

SENATE BILL REPORT

SB 5382

As Passed Senate, March 2, 2007

Title: An act relating to record checks for employees and applicants for employment at bureau of Indian affairs-funded schools.

Brief Description: Authorizing record checks for employees and applicants for employment at bureau of Indian affairs-funded schools.

Sponsors: Senators Kauffman, Prentice, McAuliffe, Marr, Hobbs, Rasmussen, Regala, Franklin, Keiser, Shin and Kohl-Welles.

Brief History:

Committee Activity: Early Learning & K-12 Education: 2/14/07, 2/19/07 [DP].

Passed Senate: 3/02/07, 47-0.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass.

Signed by Senators McAuliffe, Chair; Tom, Vice Chair; Holmquist, Ranking Minority Member; Brandland, Clements, Eide, Hewitt, Hobbs, Kauffman, Oemig, Rasmussen, Weinstein and Zarelli.

Staff: Eric Bratton (786-7438)

Background: Washington State Patrol and Federal Bureau of Investigation background checks: When school districts, educational service districts, other state schools, and their contractors plan on hiring employees who will have regularly scheduled unsupervised access to children, then such entities are required to perform record checks through the Washington State Patrol criminal identification system and through the Federal Bureau of Investigation before hiring such employees. Fingerprint checks are also required using a complete Washington State criminal identification fingerprint card.

Under the federal Criminal Records Privacy Act, any person may request a record of convictions. These records are released without restriction and without notice to the subject of the record. The records released include all state of Washington convictions and any arrests within the past year if the arrest's disposition is still pending.

Under the federal Child and Adult Abuse Information Act, only certain entities may request information. These agencies include: (1) businesses or organizations licensed in the state of Washington; (2) state agencies; and (3) any other government entities that, among other

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things, educate children under 16 years of age. Public and private schools are allowed access to records under both this act and the Criminal Records Privacy Act.

Background check requirements for tribally controlled schools: In 1990, Congress passed the Federal Indian Child Protection and Family Violence Prevention Act (Act) to protect children on Indian reservations. Under the Act, every tribally controlled school that receives federal funding must conduct background investigations of each employee or volunteer who has regular contact with or control over Indian children. The background investigation must cover at least the immediately preceding five year period. Every tribal school employee who has regular contact with or control over Indian children must be reinvestigated every five years. The tribal school may conduct its own investigations, contract with a private firm, or request that the United States Office of Personnel Management conduct the investigation.

The tribal school must deny employment or dismiss any employee with control over or contact with children if the employee has been found guilty of or entered a plea of guilty or nolo contendere to any federal, state, or tribal offense involving a crime of: (1) violence; (2) sexual assault; (3) sexual molestation; (4) child exploitation; (5) sexual contact; (6) prostitution; or (7) crimes against persons.

Currently, Washington tribal schools check records of prospective employees in various ways. Some contract with local public school districts to run the tribal school's checks. Others have historically asked the Office of the Superintendent of Public Instruction to run their background checks.

Summary of Bill: Washington State Patrol and Federal Bureau of Investigation record checks are authorized for Federal Bureau of Indian Affairs-funded school employees and applicants for employment using the same processes as used by school districts and Educational Service Districts.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill allows tribal schools to use the same processes for background checks as public schools. This is a public safety issue and is just good public policy.

Persons Testifying: PRO: Senator Kauffman, prime sponsor; Rick Jensen, Muckleshoot Tribe; Michael Moran, Hoh and Quileute Tribes.