

# HOUSE BILL REPORT

## ESHB 2556

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**As Passed House:**

February 13, 2004

**Title:** An act relating to studying criminal background check processes.

**Brief Description:** Studying criminal background check processes.

**Sponsors:** By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives O'Brien, Kagi, Carrell, Upthegrove, Miloscia, Lovick and Moeller).

**Brief History:**

**Committee Activity:**

Criminal Justice & Corrections: 1/30/04, 2/3/04 [DPS].

**Floor Activity:**

Passed House: 2/13/04, 96-0.

**Brief Summary of Engrossed Substitute Bill**

- Creates a Joint Task Force on Criminal Background Check Processes to study current statutes, costs, and response times for criminal background checks.
- Requires the Washington Association of Sheriffs and Police Chiefs (WASPC) and the Washington State Patrol (WSP) to conduct a study on how to improve the criminal background check process.

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### HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

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

**Background:**

The WSP is authorized to disclose criminal background checks of applicants and employees to any business or organization in Washington that educates, trains, treats, supervises, houses, or provides recreation to developmentally disabled persons,

vulnerable adults, mentally ill persons, or children under 16 years of age, including but not limited to public housing authorities, school districts, and educational service districts. The business or organization making the inquiry to the WSP or a federal law enforcement agency, must notify the applicant who has been offered a position as an employee or volunteer, that a background inquiry may be made.

The Legislature finds that many developmentally disabled individuals and vulnerable adults desire to hire their own employees directly and also need adequate information to determine which employees to hire. In these cases, the WSP may also disclose, upon request of a developmentally disabled person or a vulnerable adult or his or her guardian, an applicant's record for convictions of offenses against children or other persons, convictions for crimes relating to financial exploitation (but only if the victim is a vulnerable adult), adjudications of child abuse in a civil action, and any issuance of a vulnerable adult protection order.

Law enforcement agencies, the Office of the Attorney General, prosecuting authorities, and the Department of Social and Health services may also request background check information to aid in the investigation and prosecution of cases of abuse that may have involved a child, developmentally disabled person or vulnerable adult.

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

The Legislature finds that criminal background checks for employment purposes are rapidly increasing and as a result, the current processes are not adequate to keep pace with the growing demand. Without adequate processes to encourage receiving results on a timely basis, a public risk is created.

#### *Joint Task Force on Criminal Background Check Processes.*

A Joint Task Force on Criminal Background Check Processes is established to review and make recommendations to the Legislature and the Governor regarding the criminal background check process. The task force must choose two co-chairs from among its membership. The membership consists of two members from each of the two largest caucuses of the Senate and the House of Representatives; one representative from the Washington State Patrol, the Department of Social and Health Services, and the Office of the Superintendent of Public Instruction; one elected sheriff or police chief, selected by the Washington Association of Sheriffs and Police Chiefs; and jointly appointed by the speaker of the House of Representatives and the president of the Senate, representatives from the following entities:

- A nonprofit service organization that serves primarily children under sixteen years of age;
- A health care provider;
- An organization that serves primarily developmentally disabled persons or vulnerable adults;

- A local youth athletic association;
- The insurance industry;
- A local parks and recreation program, selected by the Association of Washington Cities; and
- A local parks and recreation program, selected by the Washington Association of Counties.

The task force must, at a minimum, review the following issues:

- What state and federal statutes require regarding criminal background checks;
- What criminal offenses are currently reportable through the criminal background check program;
- What information is available through the Washington State Patrol and the Federal Bureau of Investigation criminal background check systems;
- What are the best practices among organizations for obtaining criminal background checks on their employees and volunteers;
- What is the feasibility and costs for businesses and organizations to do periodic background checks;
- What is the feasibility of requiring all businesses and organizations, including nonprofit entities, to conduct criminal background checks for all employees, contractors, agents, and volunteers who have regularly scheduled supervised or unsupervised access to children, developmentally disabled persons, or vulnerable adults; and
- What are the benefits and obstacles of implementing a criminal history record information background check program created by the National Child Protection Act of 1993.

The task force, where feasible, may consult with individuals from the public and private sector and may also use legislative facilities and staff from Senate Committee Services and the House Office of Program Research.

WASPC's Study on Criminal Background Checks.

The WASPC must work in consultation with the WSP to conduct a study on criminal background checks. The study must focus on how Washington can reduce delays in the criminal background check processing time, and how it can make criminal background checks more accessible and efficient.

The study must include, but is not limited to:

- A review and analysis of the criminal background check programs in states that have recently implemented or are soon to implement comprehensive criminal background check programs;
- Recommendations on how a comprehensive criminal background check program should be designed in Washington, and how much it would cost to implement such a comprehensive program; and
- A review of how a comprehensive criminal background check program could be paid for in Washington, which includes a determination on whether the program could be

funded solely by user fees.

The findings and recommendations from the WASPC study must be presented to the Joint Task Force on Criminal Background Check Processes no later than November 30, 2004. The Joint Task Force on Criminal Background Check Processes must report its findings and recommendations to the Legislature by December 31, 2004.

The act expires December 31, 2004.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Testimony For:** Currently, the Legislature requires various entities, such as school teachers and daycare workers, to conduct criminal background checks before obtaining certain jobs or licenses. The current process is that applicants are required to go to their local law enforcement department, fingerprints are taken and then those prints are mailed to the state patrol and then sometimes on to the FBI. The problem is that it takes a fairly long amount of time, sometimes months, to get a background check back once it has been submitted. Other states are doing this process electronically which helps organizations to get answers sooner. The intent of this bill is to find out how other states are implementing their programs and what the costs are for doing such a process in Washington.

The bill will also require a review of the Child Protection Act of 1993. This act of Congress allows individuals such as nonprofits to bypass having to ask the Legislature to pass a bill each year to authorize them to do full background checks on their employees and volunteers.

The study should be broadened to include nonprofit organizations and maybe some legislators as participants on the study group (the substitute bill makes this amendment).

**Testimony Against:** None.

**Persons Testifying:** Tim Schellberg, Washington Association of Sheriffs and Police Chiefs; and Amy Bell, YMCA of Washington.

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