

# SENATE BILL REPORT

## ESHB 2220

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As of March 2, 2020

**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:** House Committee on Education (originally sponsored by Representatives Dolan, Callan, Ortiz-Self, Ryu, Appleton, Valdez, Frame, Davis, Ormsby, Irwin, Wylie, Doglio, Santos and Peterson).

**Brief History:** Passed House: 2/19/20, 82-16.

**Committee Activity:** Early Learning & K-12 Education: 2/26/20, 2/28/20 [DPA, DNP, w/oRec].

Ways & Means: 2/29/20.

### Brief Summary of Amended 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;
- Requires the Washington State School Directors' Association to develop and publish a model policy that addresses the parent volunteer application, review, approval, and denial requirements.

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### SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

**Majority Report:** Do pass as amended.

Signed by Senators Wellman, Chair; Wilson, C., Vice Chair; Hunt, McCoy, Mullet and Salomon.

**Minority Report:** Do not pass.

Signed by Senators Hawkins, Ranking Member; Holy.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Padden, Pedersen and Wagoner.

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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.*

**Staff:** Alex Fairfortune (786-7416)

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## SENATE COMMITTEE ON WAYS & MEANS

**Staff:** Kayla Hammer (786-7305)

**Background:** Record Check Requirements for School Volunteers. A record check is criminal history record information obtained through the Washington State Patrol (WSP) criminal identification system and through the Federal Bureau of Investigation (FBI) that includes a fingerprint check. Educational entities and their contractors, may perform record checks for prospective volunteers who will have regularly scheduled unsupervised access to:

- groups of five or fewer children under 12 years of age;
- groups of three or fewer children between 12-18 years of age; or
- developmentally disabled persons.

Educational entities include school districts, educational service districts, the Washington Center for Deaf and Hard of Hearing Youth, the State School for the Blind, Federal Bureau of Indian Affairs schools, charter schools, and state-tribal education compact schools.

"Unsupervised" means not in the presence of another employee or volunteer from the same organization or a relative or guardian of any of children or disabled persons to which the volunteer has access.

Certificate of Restoration of Opportunity. A Certificate of Restoration of Opportunity (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.

**Summary of Amended Bill:** If a criminal history record check performed as part of the volunteer application process for a parent applicant indicates that the parent has a criminal history, the school must either:

- permit the application to proceed, if the parent submits documentation of a finding of innocence, a finding of rehabilitation, or, with the exception of crimes against children, a certificate of restoration of opportunity; or
- complete a criminal history review of the parent, if the parent does not submit the above documentation.

As part of a criminal history review, the school must consider the length of time since the commission of the last crime for which the parent was convicted or pled guilty, as well as whether any crime involved a minor child victim. The school may also consider the following:

- the age of the parent on the date of the commission of the crime;
- whether the parent has been approved by a state agency to have unsupervised access to children or persons with developmental disabilities; and
- whether providing limited access to children and persons with developmental disabilities within a classroom would give the parent the opportunity to have meaningful involvement in the school.

Within five days of denying the volunteer application of a parent, the school must notify the parent of the decision, state specific reasons for the denial, and provide the procedure for appealing the decision. A school must notify parent applicants for volunteer positions about the process for submitting documents and statements related to application review and approval. The term "parent" includes parents, grandparents, guardians, or legal custodian of a student enrolled at a school.

By September 1, 2020, the Washington State School Directors' Association, in consultation with OSPI and the Office of the Education Ombuds, must develop and publish a model parent volunteer policy and procedure that addresses the new application review and approval requirements.

#### **EFFECT OF EARLY LEARNING & K-12 EDUCATION COMMITTEE AMENDMENT(S):**

- Removes the provision that required schools to complete a criminal history record check for all prospective volunteers, to be paid for or reimbursed by the Office of the Superintendent of Public Instruction.
- If a criminal history record check performed as part of a parent volunteer application process indicates that the parent has a criminal history, the school must either:
  - permit the application to proceed if the parent submits documentation of a finding of innocence, a finding of rehabilitation, or, with the exception of crimes against children, a certificate of restoration of opportunity; or

- complete a criminal history review as prescribed for a parent who has not met the requirements of section 1(1)(a) of this act.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony on Engrossed Substitute House Bill (Early Learning & K-12 Education):** *The committee recommended a different version of the bill than what was heard.* PRO: Some parents have criminal convictions from earlier in life. If we can't find a way for parents to come into the classroom then the message we are sending kids is that their parents are not as good as other parents, and by extension, they are not as good as other kids. One testifier spoke to the fact that her mom was previously incarcerated, which keeps her from being able to volunteer in school with her grandchildren. Similarly, her husband is currently incarcerated and would not be able to volunteer in school. There is a positive effect that having parents in school can have on kids.

OTHER: There are concerns about recent amendments that moved the background check away from the responsibility of the school districts. The authority should remain with the school districts. As the bill has progressed it has become problematic. The idea was to strengthen families for parents who have shown rehabilitation, and if you could show CROP documentation you wouldn't be denied. Now the bill has changed to mandate fingerprint checks.

**Persons Testifying (Early Learning & K-12 Education):** PRO: Representative Laurie Dolan, Prime Sponsor; Heather Dockery.

OTHER: Marissa Rathbone, Washington State School Directors' Association; Antonio Ginatta, Columbia Legal Services; Dave Mastin, Office of the Superintendent of Public Instruction.

**Persons Signed In To Testify But Not Testifying (Early Learning & K-12 Education):** No one.

**Staff Summary of Public Testimony on Bill as Amended by Early Learning & K-12 Education (Ways & Means):** PRO: The bill will allow school districts to now consider individuals that have previous criminal records as volunteers in the schools. It is still at the discretion of the school district whether or not to move forward based on the results of the background check. The background checks are typically specifically for people that will be with children unsupervised. The testimony in the policy committee was very compelling.

**Persons Testifying (Ways & Means):** PRO: Dave Mastin, OSPI.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.