

SENATE BILL REPORT

EHB 1620

As of March 16, 2017

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: Passed House: 3/01/17, 69-29.

Committee Activity: Local Government: 3/16/17.

Brief Summary of Bill

- Authorizes local governments to require, by ordinance, a federal background check, and without an ordinance, a state background check, of specified individuals.
- 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.

SENATE COMMITTEE ON LOCAL GOVERNMENT

Staff: Bonnie Kim (786-7316)

Background: Washington State Patrol (WSP) - Background Checks. The 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

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other disposition adverse to the subject, and for which proceedings are no longer actively pending.

Local Governments. 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 Bill: Local Governments. 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.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: PRO: There is nothing more important than protecting our children, persons with developmental disabilities, and vulnerable adults. The bill closes the gap for local governments and park districts to conduct background checks to protect these individuals. Current law offers code cities limited authority to require background checks but the information is often incomplete. Consumer reports also include conviction information but are not based on fingerprints. This bill gives local governments the information needed to make good hiring decisions to protect those who are vulnerable. This bill would allow local governments to get conviction information from other states. A third-party vendor may not have as a robust a system as the FBI. We have different levels of services with different levels of risk. Agencies can choose to use the FBI or a third-party vendor depending on their needs.

CON: This bill demonstrates the disconnect in how public and private employers are treated in this state. Small businesses are forced to bear the cost of background checks but this bill allows local governments to pass the cost onto the applicant.

Persons Testifying: PRO: Representative John Lovick, Prime Sponsor; Doug Levy, WA Recreation and Parks Assoc.; Tammy White, City of Kent, Sr. Assistant City Attorney; Paul Simmons, City of Olympia, Parks, Arts, & Recreation Director.

CON: Patrick Connor, NFIB/Washington.

Persons Signed In To Testify But Not Testifying: None.