

HOUSE BILL REPORT

ESHB 2220

As Passed House:
February 19, 2020

Title: An act relating to parental involvement through volunteering in schools after a criminal conviction.

Brief Description: Volunteering in schools after a criminal conviction.

Sponsors: House Committee on Education (originally sponsored by Representatives Dolan, Callan, Ortiz-Self, Ryu, Appleton, Valdez, Frame, Davis, Ormsby, Irwin, Wylie, Doglio, Santos and Peterson).

Brief History:

Committee Activity:

Education: 1/13/20, 2/4/20 [DPS].

Floor Activity:

Passed House: 2/19/20, 82-16.

Brief Summary of Engrossed Substitute Bill

- Requires that public secondary and elementary schools, and their contractors, require criminal history record checks for prospective volunteers, with different types of record checks required for volunteers with or without unsupervised access to minors and persons with developmental disabilities.
- Specifies that criminal history record checks for volunteers must be paid by or reimbursed by the Office of the Superintendent of Public Instruction.
- Directs public secondary and elementary schools to perform a review of the criminal history of prospective volunteers who are parents, grandparents, guardians, or legal custodians of enrolled students, and to provide a process for appealing application denials to a school's governing body.

HOUSE COMMITTEE ON EDUCATION

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist, Callan, Ortiz-Self, Stonier, Thai and Valdez.

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.

Minority Report: Do not pass. Signed by 7 members: Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Caldier, Corry, Rude and Ybarra.

Minority Report: Without recommendation. Signed by 1 member: Representative Harris.

Staff: Megan Wargacki (786-7194).

Background:

School districts, educational service districts, the Center for Childhood Deafness and Hearing Loss, the State School for the Blind, Federal Bureau of Indian Affairs–funded schools, charter schools, and state-tribal compact schools (collectively referred to as schools), and contractors of these schools hiring employees who will have regularly scheduled unsupervised access to children or persons with developmental disabilities must require a criminal history record check through the Washington State Patrol (WSP) and the Federal Bureau of Investigation (FBI) that includes a fingerprint check.

Schools may, but are not required to, perform fingerprint records checks through the WSP and the FBI for prospective volunteers who will have regularly scheduled unsupervised access to minors or developmentally disabled persons, when involvement with the school will or may involve access to groups of five or fewer children under 12 years of age, groups of three or fewer children between 12 and 18 years of age, or persons with developmental disabilities. In this context, "unsupervised" means not in the presence of another volunteer from the same school nor in the presence of any relative or guardian of the minors or persons with developmental disabilities that the prospective volunteer has access to.

Schools request records checks through the WSP and the FBI from the Office of the Superintendent of Public Instruction (OSPI). The WSP and FBI send the fingerprint record check results back to the OSPI. The results reside in a secure database that designated school staff can access online.

A school district may request that a prospective volunteer who has completed a fingerprint record check through the WSP and the FBI within the previous two years provide a copy of the record check in lieu of completing a new record check. However, the prospective volunteer must sign a disclosure statement indicating that there has been no conviction since the completion date of the most recent criminal history record check.

Summary of Engrossed Substitute Bill:

The provisions below apply to the following schools and their contractors (collectively referred to as schools): school districts, educational service districts, Washington Center for Deaf and Hard of Hearing Youth, the state School for the Blind, Federal Bureau of Indian Affairs–funded schools, charter schools, and state-tribal education compact schools.

Required Criminal History Record Checks. Schools must require criminal history record checks for prospective volunteers as follows:

1. for prospective volunteers who will have unsupervised access to minors or persons with developmental disabilities while involved with the school, schools must require a fingerprint record check through the WSP and the FBI; and
2. for prospective volunteers who will not have unsupervised access to minors or persons with developmental disabilities while involved with the school, schools must, at a minimum, require a name and birthdate record check through the WSP.

The cost of criminal history record checks for prospective volunteers must be paid by or reimbursed by the OSPI.

Criminal History Reviews. Schools must notify prospective volunteers who are parents, grandparents, guardians, and legal custodians of students enrolled at the school (collectively referred to as parents) about the process for submitting documents and statements related to application review and approval.

When a criminal history record check reveals that a parent has a criminal history, the school must complete a criminal history review. When performing a criminal history review a school must consider the length of time since the commission of the last crime for which the parent pled guilty or was convicted, and whether any crime involved a minor child victim. In addition, the school may consider: (a) the age of the parent on the date of the commission of the last crime for which the parent pled guilty or was convicted; (b) whether the parent has been approved by a state agency to have unsupervised access to minors or persons with developmental disabilities; and (c) whether providing limited access to minors and to persons with developmental disabilities within a teacher's classroom would give the parent the opportunity to have meaningful involvement in the school.

Within five days of denying the volunteer application of a parent, the school must notify the parent of the school's decision, state specific reasons for the denial, and provide the procedure for appealing the school's decision to the school's governing body.

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:

(In support) It hurts children when their parents are not fully allowed to participate in school activities. Some parents are barred from volunteering in their children's classrooms because of prior criminal convictions. Some of these parents, who were in trouble for using alcohol or drugs or for theft related to alcohol or drug use, have spent years negotiating their way back to a normal life. Many parents and their children experience great joy from being involved in school activities. There is no reason to deny this opportunity to parents who have already paid for their prior actions.

It is important to end cycles of generations of poverty, substance use disorder, and incarceration. There are disparities between school districts related to the volunteer requirements for parents who have a prior criminal conviction and whether it is even allowed. It is important to have adults in the schools to take care of all the needs of students. Adult volunteers help fill this need.

Having a parent involved in their education improves students' outcomes. Formerly incarcerated parents of students with severe disabilities particularly need to be engaged in their students' education. This bill helps address disparities in parent engagement. The practice of excluding parents from supporting their children based on a past action that has no bearing on their present actions in life is wrong. Stop stigmatizing formerly incarcerated parents and hurting their children.

Focusing the policy on the parents, rather than all who have a prior criminal conviction, is the way to start. The process and requirements to obtain a Certificate of Restoration, a vacated conviction, sealed criminal record, or similar, are long and a policy needs to be put in place until a person can obtain one of these documents. That is why it is important that schools consider how long it has been since a parent's last conviction before denying the parent the opportunity to volunteer.

(Opposed) None.

(Other) The Office of the Superintendent of Public Instruction must develop rules about parent appeals from denial. A rules process will add expense. It is unclear about what standard of appeal applies under this bill.

Persons Testifying: (In support) Antonio Ginatta, Columbia Legal Services; Tarra Simmons, Civil Survival Project; Noreen Light; and Roz Thompson, Association of Washington School Principals.

(Other) Dave Mastin, Office of the Superintendent of Public Instruction.

Persons Signed In To Testify But Not Testifying: None.