agreement and make specific determinations relating to the accepta-  
12 bility of the agreement. Underlying an offered plea of guilty, the court  
13 shall make such determinations relating to the acceptability of a plea  
14 before accepting it.

15 (c) Before accepting a plea of guilty, the court shall require the  
16 defendant to make a detailed statement concerning the commission of  
17 the offense to which he is pleading guilty and any offenses of which he  
18 has been previously convicted. In the event that the plea is found unac-  
19 ceptable, the statement and any evidence obtained through use of it  
20 shall not be admissible against the defendant in any subsequent criminal  
21 prosecution.

1 Section 9. [*Defendant's Understanding of His Rights and Consequences*  
2 *of Plea.*] The court shall inquire personally of the defendant concerning  
3 his plea and its underlying negotiated agreement, and if any of the follow-  
4 ing circumstances are found, and cannot be corrected by the court, the  
5 court shall not accept the plea:

6 (1) That counsel was not present during the plea negotiations.

7 (2) That the defendant is not competent or does not understand the  
8 nature and consequence of the charges and proceedings against him.

9 (3) That the defendant was reasonably mistaken or ignorant as to

10 the law or facts related to his case and this affected his decision to enter  
11 into a plea agreement.

12 (4) That the defendant does not know his constitutional rights and  
13 how his plea of guilty will affect those rights. Rights that expressly  
14 should be waived upon the entry of a guilty plea include: the right to the  
15 privilege against compulsory self-incrimination, which includes the right  
16 to plead not guilty; the right to trial in which the State, or governmental  
17 unit, must prove the defendant's guilt beyond a reasonable doubt; the  
18 right to a trial by jury; the right to confrontation of one's accusers; the  
19 right to compulsory process to obtain favorable witnesses; and the right  
20 to effective assistance of counsel at trial.

21 (5) During plea negotiations the defendant was denied constitutional  
22 or significant substantive rights that he did not waive.

23 (6) The defendant did not know at the time he entered into the  
24 agreement the mandatory minimum sentence, if any, and the maximum  
25 sentence that may be imposed for the offense to which he pleads, or that  
26 the defendant was not aware of those facts at the time his plea was offered.

27 (7) The defendant had been offered improper inducements to enter  
28 a plea of guilty.

29 (8) That the admissible evidence is insufficient to support a guilty  
30 verdict on the offense for which the plea is offered, or to a related greater  
31 offense.

32 (9) The defendant continues to assert facts that, if true, establish  
33 that he is not guilty of the offense to which he seeks to plead.

34 (10) That accepting the plea would not serve the public interest.  
35 Accepting a plea of guilty would not serve the public interest if it:

36 (i) Places the safety of persons or valuable property in unreasona-  
37 ble jeopardy.

38 (ii) Depreciates the seriousness of the defendant's activity or  
39 otherwise promotes disrespect for the criminal justice system.

40 (iii) Gives inadequate weight to the defendant's rehabilitative  
41 needs.

42 (iv) Would result in conviction for an offense out of proportion  
43 to the seriousness with which the community would evaluate the de-  
44 fendant's conduct upon which the charge is based.

1 Section 10. [*Pre-sentence Investigation.*] The court may direct its  
2 probation service to conduct an investigation to assist it in ruling on a  
3 plea agreement. If the court believes it appropriate it may direct that  
4 such investigation be commenced at the time a plea agreement is presented  
5 for preliminary consideration pursuant to Section 8.

1 Section 11. [*Ruling on a Plea of Guilty.*] Before accepting a plea  
2 pursuant to a plea agreement, the court shall advise the parties whether  
3 it approves the agreement and will dispose of the case in accordance  
4 therewith. If the court should determine to disapprove the agreement and

5 not to dispose of the case in accordance therewith, it shall so inform the  
6 parties, not accept the defendant's plea of guilty [or nolo contendere], and  
7 then advise the defendant personally that he is not bound by the agree-  
8 ment. The court shall advise the parties of the reasons for which it re-  
9 jected the agreement and afford them an opportunity to modify the  
10 agreement accordingly. A decision by the court disapproving an agree-  
11 ment shall not be subject to appeal.

1 Section 12. [*Plea Discussion and Agreement Not Admissible.*] Unless  
2 the defendant subsequently enters a plea of guilty [or nolo contendere]  
3 which is not withdrawn, the fact that the defendant or his counsel and  
4 the prosecuting attorney engaged in plea discussions or made a plea  
5 agreement shall not be received in evidence or in favor of the defendant  
6 in any criminal or civil action or administrative proceeding.

1 Section 13. [*Verbatim Record of the Proceedings.*] A verbatim record  
2 of the proceedings at which the defendant enters a plea of guilty and of  
3 any preliminary consideration of a plea agreement by the court pursuant  
4 to Section 8 shall be made. Such record shall include the court's advice  
5 to the defendant and its inquiries of the defendant, defense counsel, and  
6 the prosecutor, and any responses. If the plea agreement has been reduced  
7 to writing it shall be made a part of the record; otherwise, the court shall  
8 require that the terms of the agreement be stated for the record and that  
9 the assent thereto of the defendant, his counsel, and the prosecutor be  
10 also recorded.

1 Section 14. [*Time Limit on Plea Negotiations.*] Each judicial district  
2 shall set a time limit prior to the date set for trial after which time plea  
3 negotiations may no longer be conducted. After the specific time limit  
4 has elapsed, only pleas to the official charge should be allowed, except  
5 in unusual circumstances and with the approval of the court and the  
6 prosecution.

1 Section 15. [*Severability.*] [Insert severability clause.]

1 Section 16. [*Repeal.*] [Insert repealer clause.]

1 Section 17. [*Effective Date.*] [Insert effective date.]

## DIVERSION PROGRAM ACT

### Suggested Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This act may be cited as the [State] Diversion  
2 Program Act.

1 Section 2. [*Definitions.*] As used in this act:

2 (1) "Diversion" means the procedure of postponing prosecution  
3 either temporarily or permanently at any point in the judicial process  
4 from the point at which the accused is charged until adjudication. The  
5 purpose of diversion is to offer the offender an alternative method of  
6 rehabilitation other than incarceration or probation which will bring  
7 about the offender's future compliance with the law.

8 (2) "Dangerous offender" means a person who has committed an  
9 offense, and whose history, character, and condition reveal a substantial  
10 risk that he will be a danger to others, and whose conduct has been  
11 characterized by a pattern of repetitive, compulsive, or aggressive  
12 behavior with indifference to the consequences.

1 Section 3. [*Diversiory Conference.*]

2 (a) [Each district [county] attorney] shall prepare and issue guidelines  
3 consistent with this act, providing for a diversion conference at which  
4 the prosecutor, defense counsel, and offender may meet to discuss the  
5 case. These regulations shall identify those classes of cases in which the  
6 prosecutor may schedule a conference and shall further provide that the  
7 prosecutor shall schedule a conference in any other case for which  
8 defense counsel or the offender requests a conference or for which the  
9 prosecutor believes a conference is desirable. To the extent the prosecutor  
10 believes feasible in the effective administration of justice, such regula-  
11 tions shall include guidelines concerning action which the prosecutor  
12 will consider taking in certain types of cases or factual situations.

*Comment:* A State should make a choice between having a single state official establish guidelines as distinguished from establishment of the guidelines by local officials.

13 (b) At the diversion conference, the prosecutor shall afford either the  
14 offender or his counsel the opportunity to advance arguments and present  
15 facts bearing on the issues and shall inform the offender or his counsel  
16 of his views and the reasons therefor in a manner that will give the  
17 offender or his counsel the opportunity to respond. The parties may  
18 discuss and agree upon a disposition of the case which may include dis-  
19 missal or suspension of the prosecution. The parties may agree that a  
20 particular disposition shall be conditioned upon the offender's participat-  
21 ing in a supervised rehabilitation program.

22 (c) In any case in which the prosecutor is considering charging an  
23 offense punishable by imprisonment for more than [1] year, the offender



24 must be represented by counsel.

25 (d) In all cases where an individual is found eligible for diversion, a  
26 written report shall be made and retained on file in the prosecutor's office,  
27 regardless of whether the individual is finally rejected or accepted for a  
28 diversionary program. A copy of this report shall be provided to the  
29 offender and the offender's counsel. In addition, copies may be provided  
30 to those agencies which may be involved in developing treatment pro-  
31 grams with the offender. All parties concerned shall take due care to  
32 ensure the privacy of the diversionary reports.

33 (e) The process of diversion and the diversion conference, if such a  
34 conference is held, cannot be used to coerce a guilty plea from an offend-  
35 er, even though there is reasonable assumption of the offender's guilt.  
36 [The offender, or an accused, shall not be required to enter any formal  
37 plea to a charge made against him as a condition for participation in a  
38 diversion program.] Participation in a diversion program shall not be  
39 used in subsequent proceedings relative to a charge as evidence of an  
40 admission of guilt.

41 (f) Each individual who is charged must be provided with a sheet of  
42 facts about the diversion process.

43 (g) In any case in which an offender agrees to a specific diversion  
44 program, a specific agreement shall be made between the prosecution  
45 and the offender. This agreement shall include the terms of the diversion  
46 program, the length of the program, and a section therein stating the  
47 period of time after which the prosecutor will either move to dismiss  
48 the charge or to seek a conviction based upon that charge. This agreement  
49 must be signed by the offender and his counsel, if represented by counsel,  
50 and filed in the prosecutor's office.

51 (h) No diversion or diversionary program will take place without the  
52 written consent of the offender.

53 (i) Prior to formal entry into a diversion program, the prosecutor may  
54 require the offender to inform him concerning the offender's past criminal  
55 record, if any, his education and work record, his family history, his  
56 medical or psychiatric treatment or care he has received, any psychologi-  
57 cal test he has taken, and other information bearing on the prosecutor's  
58 decision for an appropriate disposition of the case.

59 (j) If the case should go to trial, any statements made by an offender  
60 or his counsel in connection with any pre-charge discussions concerning  
61 diversion shall not be admissible in evidence.

1 Section 4. [*General Criteria.*] The written policies developed by the  
2 prosecutor's offices shall contain policies for the diversion of offend-  
3 ers. Prior to authorizing diversion, the following factors should be taken  
4 into account:

5 (1) Whether there is substantial likelihood that justice will be served  
6 and the community will be safe if the individual is placed in a diversion  
7 program, or a decision is made simply not to prosecute his case.

8 (2) Whether the needs of an offender can better be met outside the  
9 criminal justice system and if resources are available to meet these needs.

10 (3) Whether the offense neither caused nor threatened serious physi-  
11 cal harm to persons or property, or the offender did not contemplate  
12 that it would do so.

13 (4) Whether the offense was the result of circumstances unlikely  
14 to recur.

15 (5) Whether the victim of the offense induced or facilitated the  
16 offense.

17 (6) Whether there are substantial grounds tending to excuse or  
18 justify the offense, though failing to establish a defense.

19 (7) Whether the offender acted under strong provocation.

20 (8) Whether the offender has no history of prior delinquency or  
21 criminal activity, or has led a law-abiding life for a substantial time  
22 before commission of the present offense.

23 (9) Whether the offender is likely to respond quickly to correctional  
24 or rehabilitative treatment.

1 Section 5. [*Exclusions.*] An individual should not be considered for a  
2 diversion program in those circumstances in which he has been known to  
3 be unresponsive to previous diversionary programs. A diversion program  
4 should not be considered for an individual who may be considered a  
5 dangerous offender.

1 Section 6. [*Maintaining Dispositions List.*] [Each district [county]  
2 attorney's] office shall maintain a current and complete listing of various  
3 resource dispositions available to it. This listing shall be compiled and  
4 evaluated in conjunction with law enforcement agencies, correctional  
5 agencies, courts, and defense counsel. This listing shall be subject to  
6 periodic review and evaluation, and shall be made public.

1 Section 7. [*Severability.*] [Insert severability clause.]

1 Section 8. [*Repeal.*] [Insert repealer clause.]

1 Section 9. [*Effective Date.*] [Insert effective date.]



PRIVATE SECURITY LICENSING AND REGULATORY ACT

1 Section 1. [*Short Title.*] This act may be cited as the [State] Private  
2 Security Licensing and Regulatory Act.

1 Section 2. [*Definitions.*] As used in this act:

2 (1) "Alarm response runner" means an individual employed by a  
3 contract security company or a proprietary security organization to  
4 respond to security system signals, other than a person whose sole func-  
5 tion is to maintain or repair a security system.

6 (2) "Armed courier service" means a person that transports or offers  
7 to transport under armed security guard from one place or point to another  
8 place or point, valuables, currency, documents, papers, maps, stocks,  
9 bonds, checks, or any other item that requires expeditious delivery.

10 (3) "Armed private security officer" means an individual employed  
11 by a contract security company or a proprietary security organization  
12 whose principal duty is that of an armed security guard, armed armored  
13 car service guard, armed courier service guard or armed alarm response  
14 runner, and who at any time wears, carries, possesses, or has access to  
15 a firearm in the performance of his duties.

16 (4) "Armored car service" means a person that transports or offers  
17 to transport under armed security guard from one place or point to another  
18 place or point, currency, jewels, stocks, bonds, paintings, or other  
19 valuables of any kind, or other items in a specially equipped motor vehicle  
20 which offers a high degree of security.

21 (5) "Branch office" means any office of a licensee within the State  
22 other than its principal place of business within the State.

23 (6) "Certified trainer" means a person approved and certified by  
24 the licensing authority as qualified to administer and certify to successful  
25 completion of the minimum training requirements for private security  
26 officers required by Section 36.

27 (7) "Contract security company" means a person engaging in the  
28 business of providing, or undertakes to provide, a security guard, an  
29 alarm response runner, armored car service, or armed courier service, as  
30 defined in this act, on a contractual basis for another person.

31 (8) "Employer/employee relationship" means the performance of  
32 any service for wages or under any contract of hire, written, oral, expressed  
33 or implied by an individual, and provided the employer has control or  
34 direction over the performance of such service both under this contract  
35 or service and provided that such service is performed personally by  
36 such individual.

37 (9) "Identification card" means a pocket card issued by a licensing  
38 authority to a private security officer as evidence that the individual has  
39 met the minimum qualifications required to perform duties of an unarmed  
40 private security officer.

41 (10) "Licensee" means a person to whom a license is granted in  
42 accordance with the provisions of this act.

43 (11) "Licensing authority" means the Secretary of State or other

44 appropriate department, agency, or bureau of the State designated to  
45 administer and enforce this act.

46 (12) "Person" means an individual, firm, association, company,  
47 partnership, corporation, nonprofit organization, institution, or similar  
48 entity.

49 (13) "Police chief executive" means the elected or appointed police  
50 administrator of any municipal, county, or state police department or  
51 sheriff's department, such department having full law enforcement  
52 powers in its jurisdiction.

53 (14) "Principal corporate officer" means the president, vice presi-  
54 dent, treasurer, secretary, and comptroller, as well as any other person  
55 who performs functions for the corporation corresponding to those  
56 performed by the foregoing officers.

57 (15) "Proprietary security organization" means a person or depart-  
58 ment of that person which employs a security guard, an alarm response  
59 runner, armored car service, or armed courier services, as defined in  
60 this act, solely for such person, and wherein an employer/employee  
61 relationship exists.

62 (16) "Qualifying agent" means, in the case of a corporation, an  
63 officer or an individual in a management capacity, or in the case of a  
64 partnership, a general or unlimited partner, meeting the experience  
65 qualifications set forth in this act for operating a contract security  
66 company.

67 (17) "Registrant" means an individual who has a valid registration  
68 card issued by the licensing authority.

69 (18) "Registration card" means the permanent permit issued by the  
70 licensing authority to a registrant as evidence that the registrant has met  
71 the minimum qualifications required by this act to perform the duties of  
72 an armed private security officer.

73 (19) "Security alarm system" means an assembly of equipment and  
74 devices (or a single device such as a solid-state unit which plugs directly  
75 into a 110-volt AC line) designated to detect or signal an unauthorized  
76 intrusion into, movement through, or exit from, a premise, or to signal an  
77 attempted robbery or other criminal acts at a protected premise; with  
78 respect to such signals, police and/or security guards or alarm response  
79 runners are expected to respond. Fire alarm systems and alarm systems  
80 which monitor temperature, humidity, or any other conditions not direct-  
81 ly related to the detection of an unauthorized intrusion into premises or  
82 an attempted robbery at a premises are excluded from the provisions of  
83 this act.

84 (20) "Security guard" means an individual principally employed to  
85 protect persons or property from criminal activities and whose duties  
86 include, but are not limited to, the prevention of: unlawful intrusion or  
87 entry, larceny, vandalism, abuse, arson, or trespass on private property;  
88 or control regulation or direction of the flow or movements of the public,  
89 whether by vehicle, on foot, or otherwise; and street patrol service or

90 merchant patrol service. Persons whose duties are limited to custodial or  
91 observational duties or the reporting of administrative regulations only  
92 are specifically excluded from this definition.

93 (21) "Street patrol service" means any contract security company  
94 or proprietary security organization that utilizes foot patrols, motor  
95 vehicles, or any other means of transportation in public areas or on public  
96 thoroughfares in the performance of its security functions.

97 (22) "Sworn peace officer" means an individual who derives plenary  
98 or special law enforcement powers from, and is an employee of, the  
99 federal government, [State], or any political subdivision, agency, de-  
100 partment, branch, or service of either, of any municipality, or of any  
101 other unit of local government.

102 (23) "Unarmed private security officer" means an individual em-  
103 ployed by a contract security company or a proprietary security organiza-  
104 tion whose principal duty is that of a security guard, armored car service  
105 guard, or alarm response runner; who never wears, carries, or has access  
106 to a firearm in the performance of those duties; and who wears dress of  
107 a distinctive design or fashion, or dress having any symbol, badge, emblem,  
108 insignia, or device which identifies or tends to identify the wearer as a  
109 security guard, alarm response runner, or armored car service guard.

1 Section 3. [*Establishment of a Licensing Authority.*]

2 (a) A Private Security Industry Regulatory Board is established,  
3 hereinafter called the licensing authority or board, designated to carry  
4 out the duties and functions conferred upon it by this act.

5 (b) The position of director of the Private Security Industry Regulatory  
6 Board is created. He shall serve as the chief administrator of the board.  
7 He shall not be a member of the board but shall be a full-time employee  
8 of the board, fully compensable in an amount to be determined by the  
9 Legislature. The director shall perform such duties as may be prescribed  
10 by the board except those duties vested in the board by Section 10, and  
11 shall have no financial or business interests or affiliations, contingent  
12 or otherwise, in any person rendering private security services.

1 Section 4. [*Licensing Authority Seal.*] The licensing authority shall  
2 have a seal, the form of which it shall prescribe.

1 Section 5. [*Board Meeting.*] The board shall consist of the following  
2 members:

3 (1) The Attorney General or his duly designated representative  
4 shall serve as an ex officio member of the board, and his service shall  
5 not jeopardize his official capacity with the State.

6 (2) The director of the [department of public safety] or his duly  
7 designated representative shall serve as an ex officio member of the  
8 board, and his service shall not jeopardize his official capacity with  
9 the State.

10 (3) One police chief executive appointed by the Governor subject  
11 to legislative confirmation.

12 (4) Two members shall be appointed by the Governor, subject to  
13 legislative confirmation, who are licensed under the provision of this act,  
14 who have been engaged for a period of three years in the rendering of  
15 private security services and are not employed by or affiliated with any  
16 other member of the board.

17 (5) Two members shall be appointed by the Governor, subject to  
18 legislative confirmation, who are selected from the public at large, who  
19 are citizens of the United States and residents of the State and are not  
20 now or in the past employed by or affiliated with a person rendering  
21 private security services.

22 (6) Two members shall be appointed by the Governor, subject to  
23 legislative confirmation, who are citizens of the United States and resi-  
24 dents of the State and are full-time managers responsible for a proprie-  
25 tary security organization function.

1 Section 6. [*Chairmanship of Board.*] The Governor shall designate one  
2 appointee to sit as chairman of the licensing authority for that member's  
3 full term.

1 Section 7. [*Voting Powers and Procedures.*]

2 (a) No action shall be taken by the board unless a quorum of the  
3 membership of the board is present.

4 (b) All powers, duties, and responsibilities conferred upon the board  
5 by this act may be exercised or taken by a majority vote of the necessary  
6 quorum then present.

1 Section 8. [*Terms of Office.*]

2 (a) The director of the [department of public safety] and the Attorney  
3 General, or their representatives, shall serve on the board during their  
4 terms of office and shall perform the duties required by this act in addi-  
5 tion to those duties required of them in other official capacities.

6 (b) The appointed members of the board shall serve six-year terms,  
7 their terms to be staggered by the appointment of the initial appointees  
8 as follows: the police chief executive and one proprietary security organi-  
9 zation manager for an initial term of two years; one licensee and one  
10 public at-large member for an initial term of four years; and the remaining  
11 members for initial terms of six years.

1 Section 9. [*Vacancies.*] The Governor shall, subject to legislative  
2 confirmation, fill vacancies occurring among appointed members of the  
3 board with appointments for the duration of the unexpired term.  
4 Appointees must meet the qualification for that position to be filled as  
5 stipulated in Section 5.

1 Section 10. [*Powers of the Licensing Authority Relating to Rules and*  
2 *Regulations; Petitions.*] The following powers are vested in the licensing  
3 authority:

4 (1) Promulgation of rules and regulations which are reasonable,  
5 proper, and necessary to carry out the functions of the licensing authority;  
6 investigations limited to determinations as to whether the provisions of  
7 this act are being complied with or violated; enforcement of the provisions  
8 of this act; establishment of procedures for the preparation and process-  
9 ing of examinations, applications, license certificates, registration and  
10 identification cards, renewals, appeals, hearings, and rulemaking pro-  
11 ceedings; and determination of the qualifications of licensees and private  
12 security officers consistent with the provisions of this act.

13 (2) An interested person may petition the licensing authority to  
14 enact, amend, or repeal any rule or regulation within the scope of sub-  
15 section (1) of this section. The licensing authority shall prescribe by rule  
16 the form for such petitions and procedures for their submission, considera-  
17 tion, and disposition.

1 Section 11. [*Subpoenas; Oaths; Contempt Powers.*]

2 (a) In any investigation conducted under the provisions of this act,  
3 the licensing authority may issue subpoenas to compel the attendance of  
4 witnesses and the production of relevant books, accounts, records, and  
5 documents. The officer conducting a hearing may administer oaths and  
6 may require testimony or evidence to be given under oath.

7 (b) If a witness refuses to obey a subpoena or to give any evidence  
8 relevant to proper inquiry by the licensing authority, the licensing authori-  
9 ty may petition a court of competent jurisdiction in the State to compel  
10 the witness to obey the subpoena or to give the evidence. The court shall  
11 promptly issue process to the witness and shall hold a hearing on the  
12 petition as soon as possible. If the witness then refuses, without reasonable  
13 cause or legal grounds, to be examined or to give evidence relevant to  
14 proper inquiry by the licensing authority, the court may cite the witness  
15 for contempt.

1 Section 12. [*Public Notice and Hearing on Proposed Rulemaking.*]  
2 [For information under this topic, follow the State's Administrative  
3 Procedures Act.]

1 Section 13. [*Requirement for License.*]

2 (a) It shall be unlawful and punishable, as provided in Section 42 of  
3 this act, for any person to engage in the business of a contract security  
4 company in the State without having first obtained a contract security  
5 company license from the state licensing authority, subject to subsection  
6 (b) of this section.

7 (b) Every person engaged in the contract security company business  
8 in the State on the effective date of this act shall have 180 days to apply

9 to the licensing authority for a license to operate a contract security  
10 company. Any such person filing a timely application may continue to  
11 engage in business pending a final determination of the application.

12 (c) Unless there is a separate statute currently in effect in the State  
13 by which an alarm, armed courier service, or armored car business is  
14 licensed and regulated, all provisions of this act shall apply equally to  
15 the businesses which shall be considered as contract security companies.  
16 If there is a separate statute in effect in the State by which alarm, armed  
17 courier service, and armored car businesses are licensed and regulated,  
18 the licensing provisions of this statute shall not apply to such businesses  
19 unless such businesses are also engaged in the business of providing  
20 security guard services.

1 Section 14. [*Form of Application.*]

2 (a) Application for license required by the provisions of this act shall  
3 be filed with the licensing authority on a form provided by the licensing  
4 authority. If the applicant is an individual, the application shall be sub-  
5 scribed and sworn to by such person. If the applicant is a partnership,  
6 the application shall be subscribed and sworn to by each partner. If the  
7 applicant is a corporation, the application shall be subscribed and sworn  
8 to by at least one principal corporate officer. The application shall contain:

9 (1) The full name and business address of the applicant and, if the  
10 applicant is a corporation or partnership, the name and address of the  
11 qualifying agent.

12 (2) The name under which the applicant intends to do business.

13 (3) The address of the principal place of business and all branch  
14 offices of the applicant in the State, and the corporate headquarters of  
15 the business if outside of the State.

16 (4) If the applicant is a corporation, the correct legal name, the  
17 State of incorporation, and the date it qualified to do business in the State.

18 (5) A list of principal officers of the corporation and the business  
19 address, residence address, and the office or position held by each officer  
20 in the corporation.

21 (6) (i) For each applicant, or if the applicant is a partnership, for  
22 each partner, or if the applicant is a corporation, for the qualifying agent,  
23 the following information: (A) full name, (B) age, (C) date and place of  
24 birth, (D) all residences during the immediate past five years, (E) all  
25 employment or occupations engaged in during the immediate past five  
26 years, (F) two sets of classifiable fingerprints, (G) a photograph taken  
27 within the last six months of a size prescribed by the licensing authority,  
28 (H) a general physical description, (I) letters attesting to good moral  
29 character from three reputable individuals not related by blood or marriage  
30 who have known the applicant or qualifying agent for at least five years,  
31 (J) three credit references from lending institutions or business firms  
32 with whom the applicant or qualifying agent has established a credit  
33 record, and (K) a list of all arrests, convictions, and pending criminal

34 charges in any jurisdiction, any felony, any crime involving moral turpi-  
35 tude, or illegally using or possessing a dangerous weapon, for any of  
36 which a full pardon (or similar relief) has not been granted.  
37 (ii) For every required person, a statement of experience that

38 meets the qualifications of Section 15(a)(7).  
39 (7) For each applicant which is a corporation or partnership, the  
40 names and addresses of each principal officer, director, or partner,  
41 whichever is applicable and unless the stock of such corporation is listed  
42 on a national securities exchange or registered under Section 12 of the  
43 Securities and Exchange Act of 1934, as amended, the names and ad-  
44 dresses of all stockholders.

45 (b) The licensing authority may require that the application include  
46 any other information which the licensing authority may reasonably deem  
47 necessary to determine whether the applicant or individual signing the  
48 application meets the requirements of this act or to establish the truth  
49 of the facts set forth in the application.

50 (c) Any individual signing a license application must be at least [the  
51 legal age for licensing generally established in the State] years of age.

1 Section 15. [*License Qualifications.*]

2 (a) Every applicant, or in the case of a partnership each partner, or  
3 in the case of a corporation the qualifying agent, shall meet the following  
4 qualifications before he may engage in the business of a contract security  
5 company:

6 (1) Be of legal majority age.

7 (2) Be a citizen of the United States or a resident alien.

8 (3) Not have been convicted in any jurisdiction of any felony or of  
9 any crime involving moral turpitude or illegally using or possessing a  
10 dangerous weapon, for any of which a full pardon (or similar relief) has  
11 not been granted.

12 (4) Not have been declared by any court of competent jurisdiction  
13 incompetent by reason of mental defect or disease and has not been  
14 restored.

15 (5) Not be suffering from habitual drunkenness or from narcotic  
16 addiction or dependence.

17 (6) Be of good moral character.

18 (7) Possess three years' experience as a manager, supervisor, or  
19 administrator with a contract security company or proprietary security  
20 organization or possess three years' supervisory experience approved by  
21 the licensing authority with any federal, U.S. military, state, county, or  
22 municipal law enforcement agency.

23 (b) If the licensing authority determines that the applicant or qualify-  
24 ing agent has not satisfactorily complied with subsection (a)(7) of this  
25 section, it may require compliance with subsection (c) of this section.

26 (c) The licensing authority shall prepare and administer at least twice  
27 annually examinations designed to measure an individual's knowledge

28 and competence in the contract security company business. An applicant  
29 or qualifying agent successfully passing the licensing authority's examina-  
30 tion may substitute that for the experience requirement of subsection  
31 (a)(7) of this section.

1 Section 16. [*License Application—Investigation.*] After receipt of an  
2 application for a license, the licensing authority shall conduct an investi-  
3 gation to determine whether the facts set forth in the application are true  
4 and shall compare, or request that [the appropriate state agency] compare  
5 the fingerprints submitted with the application to fingerprints filed with  
6 [the division of criminal identification, records and statistics of the state  
7 department of corrections or its equivalent]. The licensing agency [or the  
8 state agency comparing the fingerprints] shall also submit the finger-  
9 prints to the Federal Bureau of Investigation for a search of the finger-  
10 print files of that agency to determine if the individual fingerprinted has  
11 any convictions recorded in the FBI files.

1 Section 17. [*Action on License Application.*] Within 30 days after  
2 receipt of an application, the licensing authority shall either issue a  
3 license to the applicant or notify the applicant of a denial of the license  
4 application. In the event that additional information is required from the  
5 applicant by the licensing authority to complete its investigation or  
6 otherwise to satisfy the requirements of this act, or if the applicant has  
7 not submitted all of the required information, the 30-day period for  
8 action by the licensing authority shall commence when all such informa-  
9 tion has been received by the licensing authority.

1 Section 18. [*Grounds for Denial of Application.*] The licensing authority  
2 shall deny the application for a license if it finds that the applicant or  
3 the qualifying agent or any of the applicant's owners, partners, or princi-  
4 pal corporate officers have:

5 (1) Violated any of the provisions of this act or the rules and regula-  
6 tions promulgated hereunder.

7 (2) Practiced fraud, deceit, or misrepresentation.

8 (3) Knowingly made a material misstatement in the application  
9 for a license.

10 (4) Have not met the qualifications of Section 15(a).

1 Section 19. [*Procedure for Approval or Denial of Application; Hearings.*]  
2 (a) The procedure of the licensing authority in approving or denying  
3 an application shall be as follows:

4 (1) If the application is approved, the licensing authority shall  
5 notify the applicant in writing that a license will be issued. Such notifica-  
6 tion shall state that the license issued will expire in two years, unless  
7 renewed in accordance with Sections 20 and 21 of this act, and shall  
8 set forth the time within which application for renewal must be made.

9 (2) If the application is denied, the licensing authority shall notify  
10 the applicant in writing and shall set forth the grounds for denial. If the  
11 grounds for denial are subject to correction by the applicant, the notice  
12 of denial shall so state and the applicant shall be given 10 days after  
13 receipt of such notice or, upon application, a reasonable additional period  
14 of time within which to make the required correction.

15 (b) If the application is denied, the applicant may within 30 days  
16 after receipt of notice of denial from the licensing authority request a  
17 hearing on the denial. Within 10 days after the filing of such request for  
18 hearing by the applicant, the licensing authority shall schedule a hearing  
19 to be held before the licensing authority after due notice to the applicant.  
20 The hearing shall be held within 15 days after such notice is mailed to  
21 the applicant, unless postponed at the request of the applicant. The  
22 applicant shall have the right to make an oral presentation at the hearing,  
23 including the right to present witnesses and to confront and cross-examine  
24 adverse witnesses. The applicant may be represented by counsel. If the  
25 hearing is before a hearing officer, the officer shall submit his report in  
26 writing to the licensing authority within 10 days after the hearing. The  
27 licensing authority shall issue its decisions within 10 days after the hearing  
28 or within 10 days after receiving the report of the hearing officer. The  
29 decision of the licensing authority shall be in writing and set forth the  
30 licensing authority's findings and conclusions. A copy shall be promptly  
31 mailed to the principal office of the applicant in the State.

1 Section 20. [*Renewal of License.*] Each license shall expire two years  
2 after its date of issuance. Application for renewal of a license must be  
3 received by the licensing authority on a form provided by the licensing  
4 authority not less than 30 days prior to the expiration date of the license,  
5 subject to the right of the licensing authority to refuse to renew a license  
6 for any of the grounds set forth in Section 24(a), and it shall promptly  
7 notify the licensee of its intent to refuse to renew the license. The licensee  
8 may, within 15 days after receipt of the notice of intent to refuse to  
9 renew a license, request a hearing on the refusal in the manner prescribed  
10 by Section 24(b). A licensee shall be permitted to continue to engage in  
11 the contract security company business while the renewal application  
12 is pending.

1 Section 21. [*Application, License, and Renewal Fees.*]  
2 (a) A nonrefundable application fee of [\$500] shall be remitted with  
3 each initial license application.  
4 (b) A fee of [\$250], refundable in the event the license renewal is  
5 denied, shall be remitted with each application for renewal of a license.

1 Section 22. [*Form of License.*] The license, when issued, shall be in a  
2 form prescribed by the licensing authority and shall include:  
3 (1) The name of the licensee.

4 (2) The business name under which the licensee is to operate.  
5 (3) The addresses of the locations where the licensee is authorized  
6 to operate.

7 (4) The number and date of the license and its date of expiration.

1 Section 23. [*License—Transferability.*]

2 (a) No license issued pursuant to the provisions of this act shall be  
3 assigned or transferred, either by operation of law or otherwise.

4 (b) If the license is held by an owner who is not already a licensee,  
5 other than a corporation, and such owner shall die, become disabled, or  
6 otherwise cease to engage in the business, the successor, heir, devisee, or  
7 personal representative of the owner shall, within 30 days of the death,  
8 disablement, or other termination of operation by the original licensee,  
9 apply for a license on a form prescribed by the licensing authority, which  
10 form shall include the same general information required by Section 14 of  
11 this act. The transfers shall be subject to the same general requirements  
12 and procedures set forth in Sections 15 through 20 to the extent such  
13 sections are applicable.

14 (c) If a sale, assignment, transfer, merger, or consolidation of a  
15 business licensed under this act is consummated, the purchaser, assignee,  
16 transferee, surviving, or new corporation not already a licensee shall  
17 immediately apply for a license on a form prescribed by the licensing  
18 authority which shall include the general information required by Section  
19 14. The purchaser, assignee, transferee, surviving, or new corporation  
20 shall be subject to the same general requirements and procedures set  
21 forth in Sections 15 through 20 to the extent that such sections are  
22 applicable and may continue the operation of that licensed business until  
23 notified by the licensing authority of its final decision on the new applica-  
24 tion for a license.

25 (d) With good cause, the licensing authority may extend the period of  
26 time for filing the application required by subsections (b) and (c) of this  
27 section.

1 Section 24. [*Licenses—Revocation; Hearings; Appeals; Notices.*]

2 (a) Licenses may be revoked by the licensing authority in the manner  
3 hereinafter set forth if the licensee or any of its owners, partners, princi-  
4 pal corporate officers, or qualifying agent are found to have:

5 (1) Violated any of the provisions of this act or any rule or regulation  
6 of the licensing authority which violation the licensing authority deter-  
7 mines to reflect unfavorably upon the fitness of the licensee to engage in  
8 the contract security company business.

9 (2) Knowingly and willfully given any false information of a material  
10 nature in connection with an application for a license or a renewal or  
11 reinstatement of a license or in a notice of transfer of a business licensed  
12 under this act.

13 (3) Been convicted in any jurisdiction of a felony or a misdemeanor



14 if the licensing authority determines that such conviction reflects un-  
15 favorably on the fitness of the applicant to engage in the contract security  
16 company business.

17 (4) Committed any act while the license was not in effect which  
18 would have been cause for the revocation of a license or grounds for the  
19 denial of an application for a license.

20 (b) Prior to revocation of a license, the licensing authority shall  
21 promptly notify the licensee of its intent to issue an order of revocation,  
22 setting forth in reasonable detail the grounds for revocation. Within 30  
23 days of receipt of notice of intent to revoke from the licensing authority,  
24 the licensee may request a hearing. Within 10 days after the filing of a  
25 request for hearing by the licensee, the licensing authority shall, upon  
26 due notice to the licensee, schedule a hearing to be held before the  
27 licensing authority or an officer designated by the licensing authority.  
28 The hearing shall be held within 15 days after the notice is mailed to the  
29 licensee, unless postponed at the request of the licensee. The licensee  
30 shall have the right to make an oral presentation at the hearing, including  
31 the right to present witnesses and to confront and cross-examine adverse  
32 witnesses. The licensee may be represented by counsel. If the hearing is  
33 held before a hearing officer, the officer shall submit his report in writing  
34 to the licensing authority within 10 days after the hearing. The licensing  
35 authority shall issue its decision within 10 days after the hearing or  
36 within 10 days after receiving the report of the hearing officer. The  
37 decision of the licensing authority shall be in writing and set forth the  
38 licensing authority's findings and conclusions. A copy shall be promptly  
39 mailed to the principal office of the licensee in the State.

40 (c) Within 90 days after the licensee has exhausted all rights of appeal  
41 under this act or if the licensee does not seek a hearing after receipt of  
42 a notice of intent to revoke, the licensee shall notify all of its clients  
43 in the State of the revocation and maintain in its records a copy of the  
44 notices. The licensee shall cease to perform any services for which it has  
45 been licensed under this act within 60 days of its receipt of the final  
46 notice of intent to revoke from the licensing authority.

47 (d) Under circumstances in which the licensing authority determines  
48 that the public health, welfare, or safety may be jeopardized by the  
49 termination of a licensee's services, the licensing authority may upon its  
50 own motion or upon application by the licensee or any party affected by  
51 such termination extend the time for the termination of the licensee's  
52 operations, subject to reasonable, necessary and proper conditions or  
53 restrictions it deems appropriate.

54 (e) After the licensing authority has issued a notice of intent to revoke  
55 a license, the licensee may request that it be permitted to continue to  
56 operate subject to the terms of a written order of consent issued by the  
57 licensing authority requiring the licensee to correct the conditions set  
58 forth as grounds for revocation in the notice of intent to revoke and  
59 imposing reasonable conditions and restrictions on the licensee in the

60 conduct of its business. The licensing authority may grant or deny such a  
61 request and may stay or postpone any proceeding being conducted  
62 pursuant to subsection (b) of this section. Negotiations for an order of  
63 consent may be requested at any time during revocation proceedings and  
64 stay of pending proceedings during negotiations shall be within the sole  
65 discretion of the licensing authority. If revocation proceedings are before  
66 a court and the licensing authority and licensee have agreed upon the  
67 terms of a proposed consent order, the licensing authority shall submit  
68 the proposed order to the court which may approve or disapprove the  
69 proposed order or require modification of the proposed consent order  
70 before approval.

71 (f) The licensing authority shall enact reasonable rules and regulations  
72 for determination of whether a licensee has complied with a consent order  
73 issued pursuant to subsection (e) of this section. If the licensing authority  
74 determines that a licensee has failed to comply, it may revoke the order  
75 and conduct proceedings for revocation of the license. If the consent order  
76 has been approved by a court, the licensing authority shall petition the  
77 court for vacation of the order. The court shall hold a hearing to determine  
78 if the order should be vacated. If the court vacates the consent order, the  
79 licensing authority may initiate proceedings for revocation of the license.

1 Section 25. [*Posting and Surrender of License Certificate.*]

2 (a) Within 72 hours after receipt of the license certificate, the licensee  
3 shall post and display the license certificate at all times in a conspicuous  
4 place in his principal office in the State and copies thereof to be displayed  
5 at all times in any other offices within the State where the licensee trans-  
6 acts business with its customers so that all persons visiting such place or  
7 places may readily see the license. Such license certificates or copies  
8 thereof shall be subject to inspection at all reasonable times by the  
9 licensing authority.

10 (b) It shall be unlawful for any person holding a license certificate to  
11 knowingly and willfully post the license certificate or permit it to be  
12 posted upon premises other than those described in the license certificate  
13 or to knowingly and willfully alter the license certificate. Each license  
14 certificate shall be surrendered to the licensing authority within 72 hours  
15 after it has been revoked or after the licensee ceases to do business,  
16 subject, however, to Section 24(d) and (e). If, however, the licensing  
17 authority or a court of competent jurisdiction has pending before it any  
18 matter relating to the renewal, revocation, or transfer of a license, the  
19 licensee shall not be required to surrender the license until the matter  
20 has been adjudicated and all appeals have been exhausted. When the  
21 licensee receives final notice that his license has been revoked, a copy of  
22 the notice shall be displayed and posted in close proximity to the license  
23 certificate until the licensee terminates his operations.

1 Section 26. [*Change in Status of Licensee.*] The licensee shall notify

2 the licensing authority within 30 days of any change in its officers, direc-  
3 tors, or material change in the information previously furnished or required  
4 to be furnished to the licensing authority or any occurrence which could  
5 reasonably be expected to affect the licensee's right to a license under  
6 this statute.

1 Section 27. [Application for Registration.]

2 (a) Except as otherwise provided in this act, no person shall perform  
3 the functions and duties of an armed private security officer in the State  
4 without first having been registered with the licensing authority and issued  
5 a registration card in the manner prescribed in the statute.

6 (b) Individuals required to obtain a registration card under this section  
7 shall file for a registration card and, upon completion thereof, the licensee  
8 or registrant shall immediately forward the application to the licensing  
9 authority.

10 (c) Every applicant for a registration card shall make and deliver to  
11 the licensee or the licensing authority a sworn application in writing upon  
12 a form prescribed by the licensing authority containing the following  
13 information:

14 (1) The name and address of the person which employs or will em-  
15 ploy the applicant.  
16 (2) Applicant's full name and current residence address.  
17 (3) Date and place of birth.  
18 (4) Social Security number.  
19 (5) Telephone number, if any.  
20 (6) Complete addresses for the past five years.  
21 (7) List of all employers for the past five years.  
22 (8) List of all arrests, convictions, and pending criminal charges in  
23 any jurisdiction.

24 (9) Type of military discharge.

25 (10) General physical description.

26 (11) All names used by the applicant other than the name by which  
27 the individual is currently known, with an explanation setting forth the  
28 place or places where each name was used, the date or dates of each use,  
29 and an explanation of why the names were used.

30 (12) Two sets of classifiable fingerprints recorded in the manner as  
31 may be prescribed by the licensing authority.

32 (13) Two recent color photographs.

33 (14) A statement whether the applicant has ever been denied a  
34 registration card and whether the card has been revoked or suspended in  
35 any jurisdiction.

36 (15) A statement that the applicant will notify the licensing authority  
37 of any material changes of information set forth in the application within  
38 10 days after the change.

39 (16) A statement that the applicant does not suffer from habitual  
40 drunkenness or from narcotic addiction or dependence and does not

41 possess any disability which would prevent him from performing the  
42 duties of an armed private security officer.

43 (17) A statement from a certified trainer to the effect that the appli-  
44 cant has completed the training required by Section 36(a) and (b).

45 (d) To be eligible to apply for a registration card an individual must:

46 (k) Be of legal majority age.

47 (2) Be a citizen of the United States or a resident alien.

48 (3) Not have been convicted in any jurisdiction of any felony or of  
49 any crime involving moral turpitude or illegally using or possessing a  
50 dangerous weapon, for any of which a full pardon (or similar relief) has  
51 not been granted.

52 (4) Not have been declared by any court of competent jurisdiction  
53 incompetent by reason of mental disease or defect and has not been  
54 restored.

55 (5) Not suffer from habitual drunkenness or from narcotic addiction  
56 or dependence.

57 (6) Be of good moral character.

58 (7) Not possess any disability which in the opinion of the licensing  
59 authority prevents him from performing the duties of an armed private  
60 security officer.

61 (e) The registration card shall be carried by an individual required to  
62 be registered under this act whenever such individual is performing the  
63 duties of an armed private security officer and shall be exhibited upon  
64 request.

65 (f) Application for a registration card to the licensing authority shall  
66 be accompanied by a [\$15] fee.

67 (g) A registration card shall entitle the registrant to perform the duties  
68 of an armed private security officer provided the registrant continues in  
69 the employ of the employer listed on the card and maintains his eligibility  
70 to hold a registration card under the provisions of this act.

1 Section 28. [Registration Card—Investigation.] After receipt of an  
2 application for a registration card, the licensing authority shall conduct  
3 an investigation to determine whether the facts set forth in the applica-  
4 tion are true and shall cause the applicant's fingerprints to be compared  
5 with fingerprints filed with [the State's department or agency maintain-  
6 ing criminal history records]. The licensing authority or that agency shall  
7 within five days forward a copy of the fingerprint card of the applicant  
8 to the Federal Bureau of Investigation and request a search of the finger-  
9 print files of the FBI for any record of convictions of the registration  
10 card applicant.

1 Section 29. [Action on Registration Card Application.] Action to ap-  
2 prove or deny an application of an individual for a registration card shall  
3 be taken as expeditiously as possible by the licensing authority but the  
4 action shall be completed within 30 days after receipt of the application

5 unless the licensing authority shall require additional information from  
6 the applicant. In that event or if additional facts are required to satisfy  
7 the requirements of this act, or if the applicant has not submitted all the  
8 information required, the period for the action by the licensing authority  
9 shall commence when all information has been received by the licensing  
10 authority. Upon acceptance of a registrant's application, the licensing  
11 authority shall enter the registrant on its permanent register and issue to  
12 the registrant a permanent registration card which shall be valid for  
13 one year.

1 Section 30. [*Registration Cards—Denial, Suspension or Revocation;*  
2 *Hearings, Notices.*]

3 (a) Registration cards shall be denied, suspended, or revoked by the  
4 licensing authority in the manner hereinafter set forth if the cardholder  
5 has:

6 (1) Failed to meet the qualifications of Section 27(d).

7 (2) Been found to have violated any of the provisions of this act or  
8 any rule or regulation of the licensing authority if the licensing authority  
9 determines that the violation reflects unfavorably upon the fitness of the  
10 registrant to function as an armed private security officer.

11 (3) Knowingly and willfully giving any material false information  
12 to the licensing authority in connection with an application for a registra-  
13 tion card or a renewal or reinstatement of a registration card or in the  
14 submission of any material fact to the licensing authority.

15 (4) Been convicted in any jurisdiction of a felony, a crime involving  
16 moral turpitude, or illegally using or possessing a dangerous weapon,  
17 for any of which a full pardon (or similar relief) has not been granted.

18 (b) Prior to denial, suspension, or revocation of a registration card,  
19 the licensing authority shall promptly notify the registrant and the employ-  
20 er with whom the cardholder is employed of the proposed action setting  
21 forth in reasonable detail the grounds for denial, suspension, or revoca-  
22 tion. The registrant may request a hearing in the same manner and in  
23 accordance with the same procedures as that provided in Section 24(b).

24 (c) In the event that the licensing authority denies, suspends, or re-  
25 vokes a registration card, the cardholder, upon receipt of the notice of  
26 denial, suspension, or revocation, shall immediately cease to perform the  
27 duties of an armed private security officer.

28 (d) Both the cardholder and the employer shall be notified by the  
29 licensing authority of final action to deny, suspend, or revoke a registra-  
30 tion card.

1 Section 31. [*Renewal of Registration Card—Notification of Changes.*]

2 (a) Registration cards issued by the licensing authority shall be valid  
3 for a period of one year. A registration card renewal form must be filed  
4 by the cardholder with the licensing authority not less than 30 days  
5 prior to the expiration of the card. The fee for renewal of the card shall



6 be [\$5]. The renewal application shall include a statement by the regis-  
7 trant that the registrant continues to meet the qualifications for an armed  
8 private security officer as set forth in Section 27(c). The renewal applica-  
9 tion shall be accompanied by a statement from a certified trainer that the  
10 registrant has satisfactorily completed the prescribed refresher training  
11 required by Section 36. A renewed registration card shall be valid for  
12 one year.

13 (b) The licensing authority may refuse to renew a registration card  
14 for any of the grounds set forth in Section 27(d) and it shall promptly  
15 notify the cardholder of its intent to refuse to renew the license. The  
16 cardholder may, within 15 days after receipt of the notice, request a  
17 hearing on the refusal in the same manner and in accordance with the  
18 same procedure as that provided in Section 24(b).

19 (c) Licensees and employers subject to this act shall notify the  
20 licensing authority within 10 days after the death or termination of em-  
21 ployment of any of its employees who are registrants.

22 (d) Licensees and employers subject to this act shall immediately  
23 notify the licensing authority upon receipt of information relating to a  
24 registrant's continuing eligibility to hold a card under the provisions  
25 of this act.

1 Section 32. *[Transferability of Registration Cards.]*

2 (a) In the event that a registrant terminates employment with one  
3 employer and is reemployed within five business days as an armed private  
4 security officer with another employer, the registrant shall within 24  
5 hours of reemployment submit to the licensing authority a notice of the  
6 change on a form prescribed by the licensing authority, together with a  
7 transfer fee of [\$5]. The licensing authority shall issue a new registration  
8 card reflecting the name of the new employer. Upon receipt of the new  
9 card, the registrant must immediately return the old card to the licensing  
10 authority. The registrant may continue to work as an armed private  
11 security officer for the new employer while the licensing authority is  
12 processing the application.

13 (b) A registrant who terminates employment and who is not reem-  
14 ployed as an armed private security officer within five business days  
15 shall, within 24 hours of the fifth business day, surrender the registration  
16 card to the employer. The employer shall return the cancelled registration  
17 card to the licensing authority within five business days by placing it in  
18 the U.S. mail addressed to the licensing authority. If the registrant fails  
19 to surrender the card as required by this subsection, the employer shall  
20 notify the licensing authority of that fact within 10 business days after  
21 the registrant terminated employment.

22 (c) Any individual who changes his permanent residence to this State  
23 from any other State which the licensing authority determines has selec-  
24 tion, training, and all other similar requirements at least equal to those  
25 required by this act, and who holds a valid registration, commission,

26 identification, or similar card issued by that State through a licensee  
27 which is licensed by that State and who wishes to continue to be employed  
28 by that licensee, may apply for a registration card on a form prescribed  
29 by the licensing authority upon payment of a processing fee of [\$5] and  
30 certification by the licensee that the individual has completed the training  
31 prescribed by that State. The licensing authority shall issue the individual  
32 a registration card.

33 (d) A registration card issued by any other State of the United States  
34 shall be valid in this State for a period of 90 days, provided the registrant  
35 is on temporary assignment for the employer shown on his registration  
36 card.

1 Section 33. [*Expiration and Renewal during Suspension of Use of a*  
2 *Registration Card.*] A registration card shall be subject to expiration and  
3 renewal during the period in which the holder of the card is subject to  
4 an order of suspension.

1 Section 34. [*Activities of Registrants during Suspension of Use of a*  
2 *Registration Card.*] After a registrant has received a notice of suspension  
3 or revocation of his registration card, the individual shall not perform the  
4 duties of an armed private security officer unless specifically authorized  
5 to do so by order of the licensing authority or by [a court of competent  
6 jurisdiction within the State].

1 Section 35. [*Firearms.*]

2 (a) It shall be unlawful for any person performing the duties of an  
3 armed private security officer to carry a firearm in the performance of  
4 those duties without having first been issued a registration card by the  
5 licensing authority.

6 (b) A registration card will grant authority to the holder, while in the  
7 performance of his duties, to carry a standard police .38 caliber handgun  
8 or any other firearm approved by the licensing authority not otherwise  
9 prohibited by any state law and with which the registrant has met the  
10 training requirements of Section 36. The use of any firearm not approved  
11 by the licensing authority is prohibited.

12 (c) The registrant must be in possession of the registration card when  
13 carrying a firearm and shall exhibit it upon request. Registration cards  
14 shall authorize possession of an approved firearm only when the regis-  
15 trant is on duty or traveling directly to and from work.

16 (d) All firearms carried by authorized armed private security officers  
17 in the performance of their duties shall be owned by the employer and,  
18 if required by law, shall be fully registered with the proper agency or  
19 government. Personally owned weapons will not be carried by armed  
20 private security officers in the performance of their duties.

1 Section 36. [*Armed Private Security Officer Training Requirements.*]

2 (a) Prior to being issued a registration card, all armed private security  
3 officers shall receive at least eight hours of general training as prescribed  
4 by the licensing authority and be required to successfully pass an examina-  
5 tion on the prescribed material which includes the following topics:

- 6 (1) Orientation: two hours.
- 7 (2) Legal powers and limitations of a security officer: two hours.
- 8 (3) Emergency procedures: two hours.
- 9 (4) General duties: two hours.

10 (b) All armed private security officers shall also receive firearms  
11 training before being issued a firearm. The following minimum firearms  
12 preassignment training shall be required:

13 (1) Pre-issue weapon instruction and successful examination,  
14 including the following topics:

- 15 (i) Legal limitations on use of weapons.
- 16 (ii) Handling of a weapon.
- 17 (iii) Safety and maintenance.

18 (2) Minimum marksmanship qualification requirement: a minimum  
19 of 60 percent on any approved silhouette target course prescribed by the  
20 licensing authority.

21 (c) All armed private security officers must complete an annual eight-  
22 hour refresher course in the subjects prescribed by subsection (a) of this  
23 section and be requalified in the use of firearms prior to applying for a  
24 renewal registration card under the provisions of Section 31.

25 (d) Upon a registrant's completion of any training required in this  
26 section, the licensee, registrant, or employer shall furnish to the licensing  
27 authority a written notice of such completion signed by a certified trainer.

28 (e) All training required by this act shall be administered by a certified  
29 trainer who is approved by the licensing authority and meets the following  
30 minimum qualifications:

- 31 (1) Is of legal majority age.
- 32 (2) Has a minimum of one year supervisory experience with a  
33 contract security company, proprietary security organization, or with any  
34 federal, U.S. military, state, county, or municipal law enforcement agency.
- 35 (3) Is personally qualified to teach the training required by  
36 this act.

37 (f) The certified trainer may, at his discretion, instruct personally or  
38 use a combination of personal instruction, audio, and/or visual training  
39 aids. The certified trainer shall have authority to appoint one or more  
40 instructors to assist in the implementation of the training program.

1 Section 37. [*Employment by Nonlicensees.*] It is unlawful, as pro-  
2 vided in Section 42, for any person, other than a licensee, to employ an  
3 armed private security officer unless prior to employment that person  
4 shall notify the licensing authority on a form prescribed by the licensing  
5 authority of his intent to employ an armed private security officer; desig-  
6 nate an individual who will be responsible for the compliance with the

7 applicable provisions of this act on behalf of the officer; furnish the  
8 licensing authority with evidence of insurance required by Section 41;  
9 and furnish other information as the licensing authority may require.

1 Section 38. [*Fingerprinting and Application.*]

2 (a) Except as otherwise provided in this act, no person shall perform  
3 the duties of an unarmed private security officer without having first sub-  
4 mitted two sets of classifiable fingerprints to his employer and having  
5 completed an employment application on a form approved by the licens-  
6 ing authority.

7 (b) On or before the date an unarmed private security officer begins  
8 employment, the employer must submit the employee's fingerprints and  
9 the application to the licensing authority. The licensing authority shall  
10 compare or request that [the appropriate state agency] compare the finger-  
11 prints filed with the application to fingerprints filed with [the division of  
12 criminal identification, records and statistics of the state department of  
13 corrections, or its equivalent]. The licensing authority [or the state agency  
14 comparing the fingerprints] shall also submit the fingerprints to the  
15 Federal Bureau of Investigation for a search of the fingerprint files of  
16 that agency.

17 (c) The application for an identification card shall be accompanied  
18 by a [\$5] fee.

19 (d) Within 30 days after an employment application and fingerprints  
20 have been submitted by an employer, the licensing authority shall inform  
21 the employer of any criminal conviction data resulting from the records  
22 search.

23 (e) No person may employ an individual as an unarmed private securi-  
24 ty officer if the individual has been convicted in any jurisdiction of any  
25 felony or of any crime involving moral turpitude or illegally using or  
26 possessing a dangerous weapon, for any of which a full pardon (or similar  
27 relief) has not been granted.

1 Section 39. [*Identification Card.*]

2 (a) The licensing authority shall issue an identification card for every  
3 individual who has been subjected to a criminal history records check and  
4 does not have a conviction for a felony or any crime as stated in Section  
5 38(d). The identification card will be sent to the employer submitting the  
6 fingerprint records and the card will then be issued to the employee if he  
7 is still employed. Identification cards issued by the licensing authority  
8 under this subsection shall be carried by that individual while performing  
9 his duties and shall be exhibited upon request.

10 (b) In the event that a holder of an identification card terminates  
11 employment with one employer and is reemployed within five business  
12 days as an unarmed private security officer with another employer, the  
13 holder shall within 24 hours of such reemployment submit to the licensing  
14 authority a notice of the change on a form prescribed by the licensing

**CONTINUED**

**1 OF 2**

15 authority together with a transfer fee of [\$5]. The licensing authority  
16 shall issue a new identification card reflecting the name of the new employ-  
17 er. Upon receipt of that new card, the holder must immediately return the  
18 old card to the licensing authority. The holder may continue to work as an  
19 unarmed private security officer for the new employer while the licensing  
20 authority is processing the application.

21 (c) The holder of an identification card who terminates employment  
22 and who is not reemployed as an unarmed private security officer within  
23 five business days shall, within 24 hours of the fifth business day, surrend-  
24 er the identification card to the employer. The employer shall return the  
25 cancelled identification card to the licensing authority within five business  
26 days by placing the card in the U.S. mail addressed to the licensing  
27 authority. If the holder fails to surrender the card as required by this  
28 subsection, the employer shall notify the licensing authority of that fact  
29 within 10 business days after the holder has terminated employment.

1 Section 40. *[Uniforms and Equipment.]*

2 (a) No individual, while performing the duties of an armed or unarmed  
3 private security officer, shall wear or display any badge, insignia, device,  
4 shield, patch or pattern which shall indicate or tend to indicate that he  
5 is a sworn peace officer or which contains or includes the word "police"  
6 or the equivalent thereof, or is similar in wording to any law enforcement  
7 agency in this State.

8 (b) No person, while performing any private security services, shall  
9 have or utilize any vehicle or equipment displaying the words "police,"  
10 "law enforcement officer," or the equivalent thereof, or have any sign,  
11 shield, marking, accessory, or insignia that may indicate that such vehicle  
12 is a vehicle of a public law enforcement agency.

13 (c) If a private security officer is required to wear a uniform, it shall  
14 be furnished by the employer. All military or police-style uniforms, except  
15 for rainwear or other foul weather clothing, shall have affixed:

16 (1) Over the left breast pocket on the outermost garment and on  
17 all caps worn by such persons, badges, distinct in design from those  
18 utilized by law enforcement agencies within the State and approved by  
19 the licensing authority.

20 (2) Over the right breast pocket on the outermost garment a plate  
21 or tape of the size 5" x 1" with the words "Security Officer."

22 (d) An employer may require a reasonable deposit to secure the return  
23 of the uniform, weapon, or any equipment provided by the employer.

1 Section 41. *[Insurance Requirements.]* All licensees and employers  
2 of armed private security officers shall file with the licensing authority a  
3 certificate of insurance evidencing comprehensive general liability  
4 coverage for bodily injury, personal injury, and property damage with  
5 endorsements for assault and battery and personal injury, including false  
6 arrest, libel, slander, and invasion of privacy in the amount of [\$3,000]

7 for bodily or personal injury and [\$100,000] for property damage. Licen-  
8 sees shall also file endorsements for damage to property in their care,  
9 custody, and control, and for errors and omissions. Licensees and employ-  
10 ers of armed private security officers shall also file a certificate of Work-  
11 men's Compensation Insurance as required by the statutes of this State.  
12 The certificates shall provide that the insurance shall not be modified or  
13 cancelled unless 10 days' prior notice shall be given to the licensing  
14 authority. All persons required to be insured by this act must be insured  
15 by a carrier licensed in the State in which the insurance has been pur-  
16 chased or in this State.

1 Section 42. [Unlawful Acts.]

2 (a) It is unlawful for any person to knowingly commit any of the  
3 following:

4 (1) Provide contract security services without possessing a valid  
5 license.

6 (2) Employ any individual to perform the duties of an armed private  
7 security officer who is not the holder of a valid registration card or to  
8 employ any individual to perform the duties of an unarmed private  
9 security officer who has not filed an application for an identification  
10 card as required by Section 38.

11 (3) Publish any advertisement, letterhead, circular, statement, or  
12 phrase of any sort which suggests that the licensee is an official police  
13 agency or any other agency, instrumentality, or division of this State or  
14 any of its political subdivisions or of the federal government.

15 (4) Issue any badge or shield not in conformance with this act.

16 (5) Designate an individual as other than a private security officer.

17 (6) Knowingly make any false statement or material omission in  
18 any application filed with the licensing authority.

19 (7) Falsely represent that the person is the holder of a valid license  
20 or registration.

21 (8) Violate any provision of this act or any rule or regulation of the  
22 licensing authority.

23 (b) It is unlawful for any private security officer to knowingly commit  
24 any of the following:

25 (1) Fail to return immediately on demand or within 24 hours of  
26 termination of employment a firearm issued by an employer. Violation of  
27 this provision shall constitute a felony.

28 (2) To carry a firearm in the performance of his duties if not the  
29 holder of a valid registration card. Violation of this provision will consti-  
30 tute a felony.

31 (3) Fail to return immediately on demand or within seven days of  
32 termination of employment any uniform, badge, or other item of equip-  
33 ment issued to the private security officer by an employer.

34 (4) Make any statement which would reasonably cause another  
35 person to believe that the private security officer functions as a sworn

36 peace officer or other official of this State or of any of its political sub-  
37 divisions or agency of the federal government.

38 (5) Fail to comply with the regulations issued by the licensing  
39 authority or with any other requirements under the provisions of this act.

40 (6) Divulge to anyone other than his employer or to such persons  
41 as his employer may direct as may be required by law any information  
42 acquired during such employment that may compromise the security of  
43 any premises to which he shall have been assigned by the employer.

44 (7) Fail to return to the employer or the licensing authority a regis-  
45 tration card or identification card as required by the provisions of this act.

46 (8) Possess a license, registration card, or identification card issued  
47 to another person.

48 (9) Use any badge or shield not in conformance with this act.

49 (c) The violation of any of the provisions of this section, unless other-  
50 wise specified, shall constitute a misdemeanor punishable by a fine of  
51 not more than [\$1,000] or up to one year of imprisonment, or both. The  
52 licensing authority is also authorized to suspend or revoke a license,  
53 registration card, or identification card issued under this act.

1 Section 43. [Sworn Police Officer.] Any individual who is regularly  
2 employed as a sworn police officer and who also is employed as an armed  
3 or unarmed private security officer must comply with the requirements of  
4 this act.

1 Section 44. [Fees and Deposits.] Any fees payable by a registrant  
2 under this act and paid by a licensee on the registrant's behalf, or any  
3 deposits which may be required by licensee from a registrant under this  
4 act, may be deducted from any wages payable to the registrant by the  
5 licensee, provided that such deduction does not reduce the hourly wage  
6 below the applicable minimum wage law.

1 Section 45. [Local Government Regulation of Contract Security Com-  
2 panies or Private Security Officers.]

3 (a) From and after the effective date of this act, no governmental  
4 subdivision of this State shall enact any legislation, code, or ordinance, or  
5 promulgate any rules or regulations relating to the licensing, training, or  
6 regulation of contract security companies or individuals functioning as  
7 private security officers, armed or unarmed, other than the imposition of  
8 a bona fide business tax.

9 (b) Upon the effective date of this act, any provision of any legislation,  
10 code, or ordinance, or rules promulgated by any local governmental  
11 subdivision of this State relating to the licensing, training, or regulation  
12 of contract security companies or individuals functioning as private  
13 security officers, armed or unarmed, shall be deemed superseded by this  
14 act.



1 Section 46. [*Judicial Review.*]

2 (a) Any person aggrieved by any final action of the licensing authority  
3 under this act shall have the right to judicial review by [a court of compe-  
4 tent jurisdiction] within the State.

5 (b) In proceedings in any court pursuant to the provisions of this act,  
6 trial shall be de novo. When a court has acquired jurisdiction, all adminis-  
7 trative action taken prior thereto shall be stayed, except as provided in  
8 Section 34. The rights of the parties shall be determined by the court  
9 upon a trial of the matter or matters in controversy under rules governing  
10 the trial of other civil suits in the same manner and to the same extent as  
11 if the matter had been committed to the court in the first instance and  
12 there had been no intervening administrative or executive action or  
13 decision.

1 Section 47. [*Reciprocity.*] Full reciprocity shall be accorded to armed  
2 and unarmed private security officers who are properly registered and  
3 certified in another State having selection and training requirements at  
4 least equal to the requirements of this State when the duties of these  
5 individuals require them to operate across state lines.

1 Section 48. [*Severability.*] [Insert severability clause.]

1 Section 49. [*Repeal.*] [Insert repealer clause.]

1 Section 50. [*Effective Date.*] [Insert effective date.]

## APPENDIX II

### CITATION AND STATUS OF LEGISLATION SIMILAR TO STANDARDS AND GOALS PROJECT MODEL ACTS

CITATION AND STATUS  
OF LEGISLATION SIMILAR TO STANDARDS  
AND GOALS PROJECT MODEL ACTS\*

STATE	TOPIC AREA	CITATION	STATUS
ALABAMA	Plea Negotia- tion	Rules of Criminal Proce- dures (Proposed)	Under Advisement of Court (Aug. 1977)
CALIFORNIA	Diversion	Chapter 574, California Statutes of 1977	Enacted (Sept. 1977)
COLORADO	Private Secur- ity Personnel	Senate Bill 45, Fifty- first General Assembly	No Action During Session
CONNECTICUT	Plea Negotia- tion	Senate Bill 158, January 1977 Session	No Action
DELAWARE	Diversion	Senate Bill 422, January 1978 Session	Formally Introduced January 1978, No Committee Assignment
	Private Secur- ity Personnel	N/A	Not yet introduced

\* Based on telephone survey of state legislative bill drafting agencies during February and March 1978. Status of legislation is at the time of the survey.

CITATION AND STATUS  
OF LEGISLATION SIMILAR TO STANDARDS  
AND GOALS PROJECT MODEL ACTS\*

STATE	TOPIC AREA	CITATION	STATUS
IOWA	Plea Negotia- tions	Section 8.13.2, Rule 9, Supplement, 1977, Iowa Code	Enacted 1977
KANSAS	Diversion	House Bill No. 3130, 1978 Session	Passed House in February 1978; Pending in Senate Committee (expected to pass)
KENTUCKY	Private Secur- ity Personnel	House Bill No. 104, 1977 Session	Posted to Committee January 1977; No Action
LOUISIANA	Plea Negotia- tions	House Bill No. 238, Regular Session 1977	No Action During Session
MAINE	Private Secur- ity Personnel	Chapter 508 Maine Public Laws	Enacted July 1977
MASSACHUSETTS	Private Secur- ity Personnel	House Bills 165, 166, 168, 169, Senate Bills 891 and 907, 1978 Session	Reported to Committee; No further Action as of March 1978

CITATION AND STATUS  
OF LEGISLATION SIMILAR TO STANDARDS  
AND GOALS PROJECT MODEL ACTS\*

STATE	TOPIC AREA	CITATION	STATUS
MICHIGAN	Private Security Personnel	Senate Bill 906 of 1977 Session	In Committee
	Plea Negotiations	Senate Bill 1067 of 1977 Session	In Committee
MINNESOTA	Private Security Personnel	House File 2392, 1978 Session	On Calendar; No Further Action
MISSISSIPPI	Plea Negotiations	Rule 4.03, Mississippi Uniform Criminal Rules of Circuit Court Procedures	Enacted September 1977
MISSOURI	Private Security Personnel	House Bill 944, 1977 Session	Filed December 1977; Assigned to House Committee on Licenses
NEBRASKA	Private Security Personnel	Legislative Bill 726, Second Session 85th Legislature	Reported out of Committee; General Files as of March 1978

CITATION AND STATUS  
OF LEGISLATION SIMILAR TO STANDARDS  
AND GOALS PROJECT MODEL ACTS\*

STATE	TOPIC AREA	CITATION	STATUS
NEW JERSEY	Diversions	Senate Bill 593, 1978 Session	In Committee
NEW HAMPSHIRE	Private Security Personnel	Chapter 582, Section 106F, New Hampshire Statutes	Enacted September 1977
NORTH DAKOTA	Private Security Personnel	Senate Bill 2089, 1977 Session	Defeated in Senate
OHIO	Diversions	Amended Substitute House Bill 473, 112th General Assembly	Passed, House and Senate; Awaiting Signature of Governor
OREGON	Diversions	House Bill 2247, 1977 Regular Session	Enacted 1977 Session
	Private Security Personnel	Senate Bill 944, 1977 Regular Session	Filed; No Action

CITATION AND STATUS  
OF LEGISLATION SIMILAR TO STANDARDS  
AND GOALS PROJECT MODEL ACTS\*

STATE	TOPIC AREA	CITATION	STATUS
PENNSYLVANIA	Plea Negotiations	None	To be introduced
RHODE ISLAND	Plea Negotiations	77H-5828 1977 Legislative Session	In House Judiciary Committee
SOUTH CAROLINA	Plea Negotiations	House Bill 2617, 1977 Legislative Session	In House Judiciary Committee
	Diversion	Senate Bill 794, February 1978	Filed as of March 1978; No Committee Assignment
TEXAS	Plea Negotiations	Chapter 280, Article 2613, Texas Code of Criminal Procedure	Enacted May 1977
UTAH	Diversion	Senate Bill 266, 1977 Session	No Action during Session

CITATION AND STATUS  
OF LEGISLATION SIMILAR TO STANDARDS  
AND GOALS PROJECT MODEL ACTS\*

STATE	TOPIC AREA	CITATION	STATUS
VERMONT	Plea Negotiations	Vermont Rules of Criminal Procedures; Amendment to Rule 11 a-e	Enacted May 1977
WASHINGTON	Private Security Personnel	Senate Bill 2669, 1977 Session	Defeated by vote of Senate
WISCONSIN	Private Security Personnel	Assembly Bill 26, January 1977	In Committee

**END**