

HOUSE BILL REPORT

SB 5399

As Reported by House Committee On: Local Government

Title: An act relating to the use of background checks for persons who work with children, persons with developmental disabilities, and vulnerable adults.

Brief Description: Concerning the use of background checks for persons who work with children, persons with developmental disabilities, and vulnerable adults.

Sponsors: Senators O'Ban, Miloscia, Darneille, Pearson, Takko and Hunt.

Brief History:

Committee Activity:

Local Government: 3/21/17, 3/28/17 [DPA].

Brief Summary of Bill (As Amended by Committee)

- Requires cities, towns, code cities, and counties to establish, by ordinance, requirements for federal and state background checks and background checks conducted by private organizations, for specified individuals.
- Requires metropolitan park districts (MPDs) to establish, by resolution, requirements for federal and state background checks and background checks conducted by private organizations, for specified individuals.
- Expands the categories of individuals subject to a background check by a MPD.
- Requires that cities, towns, code cities, counties, and MPDs pay the cost of background investigations unless the agency's budget limits its ability to reasonably absorb the costs.

HOUSE COMMITTEE ON LOCAL GOVERNMENT

Majority Report: Do pass as amended. Signed by 6 members: Representatives Appleton, Chair; McBride, Vice Chair; Griffey, Ranking Minority Member; Pike, Assistant Ranking Minority Member; Gregerson and Peterson.

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.

Minority Report: Do not pass. Signed by 1 member: Representative Taylor.

Staff: Cassie Jones (786-7303).

Background:

Washington State Patrol—Background Checks.

The Washington State Patrol (WSP) Identification and Criminal History Section is the state's central repository for 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, and 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 for the background checks to the WSP.

Metropolitan Park Districts.

A metropolitan park district (MPD) is a type of special purpose district that may be created for the management, control, improvement, maintenance, or acquisition of parks, parkways, boulevards, and recreational facilities.

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 MPD 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 MPD may employ the individual on a conditional basis, pending the completion of the background check. In addition, the MPD may waive the background check requirement if the individual had a background check completed within the past 12 months.

Summary of Amended Bill:

Cities, Towns, Code Cities, and Counties.

A city, town, code city, or county must establish, by ordinance, requirements for federal and state background checks of employees, applicants for employment, volunteers, vendors, and independent contractors who, in the course of their work for the agency, may have unsupervised access to children, persons with developmental disabilities, or vulnerable adults. For these same individuals, cities, towns, code cities, and counties must establish, by ordinance, requirements for criminal background investigations conducted through private organizations.

The WSP must conduct the state and federal background checks, which may include a national background check from the FBI through the submission of fingerprints. In addition, the requesting entity must pay fees set by the WSP for these background checks. The cost of background checks must be paid for by the city, town, code city, or county, unless the agency's budget limits its ability to reasonably absorb such costs. Any fingerprinting costs may be charged to an applicant; however, an agency may agree to absorb those costs or reimburse the applicant upon hire.

Metropolitan Park Districts.

Metropolitan park districts must establish, by resolution, the requirements for state and federal record checks of park district vendors and applicants for employment—in addition to the existing requirements for employees, volunteers, 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 or debit card transactions.

For the same individuals, MPDs must establish, by resolution, requirements for criminal background checks conducted through private organizations.

The WSP must conduct the state and federal background checks, which may include a national background check from the FBI through the submission of fingerprints.

Vendors are added to the list of individuals who: (1) may be employed on a conditional basis pending completion of a background check; and (2) do not need a new background check if they have had one in the previous 12 months.

Metropolitan park districts must submit any fees as may be required by the WSP to conduct these background checks. The cost of background checks must be paid for by the MPD unless the agency's budget limits its ability to reasonably absorb such costs. Any fingerprinting costs may be charged to an applicant; however, an agency may agree to absorb those costs or reimburse the applicant upon hire.

Amended Bill Compared to Original Bill:

The amended bill requires a city, town, code city, and county to establish, by ordinance, requirements for federal and state background checks and for background checks conducted by private organizations, while the original bill allowed those entities to establish, by ordinance, requirements for a federal background check. The original bill also allowed those

entities to require, without an ordinance, a state background check and a background check conducted by a private organization.

The amended bill requires a MPD to establish, by resolution, requirements for background checks conducted through private organizations while the original bill allowed a MPD to require criminal background checks conducted through private organizations without a resolution. Both the original and the amended bill require MPDs to establish, by resolution, requirements for federal and state background checks.

The amended bill adds language requiring a city, town, code city, county, and MPD to pay the costs of background checks unless its budget limits its ability to reasonably absorb such costs. The amended bill removes language that allowed an MPD to require individuals to pay the costs of the background checks. The amended bill also adds language that provides that an applicant may be required to pay the cost of fingerprinting, but the agency may agree to absorb these costs or reimburse the applicant for the costs upon hire.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony:

(In support) The underpinning of this bill is the safety of youth, vulnerable adults, and persons with developmental disabilities. This bill provides cities and counties the ability to use FBI background checks to screen individuals, an ability that many state agencies have. The language regarding MPDs is clarifying and helpful. It is acceptable to ask agencies to absorb the costs of conducting the background checks.

This bill would provide agencies tools to create a thorough, appropriate screening system. It would also create consistent language applying to cities, counties, and MPDs. The FBI requires state statute authorization for conducting a national background check. Existing state law enables agencies to receive only Washington state criminal history information, not national information.

(Opposed) None.

Persons Testifying: Doug Levy, Washington Recreation and Park Association and City of Everett; Paul Simmons, City of Olympia; and Tammy White, City of Kent.

Persons Signed In To Testify But Not Testifying: None.