

FINAL BILL REPORT

SSB 5899

C 421 L 05

Synopsis as Enacted

Brief Description: Changing provisions relating to background checks.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Kohl-Welles, Brandland and Rasmussen).

Senate Committee on Human Services & Corrections
House Committee on Criminal Justice & Corrections

Background: The Joint Task Force on Criminal Background Check Processes (Task Force) was created by the passage of Engrossed Substitute House Bill 2556 during the 2004 legislative session. The legislation required the Task Force to review and make recommendations regarding how to improve the state's criminal background check processes. The legislation also required the Task Force to report its findings and recommendations to the legislature.

The Task Force held six public meetings in 2004, and made five recommendations. One of the Task Force's recommendations was to simplify statutes concerning the dissemination of background checks and to repeal portions of RCW 43.43, accordingly. The Task Force found that repealing certain portions of RCW 43.43 would simplify the Washington State Patrol's (WSP) administration of background check requests for non-criminal justice purposes. In addition, the Task Force determined that organizations requesting background checks would receive more complete information about applicants for employment or for volunteer service.

Under RCW 10.97, conviction records may be disseminated without restriction. Criminal history record information that pertains to a matter that is pending in the criminal justice system may also be disseminated without restriction under this law.

Under RCW 43.43, the WSP is authorized to disclose criminal history information of applicants and employees to businesses or organizations in Washington that provide services to persons with a developmental disability, vulnerable adults, persons with a mental illness, or children under 16 years of age. The WSP may also release criminal background information to persons with a developmental disability and vulnerable adults who desire to hire their own employees directly. However, under this statute, the information provided is limited to an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation if the victim is a vulnerable adult, adjudications of child abuse in a civil action, and any issuance of a vulnerable adult protection order. If the portions of RCW 43.43 were repealed so the references to specific crimes were eliminated, an organization would still be able to request background check information under RCW 10.97 and would receive information on a particular person's convictions and any charges pending for the last year.

Another problem that was brought to the Task Force's attention is that the WSP often does not receive the administrative decisions and civil findings required by statute. In addition, the Task Force learned that, in order to be compatible with the WSP databases that are used as a basis for performing background checks, records concerning civil verdicts and adverse results of administrative proceedings must include fingerprints. In practice, most civil and administrative decisions reported to the WSP do not include fingerprints and, therefore, cannot be indexed in the WSP's records that serve as a basis for performing background checks.

Summary: If a background check is requested for non-criminal justice purposes, the WSP is required to disseminate all conviction data. The bill eliminates the requirement that, before forwarding the information to the requester in certain cases, the WSP redact all information that is not related to convictions relating to crimes against children, crimes relating to drugs, and crimes relating to financial exploitation.

Criminal history information that is disseminated by the Washington State Patrol may contain information on pending charges relating to crimes against a person, as defined in RCW 9.94A.411.

When the WSP disseminates conviction record information in response to a request under RCW 43.43.832, it must notify the recipient that the information does not include information on civil adjudications, administrative findings, or disciplinary board final decisions and that all such information must be obtained from the courts and licensing agencies. In addition, the notice must state that the conviction record that is being disseminated includes information on pending charges relating to only crimes against a person as defined in RCW 9.94A.411. Finally, the notice must state that an arrest is not a conviction or a finding of guilt.

The requirement that disciplinary board final decisions and information regarding dependency matters and domestic relations cases be sent to the WSP is eliminated.

Rather than asking applicants if they have been convicted of certain crimes, businesses requesting background checks must require disclosure of whether the applicant has been convicted of any crime or if there have been findings against them in civil adjudications involving domestic violence, abuse, sexual abuse, neglect, exploitation, or financial exploitation of a child or a vulnerable adult.

Prosecuting attorneys must inform the WSP about guilty pleas and convictions of certain crimes. The WSP must then inform the Office of Superintendent of Public Instruction, which will then determine if such persons hold a teaching certificate or similar permit.

The Secretary of the Department of Social and Health Services (DSHS) is authorized to establish rules and set standards when considering conviction records and information on certain civil adjudications.

Votes on Final Passage:

Senate	46	0	
House	90	6	(House amended)
Senate	45	0	(Senate concurred)

Effective: July 24, 2005