

# FINAL BILL REPORT

## E2SHB 2467

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Synopsis as Enacted

**Brief Description:** Establishing a centralized single point of contact background check system for firearms transfers.

**Sponsors:** House Committee on Appropriations (originally sponsored by Representatives Hansen, Irwin, Griffey, Barkis and Wylie).

**House Committee on Civil Rights & Judiciary**  
**House Committee on Appropriations**  
**Senate Committee on Law & Justice**  
**Senate Committee on Ways & Means**

### **Background:**

#### Federal Background Check Laws.

Under the federal Brady Handgun Violence Prevention Act, a federally licensed dealer must, with few exceptions, conduct a background check on all firearms transfers to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS). When the NICS became operational, the Federal Bureau of Investigation requested each state to designate themselves as either a full point of contact (POC) state, a partial POC state, or a non-POC state. Washington opted to act as a partial POC state, which means the NICS check for pistol transfers is conducted by the state, and the NICS check for long gun transfers is conducted by the dealer. Local law enforcement agencies serve as the partial POC for dealers in conducting the NICS checks for pistol transfers.

#### State Background Check Laws.

State law requires background checks for all firearms transfers. A sale or transfer of a firearm where neither party is a dealer must be completed through a dealer, and the dealer must process the transaction by complying with all federal and state laws that would apply if the dealer were selling or transferring the firearm from the dealer's inventory.

Specific requirements apply to the sale or transfer of a pistol or semiautomatic assault rifle, including a requirement that the dealer contact the local law enforcement agency to conduct a state background check for these transfers. In addition to the NICS check, the local law enforcement agency conducts a check of the Washington State Patrol (WSP) databases, the

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Department of Licensing firearms database, local records management systems, state and local mental health agencies, and other agencies or resources as appropriate.

State law does not require a background check of state databases by local law enforcement for sales or transfers of shotguns or rifles that are not semiautomatic assault rifles. However, the dealer must conduct a NICS check as required under federal law.

#### Denied Firearms Transfers.

Dealers are required to report to the Washington Association of Sheriffs and Police Chiefs (WASPC) each instance where the sale or transfer of a firearm is denied as the result of a background check indicating the applicant is ineligible to possess a firearm. The WASPC reports this information to the local law enforcement agency and to the WSP, which must include the information in its electronic database accessible to law enforcement agencies. The WASPC operates a grant program for local law enforcement agencies to conduct criminal investigations of persons who illegally attempt to obtain a firearm within their jurisdictions. In addition, the WASPC must prepare an annual report on the number of denied firearms sales or transfers reported by firearms dealers, and operate a victim protective order notification program.

#### Single Point of Contact System Feasibility Study.

Legislation enacted in 2019 directed the Office of Financial Management (OFM) to conduct a feasibility study regarding the establishment of a single POC firearms background check system. The OFM submitted its report and recommendations in November 2019, finding that the creation of a single POC background check system is both feasible and an advisable course of action. The report indicated that creating a single POC background check system would improve public safety and streamline the background check process. The report recommended the centralized background check unit and associated systems be placed within the WSP.

#### **Summary:**

##### Washington State Patrol Firearms Background Check Unit.

The Washington State Patrol (WSP) must establish a Firearms Background Check Unit to serve as a centralized single point of contact for dealers to conduct background checks for firearms sales or transfers required under state law and the federal Brady Handgun Violence Prevention Act.

The WSP must establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must allow a dealer to contact the WSP through a web portal or other electronic means and by telephone to request a background check and provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation. The system must include measures to ensure data integrity and the confidentiality and security of records in the system and a performance metrics tracking system to evaluate the performance of the system.

The WSP must provide the dealer with a notification that a firearm transfer application has been received, conduct a background check of the applicant, and notify the dealer without

delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the WSP must notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry. The WSP must provide the dealer with a unique identifier for each background check inquiry.

The background check must include a check of the following databases:

- the National Instant Criminal Background Check System;
- the Washington Crime Information Center and Washington State Identification System;
- the Health Care Authority electronic database;
- the Federal Bureau of Investigation national data exchange database and any available repository of statewide law enforcement record management systems information;
- the Administrative Office of the Courts (AOC) case management system; and
- other databases or resources as appropriate.

The WSP must work with the AOC to build a link between the firearm background check system and the AOC case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

The WSP must perform an equivalency analysis on criminal charges in foreign jurisdictions to determine if a person has been convicted of a felony that is equivalent to a state felony. In addition, the WSP must establish a procedure for a person who has been denied a firearms purchase or transfer as the result of a background check to appeal the denial to the WSP and to obtain information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

The WSP must establish a fee that a dealer must charge each firearm purchaser or transferee, except the fee does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm. The fee must be established in an amount necessary to cover the annual costs of operating and maintaining the firearm background check system, but must not exceed \$18. Legislative intent is stated that this fee will replace the fee for semiautomatic assault rifle transfers once the state background check system is established. The WSP must transmit the fees collected to the State Treasurer for deposit in the newly created State Firearms Background Check System Account. Expenditures from the account may be used only for the creation, operation, and maintenance of the state firearms background check system.

All records and information prepared, obtained, used, or retained by the WSP in connection with a request for a firearm background check are exempt from public inspection and copying under the Public Records Act.

#### Dealer Requirements.

Beginning on the date that is 30 days after the WSP issues a notification to dealers that a state firearms background check system is established within the WSP, a dealer must use the state system to conduct background checks for all firearm sales or transfers, except sales or transfers to licensed dealers and sales or transfers of antique firearms. For sales or transfers

of pistols and semiautomatic assault rifles, a dealer must comply with all requirements of state firearms laws that apply to the sale or transfer of a pistol or semiautomatic assault rifle. The purchase or transfer of a firearm that is not a pistol or semiautomatic assault rifle must be processed under the same requirements that apply to the sale or transfer of a pistol, except that current Department of Licensing recordkeeping requirements do not apply to these transactions. A dealer must charge a purchaser or transferee a background check fee established by the WSP and remit the proceeds to the WSP on a monthly basis.

#### Washington Background Check Advisory Board.

The Washington Background Check Advisory Board (Board) is established with a primary purpose of ensuring that the WSP Firearms Background Check Unit (Unit) is administered efficiently and effectively, and in a manner that honors individual firearms rights while preventing prohibited persons from obtaining firearms. The WSP must consult with the Board in carrying out its duties in establishing and operating the state firearms background check system.

The Board consists of the following members, appointed by the Governor:

- the chief of the WSP or the chief's designee;
- the executive director of the Washington Association of Sheriffs and Police Chiefs or the executive director's designee;
- one sheriff and one police chief;
- one representative of an organization known to actively advocate in Washington on behalf of greater firearm regulation; and
- one member of the general public.

The Board's duties are to provide input and feedback on the establishment of the Unit, provide input on the development of the Unit's budget, and be consulted with prior to the proposal and adoption of any rule relating to the Unit. In addition, the Board must require reports from the chief of the WSP on matters pertaining to the Unit, and report annually to the Governor and the Legislature on the activities of the Board and the Unit.

Members of the Board serve four-year terms on a staggered schedule. Members serve without compensation but are entitled to travel reimbursement. The WSP must provide the staffing and budgetary resources necessary for the Board to properly fulfill its duties. Members serving in their official capacity on the Board, or their employers or other entity that selected the members to serve, are immune from a civil action based on an act performed in good faith.

#### Denied Firearms Transfers.

Procedures relating to the reporting of denied firearms purchases are revised, effective 30 days after the WSP issues a notification that a state firearms background check system is established. Dealers are no longer required to report to the WASPC each instance where an application for the purchase or transfer of a firearm is denied. Instead, the WSP must report denied firearms purchases or transfers to the local law enforcement agency in the jurisdiction where the attempted purchase or transfer took place. The WSP must provide the local law enforcement agency with updates for reports that indicated an initial denial but that are subsequently approved. The WSP, rather than local law enforcement, will serve as the contact for information on a denial based on a state background check. The WSP must

provide the WASPC with any information necessary for the preparation of the denied firearms transfers report, operation of the victim protective order notification program, and administration of the grant program for criminal investigations of illegal attempts to purchase firearms.

**Votes on Final Passage:**

House 66 32

Senate 29 20

**Effective:** June 11, 2020