

SENATE BILL REPORT

ESHB 1600

As Passed Senate - Amended, April 6, 2023

Title: An act relating to providing access to sealed juvenile records for firearm purposes.

Brief Description: Providing access to sealed juvenile records for firearm purposes.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Goodman, Berry, Ramel and Pollet; by request of Washington State Patrol).

Brief History: Passed House: 2/27/23, 95-0.

Committee Activity: Law & Justice: 3/13/23, 3/22/23 [DPA].

Floor Activity: Passed Senate - Amended: 4/6/23, 47-0.

Brief Summary of Bill (As Amended by Senate)

- Allows sharing of sealed juvenile records with non-Washington criminal justice agencies solely for conducting background checks for processing firearms transfers and licenses, and for releasing firearms from evidence.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass as amended.

Signed by Senators Dhingra, Chair; Trudeau, Vice Chair; Padden, Ranking Member; Kuderer, McCune, Pedersen, Salomon, Torres, Valdez, Wagoner and Wilson, L..

Staff: Joe McKittrick (786-7287)

Background: Background Checks for Firearms Transfers. Certain individuals are disqualified from possessing firearms under state and federal law including any person who has been convicted as an adult, or adjudicated as a juvenile, of a felony offense or certain domestic violence misdemeanor offenses, and any person involuntarily committed for

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mental health treatment or for competency restoration.

Under federal law, a dealer must, with few exceptions, conduct a background check on all firearms transfers to determine whether the purchaser is prohibited from possessing firearms. This background check is conducted through the National Instance Criminal Background Check System (NICS). Under state law, in addition to the NICS background check, a state background check is required for the purchase or transfer of a pistol or semiautomatic assault rifle.

In 2020, the Legislature enacted ESHB 2467 which, in part, created a centralized point-of-contact firearms background check program within the Washington State Patrol (WSP). With this change, all background checks for firearms transfers within the state must be processed by WSP. WSP has indicated that this program will be fully operational by 2024.

Bipartisan Safer Communities Act. The federal Bipartisan Safer Communities Act (BSCA) specifically provides that federal firearms prohibitions apply if a person's juvenile record includes a prohibiting criminal conviction or involuntary commitment or mental health adjudication. The BSCA also established new provisions related to background checks for individuals under 21 years of age including the requirement that NICS must contact state and local authorities to determine whether the individual has a disqualifying record. Mental health records may only be accessed from the time the person turns 16 years of age. This enhanced background check requirement for individuals under 21 years of age expires automatically in 2032 if not renewed.

Sealing of Juvenile Records. Records of juvenile offense adjudications are public unless sealed. A juvenile offense record may be sealed through a regularly held administrative hearing or by filing a motion to seal the official juvenile court record, the social file, and the records of the court and any other involved agency. Once a juvenile record is sealed, the proceedings in the case must be treated as if they never occurred. With limited exceptions, once a juvenile record is sealed, files and records included in the sealing order may be inspected only by order of the court upon a motion made by the subject of the information of complaint.

Any subsequent juvenile adjudication or filing of an adult felony charge unseals the prior case. The Administrative Office of the Courts must ensure prosecutors have access to information to the existence of sealed juvenile records. WSP must provide Washington criminal justice agencies access to sealed juvenile records information through the Washington State Identification System (WASIS). WSP is not authorized to share this information through WASIS with criminal justice agencies outside of Washington. Criminal justice agencies are prohibited from disclosing confidential information or sealed records accessed through the WASIS or other means.

Summary of Amended Bill: WSP must ensure that non-Washington criminal justice agencies have access to sealed juvenile records only for conducting a background check for

processing and purchasing firearms, concealed pistol licenses, and alien firearms licenses, and releasing firearms from evidence. Non-Washington criminal justice agencies that access sealed juvenile records may not knowingly disseminate the accessed records or any information derived therefrom to any third party. Violation of this prohibition subjects the disseminating agency to the jurisdiction of the courts of Washington and a civil penalty of not more than \$1,000 per violation.

Appropriation: None.

Fiscal Note: Not requested.

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: *The committee recommended a different version of the bill than what was heard.* PRO: There is a lot of sensitivity when we talk about sealed juvenile records, and this bill takes measures to ensure that only the offenses that are disqualifiers for the possession of firearms are accessible. This bill will help ensure guns do not get in the hands of those who should not have them. Because of current restrictions on sharing sealed juvenile records with criminal justice agencies outside of Washington, those agencies are not able to view potentially disqualifying criminal records. This change will ensure all criminal justice agencies have access to the records they need to make decisions related to prohibiting access to firearms.

CON: Washington ranks as the second worst state in terms of the confidentiality of juvenile court records. Sealing a juvenile record is one of the only protections juveniles currently have, and this bill seeks to amend this law. If this bill is enacted, it should be limited to individuals who are under 21 years old who are seeking to purchase firearms. The bill should also be limited to felony and domestic violence adjudications. This is a poorly drafted and unnecessary bill and unnecessary to solve a problem that does not exist. Currently, all Washington records are available for firearm background checks through federal databases. The FBI does not recognize Washington's sealing of juvenile records. This bill upends our state's juvenile records sealing system. The sealing of records is an incentive to young people that their juvenile records will not follow them for the rest of their lives. While our laws set parameters on how other Washington criminal justice agencies use these records, not such parameters exist for when these records are shared outside Washington.

OTHER: This bill is overly broad and too intrusive into the lives of Washingtonians who have a juvenile record. Federal law limits access to such records to only those under the age of 21, and this bill opens the door to these records beyond what is needed to align Washington with federal law. Washington has made assurances to its citizens that if they are law abiding after a juvenile offense, the record will be sealed and they can move on with

their lives. If this bill takes effect, there is no controlling what would happen to these records once they are disseminated outside Washington. Without further sidebars, this bill threatens to break the promise Washington made to its youth.

Persons Testifying: PRO: Representative Roger Goodman, Prime Sponsor; Kimberly Mathis, Washington State Patrol; Kateri Candee, Washington State Patrol.

CON: Katie Hurley, King County Department of Public Defense; George Yeannakis, Washington State Office of Public Defense; Antonio Ginatta, Columbia Legal Services.

OTHER: Kristin Mansfield, Cheney United Methodist Church.

Persons Signed In To Testify But Not Testifying: No one.