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## Public Safety Committee

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### HB 2080

**Brief Description:** Concerning fingerprint-based background checks for health professionals.

**Sponsors:** Representatives Stanford, Goodman and S. Hunt; by request of Nursing Care Quality Assurance Commission.

#### Brief Summary of Bill

- Authorizes the Washington State Patrol (WSP) and the Department of Health (DOH) to participate in the new Rap Back service offered by the Federal Bureau of Investigation.
- Authorizes the WSP to retain fingerprints submitted by a statutorily authorized agency for noncriminal justice purposes.
- Requires applicants to be notified that their fingerprints will be searched against arrests and unsolved crime files and that their criminal history will be periodically checked and reported back to the statutorily authorized agencies.
- Authorizes disciplining authorities under the DOH to adopt rules authorizing fingerprint checks for applicants and licensees in the professions it regulates.

**Hearing Date:** 1/20/16

**Staff:** Yvonne Walker (786-7841).

#### Background:

The Washington State Patrol (WSP) obtains and maintains fingerprints, palmprints, photographs, and other criminal history records of persons arrested and charged with or convicted of a criminal offense. The WSP also maintains information concerning persons arrested for or convicted of crimes in other states. Generally, the WSP does not retain fingerprints and other criminal history records for noncriminal justice purposes.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

The WSP is statutorily authorized to disseminate criminal history record information for non-criminal justice purposes and may charge a fee for the dissemination of such records. These fees vary depending on whether the request is made through the WSPs' website or on paper, and whether the request is only a name and date-of-birth conviction request, or also includes a Federal Bureau of Investigation (FBI) fingerprint request.

Rap Back Service. Rap Back is a service offered by the FBI that allows a subscriber (or authorized agency) to receive notifications each time an applicant or licensee has a change in criminal history anywhere in the country. It is a functionality that enables authorized entities the ability to receive ongoing status notifications of any criminal history reported on individuals holding positions of trust, such as school teachers or nurses. The Rap Back service provides authorized agencies with notification of criminal activity of individuals that occurs after the initial processing. Rap Back does not provide new authority to agencies, including the FBI, for collection of fingerprint or criminal history information. It does, however, implement new response services to notify authorized agencies of subsequent activity for individuals enrolled in the service. Generally, various agencies use it as a process of confirming suitability of those individuals placed in positions of trust and notifications are sent to users of the system showing criminal activity of those individuals.

Department of Health. The Department of Health (DOH) is statutorily authorized to request a criminal background check that includes nonconviction data, for any purpose associated with an investigation or licensing of applicants and license holders. Disciplining authorities under the DOH may use the results from a background check for determining an individual's suitability for a license and in conducting disciplinary functions.

### **Summary of Bill:**

The WSP is authorized to retain fingerprints submitted by a statutorily authorized agency. A statutorily authorized agency must inform all license applicants, applicants for employment, and applicants for other noncriminal justice purposes, subject to a criminal history check, that their fingerprints may be retained by the WSP and the FBI. Such applicants must also be notified that their fingerprints will be searched against arrests and unsolved crime files and any updates or changes to their criminal history may be provided by the WSP to the agency that submitted the fingerprints to the WSP.

The WSP must adopt rules relating to how an authorized agency will receive notifications about an applicant after the agency has submitted the fingerprints of that person for noncriminal purposes. The WSP may also imposed a fee to cover the cost of notifying agencies of changes and updates in a person's criminal history.

A "statutorily authorized agency" is a public agency under state, federal, or local law with statutory authority to conduct a state and federal criminal history background check for license applicants, applicants for employment, or other noncriminal justice purposes.

Department of Health. If a disciplining authority under the DOH adopts rules authorizing fingerprint checks for applicants and licensees in the professions it regulates, the Secretary of the DOH is authorized to require and obtain a fingerprint-based criminal history check through the WSP and the FBI on all applicants seeking licensure or license renewal. The DOH is authorized

to receive notifications from the WSP of any changes to an applicant's criminal history based on the retained fingerprints.

The rules adopted by the disciplining authority under the DOH must establish requirements for: (1) setting fees associated with fingerprint-based national and state background checks; and (2) notifying applicants and licensees that:

- their fingerprints may be retained by the WSP and the FBI;
- arrests and unsolved crimes files may be searched against their retained fingerprints; and
- their criminal history record information will be periodically checked with any changes reported to the DOH.

**Appropriation:** None.

**Fiscal Note:** Available.

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