

HOUSE BILL REPORT

HB 2556

As Reported by House Committee On:

Criminal Justice & Corrections

Title: An act relating to studying criminal background check processes.

Brief Description: Studying criminal background check processes.

Sponsors: Representatives O'Brien, Kagi, Carrell, Upthegrove, Miloscia, Lovick and Moeller.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/30/04, 2/3/04 [DPS].

Brief Summary of Substitute Bill

- Requires the Washington Association of Sheriffs and Police Chiefs (WASPC) and the Washington State Patrol (WSP) to conduct a study on how to improve the criminal background check process.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

Staff: Yvonne Walker (786-7841).

Background:

The WSP is authorized to disclose criminal background checks of applicants and employees to any business or organization in Washington that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons, vulnerable adults, mentally ill persons, or children under 16 years of age, including but not limited to public housing authorities, school districts, and educational service districts. The business or organization making the inquiry to the WSP or a federal law enforcement agency, must notify the applicant who has been offered a position as an

employee or volunteer, that a background inquiry may be made.

The Legislature finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees to hire. In these cases, the WSP may also disclose, upon request of a developmentally disabled person or a vulnerable adult or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation (but only if the victim is a vulnerable adult), adjudications of child abuse in a civil action, and any issuance of a vulnerable adult protection order.

Law enforcement agencies, the Office of the Attorney General, prosecuting authorities, and the Department of Social and Health services may also request background check information to aid in the investigation and prosecution of cases of abuse that may have involved a child, developmentally disabled person or vulnerable adult.

Summary of Substitute Bill:

The Legislature finds that criminal background checks for employment purposes are rapidly increasing and as a result, the current processes are not adequate to keep pace with the growing demand. Without adequate processes to encourage receiving results on a timely basis, a public risk is created.

The WASPC must work in consultation with the WSP, and certain employers and nonprofit groups to conduct a study on criminal background checks. The study must focus on how Washington can reduce delays in the criminal background check processing time, and how it can make criminal background checks more accessible and efficient.

The study must include, but is not limited to:

- A review and analysis of the criminal background check programs in states that have recently implemented or are soon to implement comprehensive criminal background check programs;
- Recommendations on how a comprehensive criminal background check program should be designed in Washington, and how much it would cost to implement such a comprehensive program;
- A review of how a comprehensive criminal background check program could be paid for in Washington, which includes a determination on whether the program could be funded solely by user fees;
- A review of the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, developmentally disabled persons, or vulnerable adults;

- A review of the benefits and obstacles of implementing a criminal background check program similar to the National Child Protection Act of 1993, which increased the availability of criminal background checks for employers who have employees or volunteers who work with children, elderly persons, or persons with disabilities; and
- Upon completion of the review of the National Child Protection Act, recommendations on how Washington can make criminal background checks readily available to Washington employers.

The findings and recommendations from the study must be presented to the Legislature no later than December 31, 2004.

The act expires December 31, 2004.

Substitute Bill Compared to Original Bill:

A provision is added that requires the WASPC and the WSP, as part of their study, to work with employers and nonprofit groups who request background information on employees and volunteers. In addition, a provision is added to require the WASPC's study to include a review of the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, developmentally disabled persons, or vulnerable adults. Other clarifications are also made.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: Currently, the Legislature requires various entities, such as school teachers and daycare workers, to conduct criminal background checks before obtaining certain jobs or licenses. The current process is that applicants are required to go to their local law enforcement department, fingerprints are taken and then those prints are mailed to the state patrol and then sometimes on to the FBI. The problem is that it takes a fairly long amount of time, sometimes months, to get a background check back once it has been submitted. Other states are doing this process electronically which helps organizations to get answers sooner. The intent of this bill is to find out how other states are implementing their programs and what the costs are for doing such a process in Washington.

The bill will also require a review of the Child Protection Act of 1993. This act of

Congress allows individuals such as nonprofits to bypass having to ask the Legislature to pass a bill each year to authorize them to do full background checks on their employees and volunteers.

The study should be broadened to include nonprofit organizations and maybe some legislators as participants on the study group (the substitute bill makes this amendment).

Testimony Against: None.

Persons Testifying: Tim Schellberg, Washington Association of Sheriffs and Police Chiefs; and Amy Bell, YMCA of Washington.

Persons Signed In To Testify But Not Testifying: None.