
SENATE BILL 5720

State of Washington

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By Senators Kohl-Welles, Becker, Parlette, and King; by request of Nursing Care Quality Assurance Commission

Read first time 01/30/15. Referred to Committee on Health Care.

1 AN ACT Relating to fingerprint-based background checks for health
2 professionals; and amending RCW 43.43.700, 43.43.705, 43.43.742, and
3 18.130.064.

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

5 **Sec. 1.** RCW 43.43.700 and 2006 c 294 s 1 are each amended to
6 read as follows:

7 (1) There is hereby established within the Washington state
8 patrol a section on identification and criminal history hereafter
9 referred to as the section.

10 (2) In order to aid the administration of justice the section
11 shall install systems for the identification of individuals,
12 including the fingerprint system and such other systems as the chief
13 deems necessary. The section shall keep a complete record and index
14 of all information received in convenient form for consultation and
15 comparison.

16 (3) The section shall obtain from whatever source available and
17 file for record the fingerprints, palmprints, photographs, or such
18 other identification data as it deems necessary, of persons who have
19 been or shall hereafter be lawfully arrested and charged with, or
20 convicted of any criminal offense. The section may obtain like

1 information concerning persons arrested for or convicted of crimes
2 under the laws of another state or government.

3 (4) The section may:

4 (a) Retain the fingerprints submitted by a statutorily authorized
5 agency;

6 (b) Allow a search by criminal justice agencies of arrest
7 fingerprint submissions and unsolved crime files against the
8 fingerprints submitted for noncriminal justice purposes;

9 (c) Notify a statutorily authorized agency of a change in
10 criminal history record information that is identified against
11 retained fingerprints. The section must ensure that arrest
12 information is provided only to the statutorily authorized agency
13 from which the fingerprints originated.

14 (5) A statutorily authorized agency must notify license
15 applicants, applicants for employment, and applicants for other
16 noncriminal justice purposes subject to a criminal history background
17 check that their fingerprints may be retained by the section and the
18 federal bureau of investigation. A statutorily authorized agency must
19 also provide notification to license applicants, applicants for
20 employment, and applicants for other noncriminal justice purposes
21 that:

22 (a) Arrests and unsolved crime files may be searched against
23 their retained fingerprints; and

24 (b) Notification of any changes to criminal history record
25 information may be made to the statutorily authorized agency that
26 submitted the fingerprints to the section.

27 **Sec. 2.** RCW 43.43.705 and 2006 c 294 s 2 are each amended to
28 read as follows:

29 Upon the receipt of identification data from criminal justice
30 agencies within this state, the section shall immediately cause the
31 files to be examined and upon request shall promptly return to the
32 contributor of such data a transcript of the record of previous
33 arrests and dispositions of the persons described in the data
34 submitted.

35 Upon application, the section shall furnish to criminal justice
36 agencies a transcript of the criminal history record information
37 available pertaining to any person of whom the section has a record.

38 For the purposes of RCW 43.43.700 through 43.43.785 the following
39 words and phrases shall have the following meanings:

1 "Criminal history record information" includes, and shall be
2 restricted to identifying data and information recorded as the result
3 of an arrest or other initiation of criminal proceedings and the
4 consequent proceedings related thereto. "Criminal history record
5 information" shall not include intelligence, analytical, or
6 investigative reports and files.

7 "Criminal justice agencies" are those public agencies within or
8 outside the state which perform, as a principal function, activities
9 directly relating to the apprehension, prosecution, adjudication or
10 rehabilitation of criminal offenders.

11 "Statutorily authorized agency" means a public agency that has
12 statutory authority under state, federal, or local law to conduct a
13 state and federal criminal history background check for license
14 applicants, applicants for employment, or other noncriminal justice
15 purposes.

16 The section may refuse to furnish any information pertaining to
17 the identification or history of any person or persons of whom it has
18 a record, or other information in its files and records, to any
19 applicant if the chief determines that the applicant has previously
20 misused information furnished to such applicant by the section or the
21 chief believes that the applicant will not use the information
22 requested solely for the purpose of due administration of the
23 criminal laws or for the purposes enumerated in RCW 43.43.760(4). The
24 applicant may appeal such determination by notifying the chief in
25 writing within thirty days. The hearing shall be before an
26 administrative law judge appointed under chapter 34.12 RCW and in
27 accordance with procedures for adjudicative proceedings under chapter
28 34.05 RCW.

29 **Sec. 3.** RCW 43.43.742 and 1987 c 450 s 4 are each amended to
30 read as follows:

31 (1) The Washington state patrol shall adopt rules concerning
32 submission of fingerprints taken by local agencies ((after July 26,
33 1987,)) from persons for license application or other noncriminal
34 purposes.

35 (2) The Washington state patrol must adopt rules concerning the
36 participation of statutorily authorized agencies in receiving
37 notifications of any changes to criminal history records information
38 after the submission of fingerprints taken by local agencies for
39 noncriminal purposes.

1 (3) The Washington state patrol may charge fees for submission of
2 fingerprints which will cover as nearly as practicable the direct and
3 indirect costs to the Washington state patrol of processing such
4 submission or notifying a statutorily authorized agency of a change
5 in criminal history record information as provided in RCW 43.43.700.

6 **Sec. 4.** RCW 18.130.064 and 2008 c 134 s 7 are each amended to
7 read as follows:

8 (1)(a) The secretary is authorized to receive criminal history
9 record information that includes nonconviction data for any purpose
10 associated with investigation or licensing and investigate the
11 complete criminal history and pending charges of all applicants and
12 license holders.

13 (b) Dissemination or use of nonconviction data for purposes other
14 than that authorized in this section is prohibited. Disciplining
15 authorities shall restrict the use of background check results in
16 determining the individual's suitability for a license and in
17 conducting disciplinary functions.

18 (2)(a) The secretary shall establish requirements for each
19 applicant for an initial license to obtain a state background check
20 through the state patrol prior to the issuance of any license. (~~The~~
21 ~~background check may be fingerprint based at the discretion of the~~
22 ~~department.~~)

23 (b) Except pursuant to (c) of this subsection, the secretary has
24 the discretion to require a fingerprint-based background check. The
25 secretary shall specify those situations where a background check
26 under (a) of this subsection is inadequate and an applicant for an
27 initial license must obtain (~~an electronic~~) a fingerprint-based
28 national background check through the state patrol and federal bureau
29 of investigation. Situations where a background check is inadequate
30 may include instances where an applicant has recently lived out of
31 state or where the applicant has a criminal record in Washington. The
32 secretary shall issue a temporary practice permit to an applicant who
33 must have a national background check conducted if the background
34 check conducted under (a) of this subsection does not reveal a
35 criminal record in Washington, and if the applicant meets the
36 provisions of RCW 18.130.075.

37 (c) If a disciplining authority adopts rules authorizing such
38 activities for applicants and licensees in the professions it
39 regulates under RCW 18.130.040, the secretary shall obtain

1 fingerprint-based national background checks through the state patrol
2 and federal bureau of investigation for criminal history on all
3 applicants seeking licensure or license renewal. The secretary may
4 receive notifications of any changes to criminal history records
5 information on all applicants seeking licensure or license renewal
6 based on the retained fingerprints. The rules adopted by the
7 disciplining authority must establish requirements for:

8 (i) Setting fees associated with fingerprint-based national and
9 state background checks; and

10 (ii) Notifying all applicants and licensees that:

11 (A) Their fingerprints may be retained by the state patrol and
12 federal bureau of investigation;

13 (B) Arrests and unsolved crimes files may be searched against
14 their retained fingerprints; and

15 (C) Their criminal history record information will be
16 periodically updated and any changes reported to the secretary by the
17 state patrol pursuant to RCW 43.43.700.

18 (3) In addition to the background check required in subsection
19 (2) of this section, an investigation may include an examination of
20 state and national criminal identification data. The disciplining
21 authority shall use the information for determining eligibility for
22 licensure or renewal. The disciplining authority may also use the
23 information when determining whether to proceed with an investigation
24 of a report under RCW 18.130.080. For a national criminal history
25 records check, the department shall require fingerprints be submitted
26 to and searched through the Washington state patrol identification
27 and criminal history section. The Washington state patrol shall
28 forward the fingerprints to the federal bureau of investigation.

29 (4) The secretary shall adopt rules to require license holders to
30 report to the disciplining authority any arrests, convictions, or
31 other determinations or findings by a law enforcement agency
32 occurring after June 12, 2008, for a criminal offense. The report
33 must be made within fourteen days of the conviction.

34 (5) The secretary shall conduct an annual review of a
35 representative sample of all license holders who have previously
36 obtained a background check through the department. The selection of
37 the license holders to be reviewed must be representative of all
38 categories of license holders and geographic locations.

39 (6)(a) When deciding whether or not to issue an initial license,
40 the disciplining authority shall consider the results of any

1 background check conducted under subsection (2) of this section that
2 reveals a conviction for any criminal offense that constitutes
3 unprofessional conduct under this chapter or the chapters specified
4 in RCW 18.130.040(2) or a series of arrests that when considered
5 together demonstrate a pattern of behavior that, without
6 investigation, may pose a risk to the safety of the license holder's
7 patients.

8 (b) If the background check conducted under subsection (2) of
9 this section reveals any information related to unprofessional
10 conduct that has not been previously disclosed to the disciplining
11 authority, the disciplining authority shall take appropriate
12 disciplinary action against the license holder.

13 (7) The department shall:

14 (a) Require the applicant or license holder to submit full sets
15 of fingerprints if necessary to complete the background check;

16 (b) Require the applicant to submit any information required by
17 the state patrol; and

18 (c) Notify the applicant if their background check reveals a
19 criminal record. Only when the background check reveals a criminal
20 record will an applicant receive a notice. Upon receiving such a
21 notice, the applicant may request and the department shall provide a
22 copy of the record to the extent permitted under RCW 10.97.050,
23 including making accessible to the applicant for their personal use
24 and information any records of arrest, charges, or allegations of
25 criminal conduct or other nonconviction data pursuant to RCW
26 10.97.050(4).

27 (8) Criminal justice agencies shall provide the secretary with
28 both conviction and nonconviction information that the secretary
29 requests for investigations under this chapter.

30 (9) There is established a unit within the department for the
31 purpose of detection, investigation, and prosecution of any act
32 prohibited or declared unlawful under this chapter. The secretary
33 will employ supervisory, legal, and investigative personnel for the
34 unit who must be qualified by training and experience.

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