

SENATE BILL REPORT

SHB 1949

As of March 20, 2019

Title: An act relating to conducting a feasibility study to examine and make recommendations regarding the establishment of a single point of contact firearm background check system.

Brief Description: Conducting a feasibility study to examine and make recommendations regarding the establishment of a single point of contact firearm background check system.

Sponsors: House Committee on Civil Rights & Judiciary (originally sponsored by Representatives Hansen, Irwin, Griffey, Kilduff and Graham).

Brief History: Passed House: 3/06/19, 97-0.

Committee Activity: Law & Justice: 3/18/19.

Brief Summary of Bill

- Requires the Office of Financial Management (OFM) to conduct a feasibility study and make recommendations regarding the establishment of a single point of contact system for conducting firearm background checks.
- Requires OFM to submit a final report to the Governor and Legislature by December 1, 2019.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Shani Bauer (786-7468)

Background: States utilize the National Instant Criminal Background Check System (NICS), maintained by the FBI, to determine whether an individual is eligible to purchase a firearm. States may choose among three optional modes of operation referred to as full point of contact (POC), non-POC, and partial POC.

1. Full POC: Federal Firearms Licensees (FFLs) forward a purchaser's information to one or more organizational units, referred to as a point of contact, to query NICS and related state files.
2. Non-POC: FFLs contact the NICS Operations Center directly by telephone or via the Internet.

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.

3. Partial POC: FFLs query NICS and state files through a POC for handgun purchases or permits, but query NICS directly for long gun purchases.

Washington has historically operated as a partial POC. For long gun purchases, FFLs contact NICS directly. For handgun purchases, the sheriffs and police departments act as the point of contact in their relevant jurisdictions to conduct the NICS check and check of other relevant state databases. If the handgun purchaser has a concealed pistol license (CPL), the FFL conducts the NICS check and then forwards the purchaser's application to the sheriff or police department to check other relevant state databases.

Two recent developments will change Washington's processes and increase the number of background checks processed through the sheriffs and police departments.

Concealed Pistol License Handgun Purchases. When a handgun purchaser has a CPL, the FFL will conduct an initial NICS check. If the NICS check does not return negative information, current law allows the FFL to immediately transfer possession of the handgun to the purchaser. The purchaser's application is then forwarded to the sheriff's office or police department to conduct a check of other relevant state databases. The FBI recently notified Washington that it will no longer allow FFLs to conduct an initial NICS check for a CPL handgun purchase. The NICS check and the state database check will both need to be completed by the sheriff or police department.

Initiative 1639. I-1639 was recently passed by the voters and will take effect July 1, 2019. I-1639 requires an FFL forward any application to purchase a semiautomatic assault rifle (SAR) to the sheriff or police department for completion of the NICS check and a check of other relevant state databases to determine whether the person is eligible to purchase a firearm. SAR generally includes any semiautomatic rifle.

In lieu of a background check through the sheriff or police department, I-1639 authorizes the state to enact a statewide firearms background check system so long as that system is equivalent to, or more comprehensive than, the check conducted through the sheriff or police department. I-1639 further requires the Department of Licensing, in conjunction with the Washington State Patrol (WSP) and other state and local law enforcement agencies, to develop a cost-effective and efficient process to (1) annually verify purchasers of pistols and SARs remain eligible to possess a firearm under state and federal law; and (2) if a person is found ineligible, notify local law enforcement and take steps to ensure the person does not continue to illegally possess a firearm.

Summary of Bill: OFM must conduct a feasibility study and make recommendations regarding the establishment of a single POC, also known as a full POC, system for firearm background checks. OFM may contract with an independent expert to assist with the feasibility study. The study must consider and make recommendations regarding:

- whether public safety could be improved by implementing a single POC system;
- whether a single POC system would more effectively keep prohibited persons from obtaining firearms while continuing to respect a person's firearm rights under the state and federal constitutions;
- whether a single POC system would simplify the background check process for purchasers, FFLs, and law enforcement agencies;

- the feasibility of creating a single POC system within the WSP or Washington Association of Sheriffs and Police Chiefs, creating a new agency, or a combination of these options;
- computer system improvements needed to administer a single POC system; and
- the cost to establish and operate a single POC system.

OFM must submit a final report to the Governor and the appropriate committees of the Legislature by December 1, 2019.

OFM and its agents and employees are immune from civil liability arising out of their work pursuant to this section until OFM or its agents and employees acted with gross negligence.

Appropriation: The bill contains a section or sections to limit implementation to the availability of amounts appropriated for that specific purpose.

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: This bill is the result of bi-partisan work to strengthen and improve the background check system. The current system is fragmented, burdensome, and difficult to navigate. There is consensus that the state is to the point that we need to think about establishing a single point of contact. We need to be deliberate in how we do that to make sure that we get it right.

Now that the NICS system is no longer doing same day courtesy checks, a single point of contact system is more important than ever to ensure background checks are conducted efficiently and a person's firearm rights are protected. The current system is complicated and burdensome for both dealers and local law enforcement. When a person purchases a firearm out of their area of residence, the purchaser's information may get forwarded several times before it lands on the correct desk for processing.

The FBI's elimination of courtesy CPL checks and I-1639 are two significant changes that will make a confusing system more confusing and burdensome. With the ERPO process, law enforcement is starting to see more differences in state and federal law. A temporary ERPO is not recognized by federal law and will not show up in a NICS check. This is one of many examples of why it is imperative to conduct this study.

Persons Testifying: PRO: Representative Drew Hansen, Prime Sponsor; James McMahan, Washington Association Sheriffs and Police Chiefs.

Persons Signed In To Testify But Not Testifying: No one.