
Civil Rights & Judiciary Committee

HB 2467

Brief Description: Establishing a centralized single point of contact background check system for firearms transfers.

Sponsors: Representatives Hansen, Irwin, Griffey, Barkis and Wylie.

Brief Summary of Bill

- Requires the Washington State Patrol (WSP) to establish and operate a Firearms Background Check Unit and an automated firearms background check system to serve as a single point of contact for firearms dealers to conduct background checks required under state and federal law.
- Requires firearms dealers to use the state firearms background check system to conduct background checks for all firearms transfers beginning 30 days after the WSP issues a notice to dealers that the system is established.
- Creates the Washington Firearms Background Check Accountability Board to oversee the Firearms Background Check Unit and the operation of the firearms background check system.
- Revises procedures relating to the reporting of denied firearms transfers, effective 30 days after the WSP issues a notification that a state firearms background check system is established.

Hearing Date: 1/17/20

Staff: Edie Adams (786-7180).

Background:

Federal Background Check Laws.

Under the federal Brady Handgun Violence Prevention Act, a federally 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

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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.

State Background Check Laws.

State law requires background checks for all firearms transfers to determine whether the purchaser or transferee is eligible to possess firearms. This requirement applies to all sales or transfers in whole or in part in Washington, including sales and transfers through a dealer, at gun shows, online, and between persons who are not licensed dealers (unlicensed persons). A sale or transfer of a firearm where neither party is a dealer must be completed through a dealer, and the dealer must process the transaction by complying with all federal and state laws that would apply if the dealer were selling or transferring the firearm from the dealer's inventory

Specific requirements apply to the sale or transfer of a pistol or semiautomatic assault rifle, including a requirement that the dealer contact the local law enforcement agency to conduct a state background check for these transfers. In addition to the NICS check, the local law enforcement agency conducts a check of the Washington State Patrol (WSP) databases, the Department of Licensing firearms database, local records management systems, state and local mental health agencies, and other agencies or resources as appropriate.

State law does not require a background check of state databases by local law enforcement for sales or transfers of shotguns or rifles that are not semiautomatic assault rifles. However, the dealer must conduct a NICS check as required under federal law for these transfers to determine whether the person is eligible to possess a firearm.

Denied Firearms Transfers.

Dealers are required to report to the Washington Association of Sheriffs and Police Chiefs (WASPC) each instance where the sale or transfer of a firearm is denied as the result of a background check indicating the applicant is ineligible to possess a firearm. The WASPC reports this information to the local law enforcement agency and to the WSP, which must include the information in its electronic database accessible to law enforcement agencies. The WASPC operates a grant program for local law enforcement agencies to conduct criminal investigations of persons who illegally attempt to obtain a firearm within their jurisdictions. In addition, the WASPC must prepare an annual report on the number of denied firearms sales or transfers reported by firearms dealers.

Single Point of Contact System Feasibility Study.

Legislation enacted in 2019 directed the Office of Financial Management (OFM) to conduct a feasibility study and make recommendations regarding the establishment of a single POC

firearms background check system. The OFM submitted its report and recommendations in November 2019, finding that the creation of a single POC background check system is both feasible and an advisable course of action. The report indicated that creating a single POC background check system would improve public safety and streamline the background check process. The report recommended the centralized background check unit and associated systems be placed within the WSP.

Summary of Bill:

Washington State Patrol Firearms Background Check Unit.

The Washington State Patrol (WSP) must establish a Firearms Background Check Unit to serve as a centralized single point of contact for dealers to conduct background checks for firearms sales or transfers required under state law and the federal Brady Handgun Violence Prevention Act.

The WSP must establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must allow a dealer to contact the WSP through a web portal or other electronic means and by telephone to request a background check of an applicant for the purchase or transfer of a firearm and provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation. The system must include measures to ensure data integrity and the confidentiality and security of records in the system and a performance metrics tracking system to evaluate the performance of the system.

Upon receipt of a request from a dealer for a background check, the WSP must provide the dealer with a notification that a firearm transfer application has been received, conduct a background check of the applicant, and notify the dealer without delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the WSP must notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry. The WSP must provide the dealer with a unique identifier for each background check inquiry.

The background check must include a check of the following databases:

- the National Instant Criminal Background Check System;
- the Washington Crime Information Center and Washington State Identification System;
- the Health Care Authority electronic database;
- the Federal Bureau of Investigation national data exchange database and any available repository of statewide law enforcement record management systems information; and
- the Administrative Office of the Courts (AOC) case management system.

The WSP must work with the AOC to build a link between the firearm background check system and the AOC case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

The WSP must establish a procedure for a person who has been denied a firearms purchase or transfer as the result of a background check to appeal the denial to the WSP and to obtain

information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

The WSP must establish a fee that a dealer must charge each firearm purchaser or transferee. The fee may not exceed the amount necessary to cover the annual costs of operating and maintaining the firearm background check system. The WSP must transmit the fees collected to the State Treasurer for deposit in the newly created State Firearms Background Check System Account. Expenditures from the account may be used only for the creation, operation, and maintenance of the state firearms background check system.

All records and information prepared, obtained, used, or retained by the WSP in connection with a request for a firearm background check are exempt from public inspection and copying under the Public Records Act.

Dealer Requirements.

Beginning on the date that is 30 days after the WSP issues a notification to dealers that a state firearms background check system is established within the WSP, a dealer must use the state system to conduct background checks for all firearm sales or transfers, except sales or transfers to licensed dealers and sales or transfers of antique firearms.

A dealer may not sell or transfer any firearm to an individual unless the dealer first contacts the WSP for a background check to determine the eligibility of the purchaser or transferee to possess a firearm under state and federal law. For sales or transfers of pistols and semiautomatic assault rifles, a dealer must comply with all requirements of state firearms laws that apply to the sale or transfer of a pistol or semiautomatic assault rifle. For sales or transfers of a firearm that is not a pistol or semiautomatic assault rifle, the dealer must comply with all application, background check, recording keeping, and other requirements that apply to the sale or transfer of a pistol. A dealer must charge a purchaser or transferee a background check fee established by the WSP and remit the proceeds to the WSP on a monthly basis.

Washington Firearms Background Check Accountability Board.

The Washington Firearms Background Check Accountability Board (Board) is established with a primary purpose of ensuring that the WSP Firearms Background Check Unit is administered efficiently and effectively, and in a manner that honors individual firearms rights while preventing prohibited persons from obtaining firearms. The WSP must consult with the Board in carrying out its duties in establishing and operating the state firearms background check system.

The Board consists of the following members, appointed by the Governor:

- the chief of the WSP or the chief's designee;
- the executive director of the Washington Association of Sheriffs and Police Chiefs or the executive director's designee;
- two sheriffs and two police chiefs;
- one person engaged in the business of lawfully selling firearms at retail who holds a federal firearms license;
- one representative of an organization known to actively advocate in Washington on behalf of firearms rights;
- one representative of an organization known to actively advocate in Washington on behalf of greater firearm regulation; and

- one member of the general public.

The Board's duties are to oversee the Firearms Background Check Unit and, in consultation with the chief of the WSP, control the operation and establish policies of the Firearms Background Check Unit, including active involvement in the preparation and approval of the Firearms Background Check Unit budget prior to its formal submission. In addition the Board must be consulted prior to any director-level or managerial-level staffing changes within the Firearms Background Check Unit. The Board must report annually to the Governor and the Legislature on the activities of the Board and the Firearms Background Check Unit.

Members of the Board serve four-year terms on a staggered schedule. Members serve without compensation but are entitled to travel reimbursement. The Board must initially convene within 90 days of the effective date of the bill, and must meet not less than quarterly thereafter. The WSP must provide the staffing and budgetary resources necessary for the Board to properly fulfill its duties. Members serving in their official capacity on the Board, or their employers or other entity that selected the members to serve, are immune from a civil action based on an act performed in good faith.

Denied Firearms Transfers.

Procedures relating to the reporting of denied firearms purchases are revised, effective 30 days after the WSP issues a notification that a state firearms background check system is established. Dealers are no longer required to report to the Washington Association of Sheriffs and Police Chiefs (WASPC) each instance where an application for the purchase or transfer of a firearm is denied. Instead, the WSP must report denied firearms purchases or transfers to the local law enforcement agency in the jurisdiction where the attempted purchase or transfer took place. The WSP must provide the local law enforcement agency with updates for reports that indicated an initial denial but that are subsequently approved. The WSP, rather than local law enforcement, will serve as the contact for information on a denial based on a state background check. The WSP must provide the WASPC with any information necessary for the preparation of the denied firearms transfers report and administration of the grant program for criminal investigations of illegal attempts to purchase firearms.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date: This bill takes effect 90 days after adjournment of the session in which the bill is passed, except for sections 5 through 9, relating to denied firearms transfers, which take effect 30 days after the Washington State Patrol notifies firearm dealers of the newly established background check system.