

# HOUSE BILL REPORT

## HB 2220

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### As Reported by House Committee On: Education

**Title:** An act relating to parental involvement through volunteering in schools after a criminal conviction.

**Brief Description:** Volunteering in schools after a criminal conviction.

**Sponsors:** Representatives Dolan, Callan, Ortiz-Self, Ryu, Appleton, Valdez, Frame, Davis, Ormsby, Irwin, Wylie, Doglio, Santos and Peterson.

#### **Brief History:**

##### **Committee Activity:**

Education: 1/13/20, 2/4/20 [DPS].

#### **Brief Summary of Substitute Bill**

- Establishes volunteer application requirements for certain educational entities that perform criminal background record checks on parents, grandparents, guardians, or legal custodians of enrolled students.

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### HOUSE COMMITTEE ON EDUCATION

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 9 members: Representatives Santos, Chair; Dolan, Vice Chair; Paul, Vice Chair; Bergquist, Callan, Ortiz-Self, Stonier, Thai and Valdez.

**Minority Report:** Do not pass. Signed by 7 members: Representatives Steele, Ranking Minority Member; McCaslin, Assistant Ranking Minority Member; Volz, Assistant Ranking Minority Member; Caldier, Corry, Rude and Ybarra.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Harris.

**Staff:** Megan Wargacki (786-7194).

#### **Background:**

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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.*

### Record Check Requirements for School Volunteers.

A record check is criminal history record information obtained through the Washington State Patrol criminal identification system and through the Federal Bureau of Investigation that includes a fingerprint check. The following educational entities and their contractors may perform record checks for any prospective volunteer who will have regularly scheduled unsupervised access to children under 18 years of age or developmentally disabled persons, during the course of his or her involvement with the school or organization under circumstances where access will or may involve groups of five or fewer children under 12 years of age, groups of three or fewer children between 12 and 18 years of age, or developmentally disabled persons: school districts, educational service districts, the Center for Childhood Deafness and Hearing Loss, the School for the Blind, Federal Bureau of Indian Affairs-funded schools, charter schools, and state-tribal compact schools.

If a volunteer alerts a school district that the volunteer has undergone a criminal records check in accordance with applicable state law within the two years before the time the volunteer is volunteering in the school, then the school may request that the volunteer furnish the school with a copy of the criminal history record information or sign a release to allow the organization that originally obtained the criminal history record information to permit the record information to be shared with the school. Once the school requests the information from the organization the information must be furnished to the school. An organization or its official that shares the criminal history record information with the requesting school in accordance with this section is immune from criminal and civil liability for dissemination of the information. If the criminal history record information is shared, the school must require the volunteer to sign a disclosure statement indicating that there has been no conviction since the completion date of the most recent criminal background inquiry.

### Certificate of Restoration of Opportunity.

A CROP may be granted to a person by a superior court if the person meets the following eligibility requirements, the applicant must:

- have achieved the applicable waiting period following sentencing or release from confinement, as follows: one year for misdemeanors and gross misdemeanors when sentenced to probation or some other noncustodial sentence; 18 months for misdemeanors and gross misdemeanors when sentenced to a term of confinement; two years for a class B or C felony; or five years for any violent offense;
- be in compliance with or completed all sentencing requirements, including legal financial obligations;
- not have any new arrests, convictions, or pending criminal charges or known imminent charges; and
- not be required to register as a sex offender.

A person is not eligible for a CROP if he or she has ever been convicted of any of the following offenses: a class A felony, an attempt to commit a class A felony, or criminal solicitation of or criminal conspiracy to commit a class A felony; a sex offense; a crime that includes sexual motivation; extortion in the first degree; drive-by shooting; vehicular assault; or luring.

In general, a public entity may not disqualify a person who holds a CROP for a license, certificate, or qualification to engage in the practice of a profession or business solely based

on criminal history if the person meets all other statutory or regulatory requirements. The following entities may disqualify a person who holds a CROP based solely on criminal history: criminal justice agencies and the Washington State Bar Association. The following entities may disqualify a person who holds a CROP based solely on criminal history if the profession or license would give the person unsupervised access to vulnerable persons: the Department of Social and Health Services, the Department of Children, Youth, and Families, and the Department of Health.

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### **Summary of Substitute Bill:**

When an educational entity that is permitted to perform record checks for prospective volunteers performs a records check on a parent, grandparent, guardian, or legal custodian of an enrolled student ("parent"), the entity must comply with the following requirements.

The entity must notify the parent about the process for submitting criminal innocence or rehabilitation-related documents, which means evidence that a criminal conviction is the subject of: (1) expungement, pardon, vacation, annulment, certificate of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted; (2) a pardon, annulment, or other equivalent procedure based on a finding of innocence; or (3) a CROP.

For a parent with one or more criminal convictions who has submitted a criminal innocence or rehabilitation-related document addressing each conviction, the entity may not deny the parent's volunteer application based on a criminal conviction if the parent signed a statement indicating that the parent has not been convicted of any crime since the date that the criminal innocence or rehabilitation-related document was issued.

For a parent with one or more criminal convictions who has not submitted a criminal innocence or rehabilitation-related document addressing each conviction, the entity must complete the following process to determine whether to approve the parent's volunteer application. The school must consider the length of time since the commission of the last crime for which the parent was convicted and whether any criminal conviction involved a minor child victim; and may consider other specified factors, for example the age of the parent on the date of the commission of the last crime for which the parent was convicted, or may limit the parent's unsupervised access to children under 18 years of age and to persons with developmental disabilities if this would give the parent the opportunity to have meaningful involvement in the school.

If a parent's volunteer application is denied, within five days, the school must notify the parent of the school's decision, state specific reasons for the denial, and provide the procedure for appealing the school's decision.

In addition, provisions describing a process to allow any volunteer to provide to a school district criminal history record information obtained within the prior two years instead of undergoing a new record check are expanded to all educational entities permitted to perform record checks.

## **Substitute Bill Compared to Original Bill:**

The substitute bill no longer includes the option for a parent whose volunteer application has been denied by a school to appeal to the Office of the Superintendent of Public Instruction.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

### **Staff Summary of Public Testimony:**

(In support) It hurts children when their parents are not fully allowed to participate in school activities. Some parents are barred from volunteering in their children's classrooms because of prior criminal convictions. Some of these parents, who were in trouble for using alcohol or drugs or for theft related to alcohol or drug use, have spent years negotiating their way back to a normal life. Many parents and their children experience great joy from being involved in school activities. There is no reason to deny this opportunity to parents who have already paid for their prior actions.

It is important to end cycles of generations of poverty, substance use disorder, and incarceration. There are disparities between school districts related to the volunteer requirements for parents who have a prior criminal conviction and whether it is even allowed. It is important to have adults in the schools to take care of all the needs of students. Adult volunteers help fill this need.

Having a parent involved in their education improves students' outcomes. Formerly incarcerated parents of students with severe disabilities particularly need to be engaged in their students' education. This bill helps address disparities in parent engagement. The practice of excluding parents from supporting their children based on a past action that has no bearing on their present actions in life is wrong. Stop stigmatizing formerly incarcerated parents and hurting their children.

Focusing the policy on the parents, rather than all who have a prior criminal conviction, is the way to start. The process and requirements to obtain a Certificate of Restoration, a vacated conviction, sealed criminal record, or similar, are long and a policy needs to be put in place until a person can obtain one of these documents. That is why it is important that schools consider how long it has been since a parent's last conviction before denying the parent the opportunity to volunteer.

(Opposed) None.

(Other) The Office of the Superintendent of Public Instruction must develop rules about parent appeals from denial. A rules process will add expense. It is unclear about what standard of appeal applies under this bill.

**Persons Testifying:** (In support) Antonio Ginatta, Columbia Legal Services; Tarra Simmons, Civil Survival Project; Noreen Light; and Roz Thompson, Association of Washington School Principals.

(Other) Dave Mastin, Office of the Superintendent of Public Instruction.

**Persons Signed In To Testify But Not Testifying:** None.