

HOUSE BILL REPORT

SSB 6255

As Reported by House Committee On:
Criminal Justice & Corrections
Appropriations

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

Brief Description: Studying criminal background check processes.

Sponsors: Senate Committee on Children & Family Services & Corrections (originally sponsored by Senators Brandland, Kline, McCaslin, Regala, Winsley, Roach, Kohl-Welles, Rasmussen and Parlette).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/20/04, 2/25/04 [DPA];
Appropriations: 2/28/04 [DPA(APP w/o CJC)s].

**Brief Summary of Substitute Bill
(As Amended by House Committee)**

- Creates a Joint Task Force on Criminal Background Check Processes to study current statutes, costs, and response times for criminal background checks.
- 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: Do pass as amended. 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 Amended 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.

Joint Task Force on Criminal Background Check Processes.

A Joint Task Force on Criminal Background Check Processes is established to review and make recommendations to the Legislature and the Governor regarding the criminal background check process. The task force must choose two co-chairs from among its membership. The membership consists of two members from each of the two largest caucuses of the Senate and the House of Representatives; one representative from the Washington State Patrol, the Department of Social and Health Services, and the Office of the Superintendent of Public Instruction; one elected sheriff or police chief, selected by the Washington Association of Sheriffs and Police Chiefs; and jointly appointed by the speaker of the House of Representatives and the president of the Senate, representatives from the following entities:

- A nonprofit service organization that serves primarily children under sixteen years of age;
- A health care provider;
- An organization that serves primarily developmentally disabled persons or

- vulnerable adults;
- A local youth athletic association;
- The insurance industry;
- A local parks and recreation program, selected by the Association of Washington Cities; and
- A local parks and recreation program, selected by the Washington Association of Counties.

The task force must, at a minimum, review the following issues:

- What state and federal statutes require regarding criminal background checks;
- What criminal offenses are currently reportable through the criminal background check program;
- What information is available through the Washington State Patrol and the Federal Bureau of Investigation criminal background check systems;
- What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers;
- What is the feasibility and costs for businesses and organizations to do periodic background checks;
- What is 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; and
- What are the benefits and obstacles of implementing a criminal history record information background check program created by the National Child Protection Act of 1993.

The task force, where feasible, may consult with individuals from the public and private sector and may also use legislative facilities and staff from Senate Committee Services and the House of Representatives Office of Program Research.

The WASPC's Study on Criminal Background Checks.

The WASPC must work in consultation with the WSP 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; and

- 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.

The findings and recommendations from the WASPC study must be presented to the Joint Task Force on Criminal Background Check Processes no later than November 30, 2004. The Joint Task Force on Criminal Background Check Processes must report its findings and recommendations to the Legislature by December 31, 2004.

The act expires January 1, 2005.

A sum of \$45,000 is appropriated from the Public Safety and Education Account to the WASPC for the purpose of conducting the study on criminal background check processes.

Amended Bill Compared to Substitute Bill:

Instead of the WASPC being responsible for the entire criminal background check study, the WASPC is limited to only study ways on how to improve the criminal background check process. The WASPC study must be submitted to the joint task force by November 2004.

The amendment creates a Joint Task Force on Criminal Background Check Processes. The joint task force, comprised of members from both the Senate and the House of Representatives, will be responsible for studying the current statutes, costs, and response times for criminal background checks. Their study is due to the Legislature by December 2004.

Appropriation: The sum of \$45,000.

Fiscal Note: Available.

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

Testimony For: This is a very important study. There have been many issues surrounding various professions that require background checks and in many of these cases, law enforcement officials are required to do some type of criminal background check. These criminal background checks can be quite cumbersome. This study will try to streamline the process in order to provide faster information to employers.

The proposed amendment to the Senate bill or the version passed by the House is preferred since it includes more people that would be involved on the study group to look at the policies and fees surrounding background checks. The amendment would also

require the WASPC to take a look at how background checks are being implemented, the systems, technology, and what other states are doing. This will help employers and other members of the task force to take a look at what is working best around this system or other criminal background check systems around the United States.

Testimony Against: None.

Persons Testifying: (In support) Senator Brandland, prime sponsor; and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.

(In support with amendments) Sharon Foster, YMCA, Boy Scouts/Girl Scouts, and Camp Fire.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Appropriations and without amendment by Committee on Criminal Justice & Corrections. Signed by 26 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, McIntire, Miloscia, Ruderman, Sump and Talcott.

Staff: Bernard Dean (786-7130).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Criminal Justice & Corrections:

The Appropriations Committee removed the \$45,000 appropriation made to the Washington Association of Sheriffs and Police Chiefs from the Public Safety and Education Account.

Appropriation: None.

Fiscal Note: Available.

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

Testimony For: We have worked with the sheriffs and police chiefs to put this legislation together. It is an area that hasn't been looked at for a number of years. There are lots of different problems that are happening in the background check process and there are some good things happening as well. This bill gives everyone an

opportunity to get together and come back in one year with a single bill if there is a need to develop improvements.

Testimony Against: None.

Persons Testifying: Sharon Foster, YMCAs of Washington, Girl Scouts, Campfire, and Boy Scouts.

Persons Signed In To Testify But Not Testifying: None.