
ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2467

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Hansen, Irwin, Griffey, Barkis, and Wylie)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to establishing a centralized single point of
2 contact background check system for firearms transfers; amending RCW
3 9.41.114, 43.43.823, 36.28A.405, and 36.28A.420; adding new sections
4 to chapter 43.43 RCW; adding a new section to chapter 9.41 RCW;
5 repealing RCW 36.28A.400; and providing a contingent effective date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43
8 RCW to read as follows:

9 (1) The Washington state patrol shall establish a firearms
10 background check unit to serve as a centralized single point of
11 contact for dealers to conduct background checks for firearms sales
12 or transfers required under chapter 9.41 RCW and the federal Brady
13 handgun violence prevention act (18 U.S.C. Sec. 921 et seq.). The
14 Washington state patrol shall establish an automated firearms
15 background check system to conduct background checks on applicants
16 for the purchase or transfer of a firearm. The system must include
17 the following characteristics:

18 (a) Allow a dealer to contact the Washington state patrol through
19 a web portal or other electronic means and by telephone to request a
20 background check of an applicant for the purchase or transfer of a
21 firearm;

1 (b) Provide a dealer with a notification that a firearm purchase
2 or transfer application has been received;

3 (c) Assign a unique identifier to the background check inquiry;

4 (d) Provide an automated response to the dealer indicating
5 whether the transfer may proceed or is denied, or that the check is
6 indeterminate and will require further investigation;

7 (e) Include measures to ensure data integrity and the
8 confidentiality and security of all records and data transmitted and
9 received by the system; and

10 (f) Include a performance metrics tracking system to evaluate the
11 performance of the background check system.

12 (2) Upon receipt of a request from a dealer for a background
13 check in connection with the sale or transfer of a firearm, the
14 Washington state patrol shall:

15 (a) Provide the dealer with a notification that a firearm
16 transfer application has been received;

17 (b) Conduct a check of the national instant criminal background
18 check system and the following additional records systems to
19 determine whether the transferee is prohibited from possessing a
20 firearm under state or federal law: (i) The Washington crime
21 information center and Washington state identification system; (ii)
22 the health care authority electronic database; (iii) the federal
23 bureau of investigation national data exchange database and any
24 available repository of statewide local law enforcement record
25 management systems information; (iv) the administrative office of the
26 courts case management system; and (v) other databases or resources
27 as appropriate;

28 (c) Perform an equivalency analysis on criminal charges in
29 foreign jurisdictions to determine if the applicant has been
30 convicted as defined in RCW 9.41.040(3) and if the offense is
31 equivalent to a Washington felony as defined in RCW 9.41.010(8);

32 (d) Notify the dealer without delay that the records indicate the
33 individual is prohibited from possessing a firearm and the transfer
34 is denied or that the individual is approved to complete the
35 transfer. If the results of the background check are indeterminate,
36 the Washington state patrol shall notify the dealer of the delay and
37 conduct necessary research and investigation to resolve the inquiry;
38 and

39 (e) Provide the dealer with a unique identifier for the inquiry.

1 (3) The Washington state patrol may hold the delivery of a
2 firearm to an applicant under the circumstances provided in RCW
3 9.41.090 (4) and (5).

4 (4)(a) The Washington state patrol shall require a dealer to
5 charge each firearm purchaser or transferee a fee for performing
6 background checks in connection with firearms transfers. The fee must
7 be set at an amount necessary to cover the annual costs of operating
8 and maintaining the firearm background check system but shall not
9 exceed eighteen dollars. The Washington state patrol shall transmit
10 the fees collected to the state treasurer for deposit in the state
11 firearms background check system account created in section 3 of this
12 act. It is the intent of the legislature that once the state firearm
13 background check system is established, the fee established in this
14 section will replace the fee required in RCW 9.41.090(7).

15 (b) The background check fee required under this subsection does
16 not apply to any background check conducted in connection with a
17 pawnbroker's receipt of a pawned firearm or the redemption of a
18 pawned firearm.

19 (5) The Washington state patrol shall establish a procedure for a
20 person who has been denied a firearms transfer as the result of a
21 background check to appeal the denial to the Washington state patrol
22 and to obtain information on the basis for the denial and procedures
23 to review and correct any erroneous records that led to the denial.

24 (6) The Washington state patrol shall work with the
25 administrative office of the courts to build a link between the
26 firearm background check system and the administrative office of the
27 courts case management system for the purpose of accessing court
28 records to determine a person's eligibility to possess a firearm.

29 (7) Upon establishment of the firearm background check system
30 under this section, the Washington state patrol shall notify each
31 dealer in the state of the existence of the system, and the dealer
32 must use the system to conduct background checks for firearm sales or
33 transfers beginning on the date that is thirty days after issuance of
34 the notification.

35 (8) The Washington state patrol shall consult with the Washington
36 background check advisory board created in section 2 of this act in
37 carrying out its duties under this section.

38 (9) All records and information prepared, obtained, used, or
39 retained by the Washington state patrol in connection with a request

1 for a firearm background check are exempt from public inspection and
2 copying under chapter 42.56 RCW.

3 (10) The Washington state patrol may adopt rules necessary to
4 carry out the purposes of this section.

5 (11) For the purposes of this section, "dealer" has the same
6 meaning as given in RCW 9.41.010.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43
8 RCW to read as follows:

9 (1) There is created the Washington background check advisory
10 board. The board shall consist of the following members, appointed by
11 the governor:

12 (a) The chief of the Washington state patrol or the chief's
13 designee;

14 (b) The executive director of the Washington association of
15 sheriffs and police chiefs or the executive director's designee;

16 (c) One sheriff;

17 (d) One police chief;

18 (e) One person engaged in the business of lawfully selling
19 firearms at retail in this state who holds a federal firearms license
20 under 18 U.S.C. Sec. 923(a); and

21 (f) One member of the general public.

22 (2) The primary purpose of the board is to ensure that the
23 Washington state patrol firearms background check unit established in
24 section 1 of this act is administered efficiently and effectively,
25 and in a manner that honors individual firearms rights while
26 preventing prohibited persons from obtaining firearms.

27 (3) The board shall initially convene within ninety days of the
28 effective date of this section, and shall meet not less than monthly
29 until such time that the Washington state patrol deems the firearms
30 background check unit is operational. After the Washington state
31 patrol deems the firearms background check unit is operational, the
32 board shall meet quarterly, unless the board has no business to
33 conduct during that quarter.

34 (4) The board shall elect from among its membership a chairperson
35 and other such officers from among its membership as it deems
36 appropriate.

37 (5) Members of the board shall serve terms of four years each on
38 a staggered schedule to be established by the first board. For
39 purposes of initiating a staggered schedule of terms, some members of

1 the first board may initially serve two years and some members may
2 initially serve four years.

3 (6) The board shall:

4 (a) Provide input and feedback regarding the establishment and
5 operation of the firearms background check unit established in
6 section 1 of this act;

7 (b) Provide input on the development of the firearms background
8 check unit budget prior to its formal submission to the office of
9 financial management pursuant to RCW 43.88.030;

10 (c) Be consulted with prior to the proposal of any rule relating
11 to the firearms background check unit and prior to the adoption of
12 any rule relating to the firearms background check unit;

13 (d) Require reports from the chief of the Washington state patrol
14 on matters pertaining to the firearms background check unit; and

15 (e) Report to the governor and appropriate committees of the
16 legislature on or before December 31st of each year on the activities
17 of the board and the firearms background check unit for the preceding
18 fiscal year.

19 (7) Members of the board shall serve without compensation, but
20 shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and
21 43.03.060.

22 (8) The Washington state patrol shall provide the staffing and
23 budgetary resources necessary for the board to properly fulfill its
24 duties.

25 (9) Members serving in their official capacity on the Washington
26 background check advisory board, or either their employer or
27 employers or other entity that selected the members to serve, are
28 immune from a civil action based on an act performed in good faith.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.43
30 RCW to read as follows:

31 The state firearms background check system account is created in
32 the custody of the state treasurer. All receipts under section 1 of
33 this act must be deposited into the account. Expenditures from the
34 account may be used only for the creation, operation, and maintenance
35 of the automated firearms background check system under section 1 of
36 this act. Only the chief of the Washington state patrol or the
37 chief's designee may authorize expenditures from the account. The
38 account is subject to allotment procedures under chapter 43.88 RCW,
39 but an appropriation is not required for expenditures.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW
2 to read as follows:

3 (1) Beginning on the date that is thirty days after the
4 Washington state patrol issues a notification to dealers that a state
5 firearms background check system is established within the Washington
6 state patrol under section 1 of this act, a dealer shall use the
7 state firearms background check system to conduct background checks
8 for all firearms transfers. A dealer may not sell or transfer a
9 firearm to an individual unless the dealer first contacts the
10 Washington state patrol for a background check to determine the
11 eligibility of the purchaser or transferee to possess a firearm under
12 state and federal law and the requirements and time periods
13 established in RCW 9.41.090 and 9.41.092 have been satisfied. When an
14 applicant applies for the purchase or transfer of a pistol or
15 semiautomatic assault rifle, a dealer shall comply with all
16 requirements of this chapter that apply to the sale or transfer of a
17 pistol or semiautomatic rifle. The purchase or transfer of a firearm
18 that is not a pistol or semiautomatic assault rifle must be processed
19 in the same manner and under the same requirements of this chapter
20 that apply to the sale or transfer of a pistol, except that the
21 provisions of RCW 9.41.129, and the requirement in RCW 9.41.110(9)(b)
22 concerning transmitting application records to the director of
23 licensing, shall not apply to these transactions.

24 (2) A dealer shall charge a purchaser or transferee a background
25 check fee in an amount determined by the Washington state patrol and
26 remit the proceeds from the fee to the Washington state patrol on a
27 monthly basis. The background check fee does not apply to any
28 background check conducted in connection with a pawnbroker's receipt
29 of a pawned firearm or the redemption of a pawned firearm.

30 (3) This section does not apply to sales or transfers to licensed
31 dealers or to the sale or transfer of an antique firearm.

32 **Sec. 5.** RCW 9.41.114 and 2017 c 261 s 1 are each amended to read
33 as follows:

34 ~~((1) A dealer shall report to the Washington association of
35 sheriffs and police chiefs information on each instance where the
36 dealer denies an application for the purchase or transfer of a
37 firearm, whether under RCW 9.41.090 or 9.41.113, or the requirements
38 of federal law, as the result of a background check or completed and
39 submitted firearm purchase or transfer application that indicates the~~

1 applicant is ineligible to possess a firearm under state or federal
2 law. The dealer shall report the denied application information to
3 the Washington association of sheriffs and police chiefs within five
4 days of the denial in a format as prescribed by the Washington
5 association of sheriffs and police chiefs. The reported information
6 must include the identifying information of the applicant, the date
7 of the application and denial of the application, and other
8 information or documents as prescribed by the Washington association
9 of sheriffs and police chiefs. In any case where the purchase or
10 transfer of a firearm is initially denied by the dealer as the result
11 of a background check that indicates the applicant is ineligible to
12 possess a firearm, but the purchase or transfer is subsequently
13 approved, the dealer shall report the subsequent approval to the
14 Washington association of sheriffs and police chiefs within one day
15 of the approval.

16 (2)) Upon denying an application for the purchase or transfer of
17 a firearm as a result of a background check or completed and
18 submitted firearm purchase or transfer application that indicates the
19 applicant is ineligible to possess a firearm under state or federal
20 law, the dealer shall:

21 ((a)) (1) Provide the applicant with a copy of a notice form
22 generated and distributed by the Washington state patrol under RCW
23 43.43.823((5)) (6), informing denied applicants of their right to
24 appeal the denial; and

25 ((b)) (2) Retain the original records of the attempted purchase
26 or transfer of a firearm for a period not less than six years.

27 **Sec. 6.** RCW 43.43.823 and 2018 c 22 s 11 are each amended to
28 read as follows:

29 (1) ((Upon receipt of the information from the Washington
30 association of sheriffs and police chiefs pursuant to RCW 36.28A.400,
31 the)) The Washington state patrol shall report each instance where an
32 application for the purchase or transfer of a firearm is denied as
33 the result of a background check that indicates the applicant is
34 ineligible to possess a firearm to the local law enforcement agency
35 in the jurisdiction where the attempted purchase or transfer took
36 place. The reported information must include the identifying
37 information of the applicant, the date of the application and denial
38 of the application, the basis for the denial of the application, and
39 other information deemed appropriate by the Washington state patrol.

1 (2) The Washington state patrol must incorporate the information
2 concerning any person whose application for the purchase or transfer
3 of a firearm is denied as the result of a background check into its
4 electronic database accessible to law enforcement agencies and
5 officers, including federally recognized Indian tribes, that have a
6 connection to the Washington state patrol electronic database.

7 ~~((2))~~ (3) Upon ~~((receipt of documentation that a person has~~
8 ~~appealed))~~ appeal of a background check denial, the Washington state
9 patrol shall immediately remove the record of the person ~~((initially~~
10 ~~reported pursuant to RCW 36.28A.400))~~ from its electronic database
11 accessible to law enforcement agencies and officers ~~((The Washington~~
12 ~~state patrol must))~~ and keep a separate record of the person's
13 information ~~((for a period of one year or))~~ until such time as the
14 appeal has been resolved. ~~((Every twelve months, the Washington state~~
15 ~~patrol shall notify the person that the person must provide~~
16 ~~documentation that his or her appeal is still pending or the record~~
17 ~~of))~~ If the appeal is denied, the Washington state patrol shall put
18 the person's background check denial ~~((will be put))~~ information back
19 in its electronic database accessible to law enforcement agencies and
20 officers. ~~((At any time, upon receipt of documentation that a~~
21 ~~person's appeal has been granted, the Washington state patrol shall~~
22 ~~remove any record of the person's denied firearms purchase or~~
23 ~~transfer application from its electronic database accessible to law~~
24 ~~enforcement agencies and officers.~~

25 ~~(3))~~ (4) Upon receipt of satisfactory proof that a person ~~((who~~
26 ~~was reported to the Washington state patrol pursuant to RCW~~
27 ~~36.28A.400))~~ is no longer ineligible to possess a firearm under state
28 or federal law, the Washington state patrol must remove any record of
29 the person's denied firearms purchase or transfer application from
30 its electronic database accessible to law enforcement agencies and
31 officers.

32 ~~((4) Upon receipt of notification from the Washington~~
33 ~~association of sheriffs and police chiefs that a person originally~~
34 ~~denied the purchase or transfer of a firearm as the result of a~~
35 ~~background check or completed and submitted firearm purchase or~~
36 ~~transfer application that indicates the applicant is ineligible to~~
37 ~~possess a firearm under state or federal law has subsequently been~~
38 ~~approved for the purchase or transfer, the))~~ (5) In any case where
39 the purchase or transfer of a firearm is initially denied as the
40 result of a background check that indicates the applicant is

1 ineligible to possess a firearm, but the purchase or transfer is
2 subsequently approved, the Washington state patrol must remove any
3 record of the person's denied firearms purchase or transfer
4 application from its electronic database accessible to law
5 enforcement agencies and officers within five business days and
6 report the subsequent approval to the local law enforcement agency
7 that received notification of the original denial.

8 ((+5)) (6) The Washington state patrol shall generate and
9 distribute a notice form to all firearm dealers, to be provided by
10 the dealers to applicants denied the purchase or transfer of a
11 firearm as a result of a background check that indicates the
12 applicant is ineligible to possess a firearm. The notice form must
13 contain the following statements:

14 State law requires that ((±)) the Washington state patrol
15 transmit the following information to the ((Washington
16 ~~association of sheriffs and police chiefs~~) local law
17 enforcement agency as a result of your firearm purchase or
18 transfer denial within five days of the denial:

- 19 (a) Identifying information of the applicant;
20 (b) The date of the application and denial of the
21 application;
22 (c) The basis for the denial; and
23 (d) Other information as ((prescribed)) determined by the
24 Washington ((~~association of sheriffs and police chiefs~~) state
25 patrol.

26 If you believe this denial is in error, and you do not
27 exercise your right to appeal, you may be subject to criminal
28 investigation by the Washington state patrol and/or a local
29 law enforcement agency.

30 The notice form shall also contain information directing the
31 applicant to a web site describing the process of appealing a
32 ((national instant criminal)) background check system denial
33 ((through the federal bureau of investigation)) and refer the
34 applicant to ((local law enforcement)) the Washington state patrol
35 for information on a denial based on a state background check. The
36 notice form shall also contain a phone number for a contact at the
37 Washington state patrol to direct the person to resources regarding
38 an individual's right to appeal a background check denial.

1 ~~((6))~~ (7) The Washington state patrol shall provide to the
2 Washington association of sheriffs and police chiefs any information
3 necessary for the administration of the grant program in RCW
4 36.28A.420, providing notice to a protected person pursuant to RCW
5 36.28A.410, or preparation of the report required under RCW
6 36.28A.405.

7 (8) The Washington state patrol may adopt rules as are necessary
8 to carry out the purposes of this section.

9 **Sec. 7.** RCW 36.28A.405 and 2017 c 261 s 4 are each amended to
10 read as follows:

11 Subject to the availability of amounts appropriated for this
12 specific purpose, the Washington association of sheriffs and police
13 chiefs shall prepare an annual report on the number of denied
14 firearms sales or transfers reported pursuant to chapter 261, Laws of
15 2017 and RCW 43.43.823. The report shall indicate the number of cases
16 in which a person was denied a firearms sale or transfer, the number
17 of cases where the denied sale or transfer was investigated for
18 potential criminal prosecution, and the number of cases where an
19 arrest was made, the case was referred for prosecution, and a
20 conviction was obtained. The Washington ~~((state patrol))~~ association
21 of sheriffs and police chiefs shall submit the report to the
22 appropriate committees of the legislature on or before December 31st
23 of each year.

24 **Sec. 8.** RCW 36.28A.420 and 2017 c 261 s 6 are each amended to
25 read as follows:

26 (1) Subject to the availability of amounts appropriated for this
27 specific purpose, the Washington association of sheriffs and police
28 chiefs shall establish a grant program for local law enforcement
29 agencies to conduct criminal investigations regarding persons who
30 illegally attempted to purchase or transfer a firearm within their
31 jurisdiction.

32 (2) Each grant applicant must be required to submit reports to
33 the Washington association of sheriffs and police chiefs that
34 indicate the number of cases in which a person was denied a firearms
35 sale or transfer, the number of cases where the denied sale or
36 transfer was investigated for potential criminal prosecution, and the
37 number of cases where an arrest was made, the case was referred for
38 prosecution, and a conviction was obtained.

1 (3) Information and records prepared, owned, used, or retained by
2 the Washington association of sheriffs and police chiefs pursuant to
3 chapter 261, Laws of 2017 and RCW 43.43.823 are exempt from public
4 inspection and copying under chapter 42.56 RCW.

5 NEW SECTION. **Sec. 9.** RCW 36.28A.400 (Denied firearm transaction
6 reporting system—Purge of denial records upon subsequent approval—
7 Public disclosure exemption—Destruction of information) and 2017 c
8 261 s 2 are each repealed.

9 NEW SECTION. **Sec. 10.** Sections 5 through 9 of this act take
10 effect on the date that is thirty days after the Washington state
11 patrol issues a notification to dealers that a state firearms
12 background check system is established under section 1 of this act.
13 The Washington state patrol shall provide written notice of the
14 effective date of sections 5 through 9 of this act to the chief clerk
15 of the house of representatives, the secretary of the senate, the
16 office of the code reviser, and others as deemed appropriate by the
17 Washington state patrol.

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