
HOUSE BILL 1189

State of Washington

54th Legislature

1995 Regular Session

By Representatives Robertson, Chappell, Padden, Thompson, Blanton, Sheahan, Basich, McMahan and Dickerson; by request of Washington State Patrol

Read first time 01/17/95. Referred to Committee on Law and Justice.

1 AN ACT Relating to dissemination of criminal history information;
2 and amending RCW 43.43.815 and 43.43.839.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 43.43.815 and 1982 c 202 s 1 are each amended to read
5 as follows:

6 (1) Notwithstanding any provision of RCW 43.43.700 through
7 43.43.810 to the contrary, the Washington state patrol shall furnish a
8 (~~transcript of the~~) conviction record, as defined in RCW 10.97.030,
9 pertaining to any person of whom the Washington state patrol has a
10 record upon the written or electronic request of any employer for the
11 purpose of:

12 (a) Securing a bond required for any employment;

13 (b) Conducting preemployment and postemployment evaluations of
14 employees and prospective employees who, in the course of employment,
15 may have access to information affecting national security, trade
16 secrets, confidential or proprietary business information, money, or
17 items of value; or

1 (c) Assisting an investigation of suspected employee misconduct
2 where such misconduct may also constitute a penal offense under the
3 laws of the United States or any state.

4 (2) When an employer has received a conviction record under
5 subsection (1) of this section, the employer shall notify the subject
6 of the record of such receipt within thirty days after receipt of the
7 record, or upon completion of an investigation under subsection (1)(c)
8 of this section. The employer shall make the record available for
9 examination by its subject and shall notify the subject of such
10 availability.

11 (3) The Washington state patrol shall charge fees for disseminating
12 records pursuant to this section which will cover, as nearly as
13 practicable, the direct and indirect costs to the Washington state
14 patrol of disseminating such records.

15 (4) Information disseminated pursuant to this section or RCW
16 43.43.760 shall be available only to persons involved in the hiring,
17 background investigation, or job assignment of the person whose record
18 is disseminated and shall be used only as necessary for those purposes
19 enumerated in subsection (1) of this section.

20 (5) Any person may maintain an action to enjoin a continuance of
21 any act or acts in violation of any of the provisions of this section,
22 and if injured thereby, for the recovery of damages and for the
23 recovery of reasonable attorneys' fees. If, in such action, the court
24 finds that the defendant is violating or has violated any of the
25 provisions of this section, it shall enjoin the defendant from a
26 continuance thereof, and it shall not be necessary that actual damages
27 to the plaintiff be alleged or proved. In addition to such injunctive
28 relief, the plaintiff in the action is entitled to recover from the
29 defendant the amount of the actual damages, if any, sustained by him if
30 actual damages to the plaintiff are alleged and proved. In any suit
31 brought to enjoin a violation of this chapter, the prevailing party may
32 be awarded reasonable attorneys' fees, including fees incurred upon
33 appeal. Commencement, pendency, or conclusion of a civil action for
34 injunction or damages shall not affect the liability of a person or
35 agency to criminal prosecution for a violation of chapter 10.97 RCW.

36 (6) Neither the section, its employees, nor any other agency or
37 employee of the state is liable for defamation, invasion of privacy,
38 negligence, or any other claim in connection with any dissemination of
39 information pursuant to this section or RCW 43.43.760.

1 (7) The Washington state patrol may adopt rules and forms to
2 implement this section and to provide for security and privacy of
3 information disseminated pursuant hereto, giving first priority to the
4 criminal justice requirements of chapter 43.43 RCW. Such rules may
5 include requirements for users, audits of users, and other procedures
6 to prevent use of criminal history record information inconsistent with
7 this section.

8 (8) Nothing in this section shall authorize an employer to make an
9 inquiry not otherwise authorized by law, or be construed to affect the
10 policy of the state declared in RCW 9.96A.010, encouraging the
11 employment of ex-offenders.

12 **Sec. 2.** RCW 43.43.839 and 1992 c 159 s 8 are each amended to read
13 as follows:

14 The fingerprint identification account is created in the custody of
15 the state treasurer. All receipts from incremental charges of
16 fingerprint checks requested (~~by school districts~~) for noncriminal
17 justice purposes and electronic background requests shall be deposited
18 in the account. Receipts for fingerprint checks by the federal bureau
19 of investigation may also be deposited in the account. Expenditures
20 from the account may be used only for the cost of record checks. Only
21 the chief of the state patrol or the chief's designee may authorize
22 expenditures from the account. The account is subject to allotment
23 procedures under chapter 43.88 RCW. No appropriation is required for
24 expenditures prior to July 1, (~~1995~~) 1997. After June 30, (~~1995~~)
25 1997, the account shall be subject to appropriation.

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