

FINAL BILL REPORT

HB 2955

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Synopsis as Enacted

Brief Description: Ensuring access to criminal justice information.

Sponsors: By Representatives Hunter, O'Brien, Hurst, Sullivan, Williams, Kelley and Morrell; by request of Department of Labor & Industries, Department of Social and Health Services, Employment Security Department, Department of Licensing, Attorney General and Criminal Justice Training Commission.

House Committee on Public Safety & Emergency Preparedness
Senate Committee on Labor, Commerce, Research & Development

Background:

A number of units within some Washington state agencies have historically been able to have access not only to Washington conviction records and non-conviction arrest records (records under one year old), but also to federal out-of-state conviction and arrest records. The agencies typically access criminal history information during investigations of fraud or abuse claims arising from their respective programs.

Two state agencies, the Department of Social and Health Services (DSHS) and the Department of Labor and Industries (L&I), have a Federal Bureau of Investigation (FBI) ACCESS terminal located within their agencies. This terminal allows the agencies to have direct access to federal criminal background check information. In addition, historically several other state agencies have been eligible to obtain federal criminal background records directly from the Washington State Patrol (WSP) although they do not have individual FBI ACCESS terminals. Those agencies are as follows:

- the Criminal Justice Training Commission (CJTC);
- the Office of Attorney General (OAG);
- the Employment Security Department (ESD); and
- the Department of Licensing (DOL).

The WSP accesses the National Crime Information Center (NCIC), which is a computerized database of documented criminal justice information maintained by the FBI, to get out-of-state and non-conviction information. The NCIC database is made available to law enforcement and other criminal justice agencies.

Pursuant to recent new federal regulations, the FBI has determined that only an agency that is certified as a "criminal justice agency" is authorized to have access to federal criminal background check information. In order to remain on the Certified Criminal Justice Agency list, the agency must identify its criminal justice function or otherwise statutorily establish its investigation authority.

In order to comply with federal requirements and for these agencies to continue to receive the same criminal record information that they have been receiving in the past, a statutory language change by the Legislature must be made, and following enactment, this same language must be approved by the FBI.

If these six agencies are not given the appropriate statutory authority by the Legislature to: (1) specifically receive non-conviction criminal history; or (2) identify their criminal justice function, then they will only be able to obtain records that contain Washington in-state conviction and non-conviction arrest records. Certification as a criminal justice agency allows the agencies to apply for an ACCESS terminal to be able to obtain national criminal history records.

Summary:

An investigative unit is established within the OAG, the DOL, the DSHS, the L&I, and the ESD. The directors of the respective agencies must employ qualified supervisory and investigative personnel for the program. The directors of the agencies, their designee, or their respective investigation units are authorized to receive state and federal criminal history record information that includes non-conviction data for purposes associated with the investigation of abuse or fraud in certain programs administered by the agency.

The L&I may access criminal history information only in the investigation of persons filing for or receiving workers' compensation benefits. The ESD may access the information for any purpose associated with an investigation of abuse or fraud in the unemployment compensation program. The DOL and the DSHS may access the information for any purpose associated with an investigation conducted by the investigation unit for public assistance or licensing. The OAG may access information for the prosecution of any act prohibited under the Consumer Protection Act.

The CJTC is authorized to receive criminal history record information, including non-conviction data, for any purpose associated with CJTC employment or peace officer certification. For a national criminal history records check, fingerprints must be submitted to the WSP. After a state criminal history search, the WSP must forward the fingerprints to the FBI for a national record check.

Dissemination or use of non-conviction data for unauthorized purposes is prohibited.

Votes on Final Passage:

House	97	0
Senate	48	0

Effective: June 12, 2008