

HOUSE BILL REPORT

HB 2946

As Reported by House Committee On:
Education

Title: An act relating to record checks for employees and applicants for employment at bureau of Indian affairs-funded schools.

Brief Description: Regarding checks for employees of bureau of Indian affairs-funded schools.

Sponsors: Representatives P. Sullivan, Roach, Simpson, Shabro and McCoy.

Brief History:

Committee Activity:

Education: 1/25/06, 2/1/06 [DPA].

Brief Summary of Substitute Bill

- Allows Washington State Patrol record checks of federal Bureau of Indian Affairs-funded school employees and applicants for employment using the same processes as used by school districts and Educational Service Districts.

HOUSE COMMITTEE ON EDUCATION

Majority Report: Do pass as amended. Signed by 12 members: Representatives Quall, Chair; P. Sullivan, Vice Chair; Talcott, Ranking Minority Member; Anderson, Assistant Ranking Minority Member; Curtis, Haigh, Hunter, McDermott, Priest, Santos, Tom and Wallace.

Staff: Sarah Ream (786-7303).

Background:

Washington State Patrol background checks

Two sets of statutes authorize the Washington State Patrol to release criminal history information to non-criminal justice entities. The information released and to whom the information will be released depends on the status of the requestor.

Under the Criminal Records Privacy Act, any person may request a record of convictions. These records are released without restriction and without notice to the subject of the record. The records released include all Washington convictions and any arrests within the past year if the arrest's disposition is still pending.

Under the Child and Adult Abuse Information Act, only certain entities may request information. These agencies include: (1) businesses or organizations licensed in the state of Washington; (2) state agencies; (3) any other government entities that, among other things, educate children under 16 years of age. Public and private schools are allowed access to records under both this act and the Criminal Records Privacy Act.

The records released under the Child and Adult Abuse Information Act are broader than those released to the public generally and include: criminal convictions; Department of Health disciplinary decisions regarding physical or sexual abuse of a child; and civil adjudications of child abuse.

Background check requirements for tribally controlled schools

In 1990, Congress passed the Federal Indian Child Protection and Family Violence Prevention Act (Act) to protect children on Indian reservations. Under the Act, every tribally controlled school that receives federal funding must conduct background investigations of each employee or volunteer who has regular contact with or control over Indian children. The background investigation must cover at least the immediately preceding five year period. Every tribal school employee who has regular contact with or control over Indian children must be reinvestigated every five years. The tribal school may conduct its own investigations, contract with a private firm, or request that the U.S. Office of Personnel Management conduct the investigation.

The tribal school must deny employment or dismiss any employee with control over or contact with children if the employee has been found guilty of or entered a plea of guilty or nolo contendere to any federal, state, or tribal offense involving a crime of: (1) violence, (2) sexual assault, (3) sexual molestation, (4) child exploitation, (5) sexual contact, (6) prostitution, or (7) crimes against persons.

Currently, Washington tribal schools check records of prospective employees in various ways. Some contract with local public school districts to run the tribal school's checks. Others have historically asked the Office of the Superintendent of Public Instruction to run their background checks.

Summary of Substitute Bill:

Washington State Patrol (WSP) record checks are authorized for federal Bureau of Indian Affairs-funded school employees and applicants for employment using the same processes as used by school districts and Educational Service Districts. The costs of running such checks will be paid for by the requesting school.

Substitute Bill Compared to Original Bill:

The substitute bill clarifies that Federal Bureau of Indian Affairs funded schools, as opposed to the employees or applicants for employment, are authorized to use the WSP's record check system.

Appropriation: None.

Fiscal Note: Not requested.

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

Testimony For: (Original bill) This bill will allow schools funded by the Federal Bureau of Indian Affairs to access the WSP's record check system just as Educational Service Districts (ESDs) and the schools do now. The Muckleshoot tribe is building a new school that will have over 600 full-time equivalent enrollments. They would like the ability to use the WSP's system to conduct background checks of employees and applicants. Currently, the ESDs will occasionally run fingerprint checks on behalf of the Federal Bureau of Indian Affairs funded schools, but the tribes are concerned that the growing number of schools will require more checks.

Testimony Against: None.

Persons Testifying: (In support) Representative P. Sullivan, prime sponsor; Rick Jensen, Muckleshoot Tribe; Mike Moran, Quilente and Samish Tribes; and LeoLa Clair, Muckleshoot Tribe.

Persons Signed In To Testify But Not Testifying: None.