

SENATE BILL REPORT

SB 5274

As of January 29, 2007

Title: An act relating to the accuracy and completeness of information available in background check reports.

Brief Description: Applying the provisions of chapter 19.182 RCW, the fair credit reporting act, to background check reports.

Sponsors: Senators Kohl-Welles and Brandland.

Brief History:

Committee Activity: Consumer Protection & Housing: 1/25/07.

SENATE COMMITTEE ON CONSUMER PROTECTION & HOUSING

Staff: Alison Mendiola (786-7483)

Background: In 2004, the Legislature created the Joint Task Force on Criminal Background Check Processes (ESHB 2556, Chapter 41 of the Laws of 2004, and subsequently extended by SHB 1681 (2005) and SSB 6717 (2006)). One of the Task Force's legislative recommendations for the 2007 Legislative Session is to ensure accurate and complete background checks, due in part to an increased reliance on background information obtained from internet-based brokers.

The federal fair credit reporting act (15 U.S.C. Sec. 1681 et seq) requires that consumer reporting agencies adopt reasonable procedures for meeting the needs of commerce for consumer credit, personnel, insurance, and other information in a manner that is fair and equitable to the consumer with regard to confidentiality, accuracy, and proper utilization of information contained in consumer reports.

Under the state fair credit reporting act, consumer reporting agencies may not disclose certain information including records of arrest, indictment or conviction older than seven years, or the salary of an individual that exceeds \$20,000 per year.

Summary of Bill: The state fair credit reporting act is clarified and amended to reflect changes made to the federal fair credit reporting act. For example, records of a conviction may be disclosed, regardless of the date of the conviction, and the language excluding disclosure of salaries over \$20,000 a year is eliminated. However, a consumer reporting agency may not disclose the records of a conviction that has been vacated.

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.

"Consumer reports" is clarified as including both investigative consumer or background checks and credit reports.

An employer who relies on a consumer report to support an adverse action must: (1) provide the consumer with a preadverse action disclosure that includes a copy of the consumer's report and a summary of the consumer's rights, notice of the adverse action in writing, the name, address, and phone number of the consumer reporting agency that supplied the report, and notice of the consumer's right to dispute the accuracy or completeness of any information the agency furnished; and (2) the consumer's right to an additional consumer report from the agency upon request within 60 days.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill came out of the Joint Task Force on Background Checks. There is an increased reliance on using web-based companies for background checks, which aren't updated and may therefore lead to inaccurate reports. The language would bring the state act in parity with the federal act.

CON: We should not allow criminal histories older than 7 years to be reported. Also, vacating a conviction is hard to do and indigent persons are not provided counsel to help vacate a record so this will hurt a person instead of helping him or her. The language is duplicative and therefore confusing, especially for employers who have too many laws to follow (both federal and state fair credit reporting act). Employers are already subject to the requirements of the federal fair credit reporting act.

Persons Testifying: PRO: Senator Kohl-Welles, prime sponsor.

CON: Andrew Morrison, Washington Defenders Association and Washington Association of Criminal Defense Lawyers; Corine Knudson, Washington State Coalition for the Homeless; Greg Provenzano, Columbia Legal Services; Cliff Webster, Consumer Data Industry Association.