

HOUSE BILL REPORT

SHB 1949

As Passed House:
March 6, 2019

Title: An act relating to conducting a feasibility study to examine and make recommendations regarding the establishment of a single point of contact firearm background check system.

Brief Description: Conducting a feasibility study to examine and make recommendations regarding the establishment of a single point of contact firearm background check system.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Hansen, Irwin, Griffey, Kilduff and Graham).

Brief History:

Committee Activity:

Civil Rights & Judiciary: 2/19/19, 2/22/19 [DPS];

Appropriations: 2/26/19, 2/27/19 [DPS(CRJ)].

Floor Activity:

Passed House: 3/6/19, 97-0.

Brief Summary of Substitute Bill

- Requires a feasibility study to consider and make recommendations regarding the establishment of a single point of contact firearms background check system in Washington.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Jinkins, Chair; Thai, Vice Chair; Irwin, Ranking Minority Member; Dufault, Assistant Ranking Minority Member; Goodman, Graham, Hansen, Kilduff, Kirby, Klippert, Orwall, Shea, Valdez, Walen and Ybarra.

Staff: Edie Adams (786-7180).

HOUSE COMMITTEE ON APPROPRIATIONS

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Majority Report: The substitute bill by Committee on Civil Rights & Judiciary be substituted therefor and the substitute bill do pass. Signed by 30 members: Representatives Ormsby, Chair; Bergquist, 2nd Vice Chair; Robinson, 1st Vice Chair; Stokesbary, Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Rude, Assistant Ranking Minority Member; Caldier, Chandler, Cody, Dolan, Dye, Fitzgibbon, Hansen, Hoff, Hudgins, Jinkins, Kraft, Mosbrucker, Pettigrew, Pollet, Ryu, Schmick, Senn, Stanford, Steele, Sullivan, Sutherland, Tarleton, Tharinger and Ybarra.

Staff: Jordan Clarke (786-7123).

Background:

Under the federal Brady Handgun Violence Prevention Act, a licensed dealer must, with few exceptions, conduct a background check on all firearms transfers to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS). The NICS check includes a check of three major databases: the National Crime Information Center; the Interstate Identification Index; and the NICS index. If the purchaser is not a United States citizen, the NICS check will include a check of the Bureau of Immigration and Customs Enforcement records.

When the NICS became operational in 1998, the Federal Bureau of Investigation (FBI) requested each state to designate themselves as either a full point of contact (POC) state, a partial POC state, or a non-POC state. Washington opted to act as a partial POC state, which means that the NICS check for pistol transfers is conducted by the state and the NICS check for long gun transfers is conducted by the firearms dealer.

Local law enforcement agencies serve as the partial POC for licensed dealers in conducting the NICS checks for pistol transfers. In addition to the NICS check, the local law enforcement agency must also conduct a background check required under state law. The state background check includes a check of the Washington State Patrol's databases, the Department of Licensing firearms database, local records management systems, state and local mental health agencies, and other agencies or resources as appropriate.

According to the FBI, Washington is one of seven states that are partial POC states. Thirteen states serve as full POC states (also called single POC states), meaning that the licensed dealer contacts the state for all firearm background checks, including background checks required for firearms permits. Thirty-six states and territories are non-POC states in which the dealer contacts the NICS for all firearms transfers.

Summary of Substitute Bill:

Subject to the availability of amounts appropriated for this purpose, the Office of Financial Management (OFM) must conduct a feasibility study and make recommendations regarding the establishment of a single point of contact (POC) system for firearm background checks. The OFM may contract with an independent expert to assist with the study, which must consider and make recommendations regarding:

- whether or not public safety could be improved by implementing a single POC system;
- whether a single POC system would more effectively keep prohibited persons from obtaining firearms while continuing to respect a person's constitutional right to bear arms;
- whether a single POC system would simplify the background check process for those purchasing firearms, firearms dealers, and law enforcement agencies;
- the feasibility of creating a single POC system within the Washington State Patrol or the Washington Association of Sheriffs and Police Chiefs, creating a new agency for this purpose, or a combination of these options;
- what computer system improvements would need to be made to most effectively and efficiently administer a single POC system; and
- the approximate cost to establish a single POC system, and the approximate annual cost to operate such a system.

The OFM must submit a final report to the Governor and appropriate committees of the Legislature by December 1, 2019.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Civil Rights & Judiciary):

(In support) A bipartisan group began looking at the state's background check system a year ago. The question being asked is whether the system is working as well as it can from the perspective of both public safety and respecting the constitutional right to bear arms. The initial idea was to streamline the system so that local law enforcement agencies would no longer have to conduct these checks. However, this is a complicated system, and there are a number of questions that need answers before this change should proceed.

The need to look at a new background check system is highlighted by the recent decision by the federal government to no longer allow the National Instant Criminal Background Check System (NICS) check for pistol transfers for concealed pistol license holders. The result of this decision is that it is more difficult to have a background check completed in real-time. A single point of contact solution can effectively and safely allow for transfers in real-time. The current delay negatively affects constitutional rights.

There are a number of challenges with Washington's current background check system. The federal government does not recognize some state disqualifiers, so a NICS check on a long gun transfer would not disqualify the person. This is a big problem from a public safety perspective. Law enforcement agencies will face an increased workload due to the passage of Initiative 1639. Firearms dealers have challenges navigating the system because they must transfer applications to the agency where the purchaser lives, not where the dealer is located. This can result in a delay in the process that impacts the 10-day limit for conducting

the check. This bill will help Washington develop a new system so that all parties will see improvements.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) There is an impressively diverse group of stakeholders on this issue that all support the bill. The question this bill gets at is: "Is there a better way that the state can structure its firearms background check system?" And the answer is, "It depends." With pistols, it depends on whether the person has a concealed pistol license. With long guns, it depends on how the firing mechanism works. It is confusing for purchasers, gun dealers, and law enforcement. There are also different rules applied depending on whether a local law enforcement agency or the Federal Bureau of Investigation does the background check. This is particularly true for extreme risk protection orders in this state. These answers should be uniform. These are legitimate questions to ask, and the bill should move forward.

(Opposed) None.

Persons Testifying (Civil Rights & Judiciary): Representative Hansen, prime sponsor; Representative Irwin; and James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Testifying (Appropriations): James McMahan, Washington Association of Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying (Civil Rights & Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.