

# HOUSE BILL REPORT

## HB 1326

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**As Passed House:**

February 5, 2007

**Title:** An act relating to record checks for employees and applicants for employment at bureau of Indian affairs-funded schools.

**Brief Description:** Authorizing record checks for employees and applicants for employment at bureau of Indian affairs-funded schools.

**Sponsors:** By Representatives P. Sullivan, Roach, Hurst, Simpson, McCoy, O'Brien and McDonald.

**Brief History:**

**Committee Activity:**

State Government & Tribal Affairs: 1/23/07, 1/24/07 [DP].

**Floor Activity:**

Passed House: 2/5/07, 95-0.

**Brief Summary of Bill**

- Allows the Bureau of Indian Affairs-funded schools to request record checks through the Washington State Patrol on employees and applicants using the same processes as school districts and Educational Service Districts.

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**HOUSE COMMITTEE ON STATE GOVERNMENT & TRIBAL AFFAIRS**

**Majority Report:** Do pass. Signed by 9 members: Representatives Hunt, Chair; Appleton, Vice Chair; Chandler, Ranking Minority Member; Armstrong, Assistant Ranking Minority Member; Green, Kretz, McDermott, Miloscia and Ormsby.

**Staff:** Colleen Kerr (786-7168).

**Background:**

Washington State Patrol Background Checks.

Public and private schools are allowed access to employee and applicant criminal records under the Criminal Records Privacy Act (Privacy Act) and the Child and Adult Abuse

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Information Act (Information Act). These statutes authorize the Washington State Patrol to release criminal history information to non-criminal justice entities.

Under the Privacy Act, any person may request a record of convictions. These records are released without restriction and without notice to the subject of the record. The records released include all Washington convictions and any arrests within the past year, if the disposition of the arrest is still pending.

Under the Information Act, only certain entities may request information. These agencies include:

- businesses or organizations licensed in Washington;
- state agencies; and
- any other government entities that, among other things, educate children under 16 years of age.

The records released under the Information Act are broader than those released to the general public and include criminal convictions as well as:

- Department of Health disciplinary decisions regarding physical or sexual abuse of a child; and
- civil adjudications of child abuse.

#### Background Check Requirements for Tribally Controlled Schools.

In 1990, Congress passed the Federal Indian Child Protection and Family Violence Prevention Act (Act) to protect children on Indian reservations. Under the Act, every tribally controlled school that receives federal funding must conduct background investigations of each employee or volunteer who has regular contact with or control over Indian children. The background investigation must cover the preceding five year period. Further, every tribal school employee who has regular contact with or control over Indian children must be reinvestigated every five years.

The tribal school must deny employment or dismiss any employee with control over or contact with children if the employee has been found guilty of or entered a plea of guilty or nolo contendere to any federal, state, or tribal offense involving a crime of: (1) violence, (2) sexual assault, (3) sexual molestation, (4) child exploitation, (5) sexual contact, (6) prostitution, or (7) crimes against persons.

Under the Act, tribal schools may conduct their own investigations, contract with a private firm, or request that the U.S. Office of Personnel Management conduct the investigation. Washington tribal schools check records of prospective employees in various ways: some contract with local public school districts to run the tribal school's checks, while others have asked the Office of the Superintendent of Public Instruction.

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#### **Summary of Bill:**

Washington State Patrol record checks are authorized for the Bureau of Indian Affairs-funded school employees and applicants for employment using the same processes as used by school districts and Educational Service Districts. The costs of running such checks will be paid for by the requesting school.

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**Appropriation:** None.

**Fiscal Note:** Not requested.

**Effective Date:** The bill takes effect 90 days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:**

(In support) Legislators often say this is a good little bill, or this is a simple bill. This bill is both good and simple. Last year it passed the House and was scheduled for the floor the last day of the Senate, but just didn't make it through. This year we hope it will. Indian tribal schools are in a variety of urban and rural settings and like state schools they need to go after "bad actors." This is really just a good idea that protects kids. We ask you to move the bill. Please provide that the First People's Language and Culture program is also allowed to request records checks under this law.

(Opposed) None.

**Persons Testifying:** Representative Sullivan, prime sponsor; Mike Moran, Hoh and Samamish Indian Tribes; and Lee Adolph, Colville Tribes.

**Persons Signed In To Testify But Not Testifying:** None.