

SENATE BILL REPORT

SHB 2215

As Reported By Senate Committee On:
Human Services & Corrections, March 31, 2005

Title: An act relating to background checks.

Brief Description: Changing provisions relating to background checks.

Sponsors: House Committee on Criminal Justice & Corrections (originally sponsored by Representatives B. Sullivan and Ahern).

Brief History: Passed House: 3/09/05, 97-0.

Committee Activity: Human Services & Corrections: 3/24/05, 3/31/05 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, McAuliffe and Thibaudeau.

Staff: Kiki Keizer (786-7430)

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 of Amended Bill: If a background check is requested for non-criminal justice purposes, the WSP is required to disseminate all conviction data but may not disseminate information on charges that have been pending for the past year. 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.

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.

The prosecuting attorney must notify the Superintendent of Public Instruction if a person employed by a school district pleads guilty to certain offenses. The requirement that the prosecutor notify the WSP, who must then notify the Superintendent of Public Instruction, is eliminated.

The secretary of DSHS is authorized to establish rules and set standards when considering conviction records and information on certain civil adjudications.

The Washington State Patrol must include a notice on the conviction records that it disseminates under RCW 43.43, informing persons that the conviction data does not include information about civil adjudications, administrative findings, or disciplinary board final decisions, all of which must be obtained from the courts and licensing agencies.

Amended Bill Compared to Original Bill: The Washington State Patrol may not disseminate information on charges that have been pending for the past year. The Washington State Patrol must include a notice on the conviction records that it disseminates under RCW

43.43, informing persons that the conviction data does not include information about civil adjudications, administrative findings, or disciplinary board final decisions, all of which must be obtained from the courts and licensing agencies.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: It is a good idea to have consistent dissemination of criminal history information throughout the state so that all organizations and individuals get the same information when they request a background check. It also makes sense to simplify the statutes in this area. The possibility of eliminating the dissemination of information on pending criminal charges could adversely affect nursing homes, in particular, when they check the backgrounds of applicants for employment.

If health care providers cannot get information on administrative and civil decisions through checking the Washington State Patrol's database, then perhaps the statute should be changed so that health care providers are not required to get that information. Such information is currently available only if the person doing the background check looks at a number of different sources. It would be better to centralize information from disciplinary boards, administrative law judges, and civil courts.

Testimony Against: None.

Who Testified: Steve Young, Department of Social and Health Services; Robb Menaul, Washington State Hospital Association; Fred Fakkema, Washington State Patrol; Mary Neff, Washington State Patrol; Jeff Crollard, Washington State Long-Term Care Ombudsman's office.