

HOUSE BILL REPORT

EHB 1620

As Amended by the Senate

Title: An act relating to expanding the authority of local governments to require criminal history background checks.

Brief Description: Concerning the authority of local governments to require criminal history background checks.

Sponsors: Representatives Lovick, McDonald, Johnson, Hayes, Stonier, Griffey, McBride, Harris, Springer, Stambaugh, Gregerson, Appleton, Muri and Haler.

Brief History:

Committee Activity:

Local Government: 1/31/17, 2/9/17 [DPS].

Floor Activity:

Passed House: 3/1/17, 69-29.

Senate Amended.

Passed Senate: 4/11/17, 48-1.

Brief Summary of Engrossed Bill

- Authorizes cities and towns, code cities, and counties to require, by ordinance, a federal background check, and without an ordinance, a state background check, of specified individuals.
- Authorizes cities and towns, code cities, counties, and park districts to require a background check conducted through a private organization, without the passage of an ordinance.
- Expands the categories of individuals subject to a background check as required by the metropolitan park district.
- Requires the local jurisdiction to pay the costs of background checks, with exceptions.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

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.

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 5 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Gregerson and Peterson.

Minority Report: Do not pass. Signed by 2 members: Representatives Pike, Assistant Ranking Minority Member; Taylor.

Staff: Desiree Omli (786-7383).

Background:

Washington State Patrol—Background Checks.

The Washington State Patrol (WSP) Identification and Criminal History Section is the state's central repository for fingerprint-based criminal history record information. The WSP may disseminate criminal conviction records without restriction, but the dissemination of nonconviction records are subject to restrictions. A conviction record is criminal history record information relating to an incident that has led to a conviction or other disposition adverse to the subject. Nonconviction data is criminal history record information relating to an incident that has not led to a conviction or other disposition adverse to the subject, and for which proceedings are no longer actively pending.

Cities and Towns, Code Cities, Counties.

Cities and towns, code cities, and counties may require, by ordinance, a state and federal background investigation of license applicants or licensees in certain occupations. The WSP Identification and Criminal History Section must conduct the background checks, which may include a national check from the Federal Bureau of Investigation (FBI) through the submission of fingerprints. The requesting entity must pay fees as established by the WSP.

Metropolitan Park Districts.

Metropolitan park districts are required to establish, by resolution, the requirements for a record check through the WSP and the FBI, of employees, volunteers, or independent contractors who may, in the course of their work with the park district:

- have unsupervised access to children or vulnerable adults; or
- be responsible for collecting or disbursing cash or processing credit or debit card transactions.

A background check conducted through the FBI may include a fingerprint check. The park district is required to provide a copy of the record report to the individual who is the subject of the background check and may require that person to pay costs associated with the background check. The park district may employ the individual on a conditional basis, pending the completion of the background check. In addition, the park district may waive the background check requirement if the individual had a background check completed within the past 12 months.

Summary of Engrossed Bill:

City and Towns, Code Cities, and Counties.

Cities and towns, code cities, and counties may require, by ordinance, a federal background investigation of employees, applicants for employment, volunteers, vendors, and independent contractors, who in the course of their work or volunteer activity, may have unsupervised access to:

- children;
- persons with developmental disabilities; and
- vulnerable adults.

For these same individuals, cities and towns, code cities, and counties may require, without an ordinance, a state background investigation, and a criminal background investigation conducted through a private organization. The WSP must conduct the state and federal background checks, which may include a national check from the FBI through the submission of fingerprints.

Metropolitan Park Districts.

Park districts are required to establish, by resolution, the requirements for state and federal record checks of park district employees, applicants for employment, volunteers, vendors, and independent contractors, who in the course of their work, may:

- have access to children, persons with developmental disabilities, or vulnerable adults; or
- be responsible for collecting or disbursing cash or processing credit/debit card transactions.

In addition, various parts of the statute pertaining to background checks required by the park district is expanded to also apply to employees, prospective employees, and vendors. The WSP must conduct the state and federal background checks, which may include a national check from the FBI through the submission of fingerprints.

Fees.

Cities and towns, code cities, counties, and park districts must pay for the background investigations they require, unless their budget limits their ability to absorb the costs. If so, they may require the subject of the investigations to pay the costs. In addition, fingerprinting costs may be borne by the applicant, but the local jurisdiction may agree to absorb those costs or reimburse the applicant upon hire.

EFFECT OF SENATE AMENDMENT(S):

The Senate amendment:

- removes the requirement that a code city or county adopt an ordinance prior to requiring a federal background investigation of specified persons who may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults and instead allows a code city or county to require such a background investigation without adoption of an ordinance;
- removes the requirement for a city, town, code city, county, or the MPD to pay the cost of background checks unless the agency's budget limits its ability to absorb such costs. Removes the provision allowing an applicant to be charged the cost of fingerprinting; and
- requires a city, town, code city, county, or MPD to pay the cost of background checks.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) In order for local governments to provide good services, good quality people are needed. These background checks help to make sure there are safe and good role models working with children, the elderly, and vulnerable adults. These background checks provide local governments with additional tools for the safety of children, vulnerable adults, and persons with disabilities. Allowing local jurisdictions to require background checks is not a new practice and over 30 state agencies can conduct these background checks. However, federal law requires that the state provide authorization for national checks. Currently, some local jurisdictions use private entities to conduct background checks, but they would like the option to obtain federal checks through fingerprinting in order to fill in gaps and have the most accurate information available, to make an informed decision about hiring. This is about getting information for prospective employees for the vetting process. It would be good to keep the option to use private entities, but with this bill, the idea would be that more jurisdictions will move away from using private entities to conduct background checks and use federal checks that are more accurate and comprehensive. In addition, this bill provides consistency in statutes between cities, counties, and park districts pertaining to authority to conduct background checks. Some jurisdictions are both a park district and part of the city, and it is helpful to have consistency

(Opposed) None.

Persons Testifying: Representative Lovick, prime sponsor; Doug Levy, Washington Recreation and Parks Association and Cities of Everett, Kent, Renton, Redmond, Puyallup, Issaquah, Lake Stevens, and Fife; Paul Simmons, Olympia Metropolitan Park District; and Tammy White, City of Kent.

Persons Signed In To Testify But Not Testifying: None.