
HOUSE BILL 2955

State of Washington

60th Legislature

2008 Regular Session

By Representatives Hunter, O'Brien, Hurst, Sullivan, Williams, Kelley, and Morrell; by request of Department of Labor & Industries, Department of Social and Health Services, Employment Security Department, Department of Licensing, Attorney General, and Criminal Justice Training Commission

Read first time 01/18/08. Referred to Committee on Public Safety & Emergency Preparedness.

1 AN ACT Relating to identifying specific programs that are able to
2 have access to criminal history record information; amending RCW
3 50.12.010 and 43.101.095; adding a new section to chapter 51.04 RCW;
4 adding a new section to chapter 74.04 RCW; adding a new section to
5 chapter 43.20A RCW; adding a new section to chapter 46.01 RCW; adding
6 a new section to chapter 19.86 RCW; and creating a new section.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds it necessary to
9 provide the authority to allow specific units within the agencies
10 affected by this act to access criminal history information for
11 certified criminal justice purposes. For the agencies indicated in
12 sections 2 through 7 of this act, the accessing of this information is
13 for investigative purposes so that the agencies are able to efficiently
14 address areas of potential fraud and abuse and to maintain the safety
15 of investigative staff. For the agency responsible for administering
16 and enforcing section 8 of this act, accessing this information is
17 necessary for any purpose associated with employment by the commission
18 or peace officer certification.

1 NEW SECTION. **Sec. 2.** A new section is added to chapter 51.04 RCW
2 to read as follows:

3 (1) There is established an investigation unit within the
4 department for the purpose of detection, investigation, and prosecution
5 of any act prohibited or declared to be unlawful under this title. The
6 director will employ supervisory and investigative personnel for the
7 program, who must be qualified by training and experience.

8 (2) The director and the investigation unit are authorized to
9 receive criminal history record information that includes nonconviction
10 data for any purpose associated with the investigation, abuse, fraud,
11 or suitability for involvement of persons under Title 51 RCW.
12 Dissemination or use of nonconviction data for purposes other than that
13 authorized in this section is prohibited.

14 NEW SECTION. **Sec. 3.** A new section is added to chapter 74.04 RCW
15 to read as follows:

16 There is established a unit within the department for the purpose
17 of detection, investigation, and prosecution of any act prohibited or
18 declared to be unlawful in the programs administered by the department.
19 The secretary will employ qualified supervisory, legal, and
20 investigative personnel for the program. Program staff must be
21 qualified by training and experience.

22 NEW SECTION. **Sec. 4.** A new section is added to chapter 43.20A RCW
23 to read as follows:

24 The secretary is authorized to receive criminal history record
25 information that includes nonconviction data for any purpose associated
26 with an investigation under chapter 74.04 RCW. Dissemination or use of
27 nonconviction data for purposes other than that authorized in this
28 section is prohibited.

29 **Sec. 5.** RCW 50.12.010 and 1977 c 75 s 75 are each amended to read
30 as follows:

31 (1) The commissioner shall administer this title. He shall have
32 the power and authority to adopt, amend, or rescind such rules and
33 regulations, to employ such persons, make such expenditures, require
34 such reports, make such investigations, and take such other action as
35 he deems necessary or suitable to that end. Such rules and regulations

1 shall be effective upon publication and in the manner, not inconsistent
2 with the provisions of this title, which the commissioner shall
3 prescribe. The commissioner, in accordance with the provisions of this
4 title, shall determine the organization and methods of procedure of the
5 divisions referred to in this title, and shall have an official seal
6 which shall be judicially noticed. The commissioner shall submit to
7 the governor a report covering the administration and operation of this
8 title during the preceding fiscal year, July 1 through June 30, and
9 shall make such recommendations for amendments to this title as he
10 deems proper. Such report shall include a balance sheet of the moneys
11 in the fund in which there shall be provided, if possible, a reserve
12 against the liability in future years to pay benefits in excess of the
13 then current contributions, which reserve shall be set up by the
14 commissioner in accordance with accepted actuarial principles on the
15 basis of statistics of employment, business activity, and other
16 relevant factors for the longest possible period. Whenever the
17 commissioner believes that a change in contribution or benefit rates
18 will become necessary to protect the solvency of the fund, he shall
19 promptly so inform the governor and legislature and make
20 recommendations with respect thereto.

21 (2) There is established a unit within the department for the
22 purpose of detection and investigation of fraud under this title. The
23 department will employ supervisory and investigative personnel for the
24 program, who must be qualified by training and experience.

25 (3) The commissioner or the commissioner's duly authorized designee
26 is authorized to receive criminal history record information that
27 includes nonconviction data for any purpose associated with the
28 investigation for abuse or fraud under chapter 50.20 RCW.
29 Dissemination or use of nonconviction data for purposes other than that
30 authorized in this section is prohibited.

31 NEW SECTION. Sec. 6. A new section is added to chapter 46.01 RCW
32 to read as follows:

33 (1) There is established an investigation unit within the
34 department for the purpose of detection, investigation, and prosecution
35 of any act prohibited or declared to be unlawful in the programs
36 administered by the department. The director will employ qualified

1 supervisory, legal, and investigative personnel for the program.
2 Program staff must be qualified by training and experience.

3 (2) The director and the investigation unit are authorized to
4 receive criminal history record information that includes nonconviction
5 data for any purpose associated with an investigation conducted by the
6 investigation unit established under this section. Dissemination or
7 use of nonconviction data for purposes other than that authorized in
8 this section is prohibited.

9 NEW SECTION. **Sec. 7.** A new section is added to chapter 19.86 RCW
10 to read as follows:

11 There is established a unit within the office of the attorney
12 general for the purpose of detection, investigation, and prosecution of
13 any act prohibited or declared to be unlawful under this chapter. The
14 attorney general will employ supervisory, legal, and investigative
15 personnel for the program, who must be qualified by training and
16 experience. The attorney general is authorized to receive criminal
17 history record information that includes nonconviction data for any
18 purpose associated with the investigation of any person doing any act
19 herein prohibited or declared to be unlawful under this chapter.
20 Dissemination or use of nonconviction data for purposes other than that
21 authorized in this section is prohibited.

22 **Sec. 8.** RCW 43.101.095 and 2005 c 434 s 2 are each amended to read
23 as follows:

24 (1) As a condition of continuing employment as peace officers, all
25 Washington peace officers: (a) Shall timely obtain certification as
26 peace officers, or timely obtain certification or exemption therefrom,
27 by meeting all requirements of RCW 43.101.200, as that section is
28 administered under the rules of the commission, as well by meeting any
29 additional requirements under this chapter; and (b) shall maintain the
30 basic certification as peace officers under this chapter.

31 (2)(a) As a condition of continuing employment for any applicant
32 that has been offered a conditional offer of employment as a fully
33 commissioned peace officer or a reserve officer after July 24, 2005,
34 including any person whose certification has lapsed as a result of a
35 break of more than twenty-four consecutive months in the officer's
36 service as a fully commissioned peace officer or reserve officer, the

1 applicant shall successfully pass a psychological examination and a
2 polygraph or similar test as administered by the county, city, or state
3 law enforcement agency that complies with the following requirements:

4 (i) The psychological examination shall be administered by a
5 psychiatrist licensed in the state of Washington pursuant to chapter
6 18.71 RCW or a psychologist licensed in the state of Washington
7 pursuant to chapter 18.83 RCW. The examination shall consist of, at a
8 minimum, a standardized clinical test that is widely used as an
9 objective clinical screening tool for personality and psychosocial
10 disorders. The test that is used and the conditions under which the
11 test is administered, scored, and interpreted must comply with accepted
12 psychological standards. Additional tests may be administered at the
13 option of the employing law enforcement agency.

14 (ii) The polygraph examination or similar assessment shall be
15 administered by an experienced polygrapher who is a graduate of a
16 polygraph school accredited by the American polygraph association.

17 (b) The employing county, city, or state law enforcement agency may
18 require that each peace officer or reserve officer who is required to
19 take a psychological examination and a polygraph or similar test pay a
20 portion of the testing fee based on the actual cost of the test or four
21 hundred dollars, whichever is less. County, city, and state law
22 enforcement agencies may establish a payment plan if they determine
23 that the peace officer or reserve officer does not readily have the
24 means to pay for his or her portion of the testing fee.

25 (3) The commission shall certify peace officers who have satisfied,
26 or have been exempted by statute or by rule from, the basic training
27 requirements of RCW 43.101.200 on or before January 1, 2002.
28 Thereafter, the commission may revoke certification pursuant to this
29 chapter.

30 (4) The commission shall allow a peace officer to retain status as
31 a certified peace officer as long as the officer: (a) Timely meets the
32 basic law enforcement training requirements, or is exempted therefrom,
33 in whole or in part, under RCW 43.101.200 or under rule of the
34 commission; (b) meets or is exempted from any other requirements under
35 this chapter as administered under the rules adopted by the commission;
36 (c) is not denied certification by the commission under this chapter;
37 and (d) has not had certification revoked by the commission.

1 (5) As a prerequisite to certification, as well as a prerequisite
2 to pursuit of a hearing under RCW 43.101.155, a peace officer must, on
3 a form devised or adopted by the commission, authorize the release to
4 the commission of his or her personnel files, termination papers,
5 criminal investigation files, or other files, papers, or information
6 that are directly related to a certification matter or decertification
7 matter before the commission.

8 (6) The commission is authorized to receive criminal history record
9 information that includes nonconviction data for any purpose associated
10 with employment by the commission or peace officer certification under
11 this chapter. Dissemination or use of nonconviction data for purposes
12 other than that authorized in this section is prohibited.

13 (7) For a national criminal history records check, the commission
14 shall require fingerprints be submitted and searched through the
15 Washington state patrol identification and criminal history section.
16 The Washington state patrol shall forward the fingerprints to the
17 federal bureau of investigation.

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