

2020

WASHINGTON BACKGROUND CHECK ADVISORY BOARD ANNUAL REPORT

Developed by: Washington Background Check (WBC) Advisory Board

December 15, 2020

In the 2020 Legislative Session, the Washington State Legislature passed Engrossed Second Substitute House Bill 2467 (E2SHB 2467) to create a centralized point-of-contact firearms background check program within the Washington State Patrol (WSP).

As a function of E2SHB 2467, the Washington Background Check (WBC) Advisory Board was established.¹ The duties of the WBC Advisory Board are as follows:

The WSP must consult with the Washington Background Check Advisory Board (Board) in carrying out its duties. The Board shall consist of the following members, appointed by the Governor:

- The Chief of the WSP or the Chief's designee;
- The Executive Director of the Washington Association of Sheriffs and Police Chiefs (WASPC) or the Executive Director's designee;
- One sheriff;
- One police chief;
- One licensed firearms dealer [under 18 U.S.C. Sec. 923(a)]; and
- One member of the general public.

The Board shall convene within 90 days of the effective date of the bill, from its members elect a chairperson, and must meet no less than monthly until the WSP deems the background check unit is operational, at which time the Board shall meet quarterly. The Board shall:

- Provide input and feedback regarding the establishment and operation of the firearms background check unit;
- Provide input on the development of the firearms background check unit budget prior to its formal submission to the Office of Financial Management (OFM);
- Be consulted prior to proposing or adopting any rule relating to the firearms background check unit;
- Require reports from the WSP on matters pertaining to the firearms background check unit; and
- Report to the Governor and appropriate committees of the Legislature each year on activities of the Board and the firearms background check unit.

WBC Advisory Board member identification/selection was completed by the Governor's Office on September 29, 2020. They are as follows:

- Assistant Chief Rob Huss, Washington State Patrol
- Executive Director Steve Strachan, Washington Association of Sheriffs and Police Chiefs
- Sheriff Tony Hawley, Okanogan County Sheriff's Office
- Chief Keith Siebert, Quincy City Police Department
- Ms. Tina Browning, Farwest Sports/Sportco - (Licensed Firearms Dealer/Retail)
- Mr. Brian Moreno, Moreno & Moreno LLC - (General Public Member)

¹ Addenda A, Engrossed Second Substitute House Bill 2467 (E2SHB 2467), and Final Bill Report E2SHB 2467; June 11, 2020.

In following, the WBC Advisory Board convened on the below-listed dates:

October 6, 2020 (initial meeting) - agenda covered:

- WBC Advisory Board introductions; all members in attendance.
- Responsibilities/Duties of WBC Advisory Board as outlined in E2SHB 2467.
- Selection of WBC Advisory Board Chairperson - (Assistant Chief Rob Huss).
- Centralized Firearms Background Check (CFBC) Program Summary – briefing/presentation by WSP Criminal Records Division (CRD).²
- CFBC Steering Committee/Implementation Plan study/overview – briefing by Scott Came, Cascadia Analytics.
- CFBC budget overview – briefing by WSP Budget and Fiscal Services.³

November 10, 2020:

- CFBC Program update and Implementation Plan (final draft) – presentation/briefing by WSP’s CRD, WSP’s Chief Technology Officer (CTO), Cascadia Analytics.⁴
 - Implementation Plan (final draft) with Executive Summary provided to WBC Advisory Board at conclusion of meeting. Review and feedback of board members requested, and received, by November 24, 2020.
- CFBC budget overview – briefing by WSP Budget and Fiscal Services.⁵

***December 1, 2020: Final Implementation Plan delivered to Governor’s Office and Legislature - https://www.wsp.wa.gov/wp-content/uploads/2020/12/Centralized-Firearms-Background-Check-Program-Implementation-Report_2020.pdf⁶
CFBC Program team provided update to Washington State House of Representatives - Civil Rights & Judiciary Committee - <https://app.leg.wa.gov/committeeschedules/Home/Documents/28022?//902>⁷*

December 8, 2020:

- CFBC Program Status Report, Project Manager and Technical Architect positions update.⁸
- WBC Advisory Board Annual Report (draft proposal).
- CFBC budget overview – briefing by WSP Budget and Fiscal Services.⁹

Conclusion: The CFBC Program is on target and progressing in an effective manner. Essential steps for 2020, and requisite communications/consult with the WBC Advisory Board were achieved. Budget reports reflect sound business practices, OFM authorized utilization of allocated funding through remainder of biennium, and phases transitioning into 2021, are properly identified by the WSP.

² Addenda B, Centralized Firearms Background Check Program Overview Presentation; October 6, 2020.

³ Addenda C, Centralized Firearms Background Check Program Budget Report; October 6, 2020.

⁴ Addenda B, Centralized Firearms Background Check Program - Implementation Plan Presentation; November 10, 2020.

⁵ Addenda C, Centralized Firearms Background Check Program Budget Report; November 10, 2020.

⁶ Washington State Patrol’s Centralized Firearms Background Check Program Implementation Plan; December 1, 2020.

⁷ Washington State Patrol’s Centralized Firearms Background Check Program - House Civil Rights & Judiciary Committee; December 1, 2020.

⁸ Addenda B, Centralized Firearms Background Check Program Status Report; December 8, 2020.

⁹ Addenda C, Centralized Firearms Background Check Program Budget Report; December 7, 2020.

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ADDENDA

A

CERTIFICATION OF ENROLLMENT

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2467

Chapter 28, Laws of 2020

66th Legislature
2020 Regular Session

FIREARM BACKGROUND CHECK SYSTEM--SINGLE POINT OF CONTACT

EFFECTIVE DATE: June 11, 2020—Except for sections 5 through 9, which are contingent.

Passed by the House February 13, 2020
Yeas 66 Nays 32

LAURIE JINKINS

Speaker of the House of Representatives

Passed by the Senate March 5, 2020
Yeas 29 Nays 20

CYRUS HABIB

President of the Senate

Approved March 18, 2020 10:31 AM

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Bernard Dean, Chief Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is **ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2467** as passed by the House of Representatives and the Senate on the dates hereon set forth.

BERNARD DEAN

Chief Clerk

FILED

March 18, 2020

**Secretary of State
State of Washington**

ENGROSSED SECOND SUBSTITUTE HOUSE BILL 2467

Passed Legislature - 2020 Regular Session

State of Washington

66th Legislature

2020 Regular Session

By House Appropriations (originally sponsored by Representatives Hansen, Irwin, Griffey, Barkis, and Wylie)

READ FIRST TIME 02/11/20.

1 AN ACT Relating to establishing a centralized single point of
2 contact background check system for firearms transfers; amending RCW
3 9.41.114, 43.43.823, 36.28A.405, and 36.28A.420; adding new sections
4 to chapter 43.43 RCW; adding a new section to chapter 9.41 RCW;
5 repealing RCW 36.28A.400; and providing a contingent effective date.

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

7 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.43
8 RCW to read as follows:

9 (1) The Washington state patrol shall establish a firearms
10 background check unit to serve as a centralized single point of
11 contact for dealers to conduct background checks for firearms sales
12 or transfers required under chapter 9.41 RCW and the federal Brady
13 handgun violence prevention act (18 U.S.C. Sec. 921 et seq.). The
14 Washington state patrol shall establish an automated firearms
15 background check system to conduct background checks on applicants
16 for the purchase or transfer of a firearm. The system must include
17 the following characteristics:

18 (a) Allow a dealer to contact the Washington state patrol through
19 a web portal or other electronic means and by telephone to request a
20 background check of an applicant for the purchase or transfer of a
21 firearm;

1 (b) Provide a dealer with a notification that a firearm purchase
2 or transfer application has been received;

3 (c) Assign a unique identifier to the background check inquiry;

4 (d) Provide an automated response to the dealer indicating
5 whether the transfer may proceed or is denied, or that the check is
6 indeterminate and will require further investigation;

7 (e) Include measures to ensure data integrity and the
8 confidentiality and security of all records and data transmitted and
9 received by the system; and

10 (f) Include a performance metrics tracking system to evaluate the
11 performance of the background check system.

12 (2) Upon receipt of a request from a dealer for a background
13 check in connection with the sale or transfer of a firearm, the
14 Washington state patrol shall:

15 (a) Provide the dealer with a notification that a firearm
16 transfer application has been received;

17 (b) Conduct a check of the national instant criminal background
18 check system and the following additional records systems to
19 determine whether the transferee is prohibited from possessing a
20 firearm under state or federal law: (i) The Washington crime
21 information center and Washington state identification system; (ii)
22 the health care authority electronic database; (iii) the federal
23 bureau of investigation national data exchange database and any
24 available repository of statewide local law enforcement record
25 management systems information; (iv) the administrative office of the
26 courts case management system; and (v) other databases or resources
27 as appropriate;

28 (c) Perform an equivalency analysis on criminal charges in
29 foreign jurisdictions to determine if the applicant has been
30 convicted as defined in RCW 9.41.040(3) and if the offense is
31 equivalent to a Washington felony as defined in RCW 9.41.010(8);

32 (d) Notify the dealer without delay that the records indicate the
33 individual is prohibited from possessing a firearm and the transfer
34 is denied or that the individual is approved to complete the
35 transfer. If the results of the background check are indeterminate,
36 the Washington state patrol shall notify the dealer of the delay and
37 conduct necessary research and investigation to resolve the inquiry;
38 and

39 (e) Provide the dealer with a unique identifier for the inquiry.

1 (3) The Washington state patrol may hold the delivery of a
2 firearm to an applicant under the circumstances provided in RCW
3 9.41.090 (4) and (5).

4 (4)(a) The Washington state patrol shall require a dealer to
5 charge each firearm purchaser or transferee a fee for performing
6 background checks in connection with firearms transfers. The fee must
7 be set at an amount necessary to cover the annual costs of operating
8 and maintaining the firearm background check system but shall not
9 exceed eighteen dollars. The Washington state patrol shall transmit
10 the fees collected to the state treasurer for deposit in the state
11 firearms background check system account created in section 3 of this
12 act. It is the intent of the legislature that once the state firearm
13 background check system is established, the fee established in this
14 section will replace the fee required in RCW 9.41.090(7).

15 (b) The background check fee required under this subsection does
16 not apply to any background check conducted in connection with a
17 pawnbroker's receipt of a pawned firearm or the redemption of a
18 pawned firearm.

19 (5) The Washington state patrol shall establish a procedure for a
20 person who has been denied a firearms transfer as the result of a
21 background check to appeal the denial to the Washington state patrol
22 and to obtain information on the basis for the denial and procedures
23 to review and correct any erroneous records that led to the denial.

24 (6) The Washington state patrol shall work with the
25 administrative office of the courts to build a link between the
26 firearm background check system and the administrative office of the
27 courts case management system for the purpose of accessing court
28 records to determine a person's eligibility to possess a firearm.

29 (7) Upon establishment of the firearm background check system
30 under this section, the Washington state patrol shall notify each
31 dealer in the state of the existence of the system, and the dealer
32 must use the system to conduct background checks for firearm sales or
33 transfers beginning on the date that is thirty days after issuance of
34 the notification.

35 (8) The Washington state patrol shall consult with the Washington
36 background check advisory board created in section 2 of this act in
37 carrying out its duties under this section.

38 (9) All records and information prepared, obtained, used, or
39 retained by the Washington state patrol in connection with a request

1 for a firearm background check are exempt from public inspection and
2 copying under chapter 42.56 RCW.

3 (10) The Washington state patrol may adopt rules necessary to
4 carry out the purposes of this section.

5 (11) For the purposes of this section, "dealer" has the same
6 meaning as given in RCW 9.41.010.

7 NEW SECTION. **Sec. 2.** A new section is added to chapter 43.43
8 RCW to read as follows:

9 (1) There is created the Washington background check advisory
10 board. The board shall consist of the following members, appointed by
11 the governor:

12 (a) The chief of the Washington state patrol or the chief's
13 designee;

14 (b) The executive director of the Washington association of
15 sheriffs and police chiefs or the executive director's designee;

16 (c) One sheriff;

17 (d) One police chief;

18 (e) One person engaged in the business of lawfully selling
19 firearms at retail in this state who holds a federal firearms license
20 under 18 U.S.C. Sec. 923(a); and

21 (f) One member of the general public.

22 (2) The primary purpose of the board is to ensure that the
23 Washington state patrol firearms background check unit established in
24 section 1 of this act is administered efficiently and effectively,
25 and in a manner that honors individual firearms rights while
26 preventing prohibited persons from obtaining firearms.

27 (3) The board shall initially convene within ninety days of the
28 effective date of this section, and shall meet not less than monthly
29 until such time that the Washington state patrol deems the firearms
30 background check unit is operational. After the Washington state
31 patrol deems the firearms background check unit is operational, the
32 board shall meet quarterly, unless the board has no business to
33 conduct during that quarter.

34 (4) The board shall elect from among its membership a chairperson
35 and other such officers from among its membership as it deems
36 appropriate.

37 (5) Members of the board shall serve terms of four years each on
38 a staggered schedule to be established by the first board. For
39 purposes of initiating a staggered schedule of terms, some members of

1 the first board may initially serve two years and some members may
2 initially serve four years.

3 (6) The board shall:

4 (a) Provide input and feedback regarding the establishment and
5 operation of the firearms background check unit established in
6 section 1 of this act;

7 (b) Provide input on the development of the firearms background
8 check unit budget prior to its formal submission to the office of
9 financial management pursuant to RCW 43.88.030;

10 (c) Be consulted with prior to the proposal of any rule relating
11 to the firearms background check unit and prior to the adoption of
12 any rule relating to the firearms background check unit;

13 (d) Require reports from the chief of the Washington state patrol
14 on matters pertaining to the firearms background check unit; and

15 (e) Report to the governor and appropriate committees of the
16 legislature on or before December 31st of each year on the activities
17 of the board and the firearms background check unit for the preceding
18 fiscal year.

19 (7) Members of the board shall serve without compensation, but
20 shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and
21 43.03.060.

22 (8) The Washington state patrol shall provide the staffing and
23 budgetary resources necessary for the board to properly fulfill its
24 duties.

25 (9) Members serving in their official capacity on the Washington
26 background check advisory board, or either their employer or
27 employers or other entity that selected the members to serve, are
28 immune from a civil action based on an act performed in good faith.

29 NEW SECTION. **Sec. 3.** A new section is added to chapter 43.43
30 RCW to read as follows:

31 The state firearms background check system account is created in
32 the custody of the state treasurer. All receipts under section 1 of
33 this act must be deposited into the account. Expenditures from the
34 account may be used only for the creation, operation, and maintenance
35 of the automated firearms background check system under section 1 of
36 this act. Only the chief of the Washington state patrol or the
37 chief's designee may authorize expenditures from the account. The
38 account is subject to allotment procedures under chapter 43.88 RCW,
39 but an appropriation is not required for expenditures.

1 NEW SECTION. **Sec. 4.** A new section is added to chapter 9.41 RCW
2 to read as follows:

3 (1) Beginning on the date that is thirty days after the
4 Washington state patrol issues a notification to dealers that a state
5 firearms background check system is established within the Washington
6 state patrol under section 1 of this act, a dealer shall use the
7 state firearms background check system to conduct background checks
8 for all firearms transfers. A dealer may not sell or transfer a
9 firearm to an individual unless the dealer first contacts the
10 Washington state patrol for a background check to determine the
11 eligibility of the purchaser or transferee to possess a firearm under
12 state and federal law and the requirements and time periods
13 established in RCW 9.41.090 and 9.41.092 have been satisfied. When an
14 applicant applies for the purchase or transfer of a pistol or
15 semiautomatic assault rifle, a dealer shall comply with all
16 requirements of this chapter that apply to the sale or transfer of a
17 pistol or semiautomatic rifle. The purchase or transfer of a firearm
18 that is not a pistol or semiautomatic assault rifle must be processed
19 in the same manner and under the same requirements of this chapter
20 that apply to the sale or transfer of a pistol, except that the
21 provisions of RCW 9.41.129, and the requirement in RCW 9.41.110(9)(b)
22 concerning transmitting application records to the director of
23 licensing, shall not apply to these transactions.

24 (2) A dealer shall charge a purchaser or transferee a background
25 check fee in an amount determined by the Washington state patrol and
26 remit the proceeds from the fee to the Washington state patrol on a
27 monthly basis. The background check fee does not apply to any
28 background check conducted in connection with a pawnbroker's receipt
29 of a pawned firearm or the redemption of a pawned firearm.

30 (3) This section does not apply to sales or transfers to licensed
31 dealers or to the sale or transfer of an antique firearm.

32 **Sec. 5.** RCW 9.41.114 and 2017 c 261 s 1 are each amended to read
33 as follows:

34 ~~((1) A dealer shall report to the Washington association of
35 sheriffs and police chiefs information on each instance where the
36 dealer denies an application for the purchase or transfer of a
37 firearm, whether under RCW 9.41.090 or 9.41.113, or the requirements
38 of federal law, as the result of a background check or completed and
39 submitted firearm purchase or transfer application that indicates the~~

1 applicant is ineligible to possess a firearm under state or federal
2 law. The dealer shall report the denied application information to
3 the Washington association of sheriffs and police chiefs within five
4 days of the denial in a format as prescribed by the Washington
5 association of sheriffs and police chiefs. The reported information
6 must include the identifying information of the applicant, the date
7 of the application and denial of the application, and other
8 information or documents as prescribed by the Washington association
9 of sheriffs and police chiefs. In any case where the purchase or
10 transfer of a firearm is initially denied by the dealer as the result
11 of a background check that indicates the applicant is ineligible to
12 possess a firearm, but the purchase or transfer is subsequently
13 approved, the dealer shall report the subsequent approval to the
14 Washington association of sheriffs and police chiefs within one day
15 of the approval.

16 (2)) Upon denying an application for the purchase or transfer of
17 a firearm as a result of a background check or completed and
18 submitted firearm purchase or transfer application that indicates the
19 applicant is ineligible to possess a firearm under state or federal
20 law, the dealer shall:

21 ((a)) (1) Provide the applicant with a copy of a notice form
22 generated and distributed by the Washington state patrol under RCW
23 43.43.823((5)) (6), informing denied applicants of their right to
24 appeal the denial; and

25 ((b)) (2) Retain the original records of the attempted purchase
26 or transfer of a firearm for a period not less than six years.

27 **Sec. 6.** RCW 43.43.823 and 2018 c 22 s 11 are each amended to
28 read as follows:

29 (1) ((Upon receipt of the information from the Washington
30 association of sheriffs and police chiefs pursuant to RCW 36.28A.400,
31 the)) The Washington state patrol shall report each instance where an
32 application for the purchase or transfer of a firearm is denied as
33 the result of a background check that indicates the applicant is
34 ineligible to possess a firearm to the local law enforcement agency
35 in the jurisdiction where the attempted purchase or transfer took
36 place. The reported information must include the identifying
37 information of the applicant, the date of the application and denial
38 of the application, the basis for the denial of the application, and
39 other information deemed appropriate by the Washington state patrol.

1 (2) The Washington state patrol must incorporate the information
2 concerning any person whose application for the purchase or transfer
3 of a firearm is denied as the result of a background check into its
4 electronic database accessible to law enforcement agencies and
5 officers, including federally recognized Indian tribes, that have a
6 connection to the Washington state patrol electronic database.

7 ~~((2))~~ (3) Upon ~~((receipt of documentation that a person has~~
8 ~~appealed))~~ appeal of a background check denial, the Washington state
9 patrol shall immediately remove the record of the person ~~((initially~~
10 ~~reported pursuant to RCW 36.28A.400))~~ from its electronic database
11 accessible to law enforcement agencies and officers ~~((The Washington~~
12 ~~state patrol must))~~ and keep a separate record of the person's
13 information ~~((for a period of one year or))~~ until such time as the
14 appeal has been resolved. ~~((Every twelve months, the Washington state~~
15 ~~patrol shall notify the person that the person must provide~~
16 ~~documentation that his or her appeal is still pending or the record~~
17 ~~of))~~ If the appeal is denied, the Washington state patrol shall put
18 the person's background check denial ~~((will be put))~~ information back
19 in its electronic database accessible to law enforcement agencies and
20 officers. ~~((At any time, upon receipt of documentation that a~~
21 ~~person's appeal has been granted, the Washington state patrol shall~~
22 ~~remove any record of the person's denied firearms purchase or~~
23 ~~transfer application from its electronic database accessible to law~~
24 ~~enforcement agencies and officers.~~

25 ~~(3))~~ (4) Upon receipt of satisfactory proof that a person ~~((who~~
26 ~~was reported to the Washington state patrol pursuant to RCW~~
27 ~~36.28A.400))~~ is no longer ineligible to possess a firearm under state
28 or federal law, the Washington state patrol must remove any record of
29 the person's denied firearms purchase or transfer application from
30 its electronic database accessible to law enforcement agencies and
31 officers.

32 ~~((4) Upon receipt of notification from the Washington~~
33 ~~association of sheriffs and police chiefs that a person originally~~
34 ~~denied the purchase or transfer of a firearm as the result of a~~
35 ~~background check or completed and submitted firearm purchase or~~
36 ~~transfer application that indicates the applicant is ineligible to~~
37 ~~possess a firearm under state or federal law has subsequently been~~
38 ~~approved for the purchase or transfer, the))~~ (5) In any case where
39 the purchase or transfer of a firearm is initially denied as the
40 result of a background check that indicates the applicant is

1 ineligible to possess a firearm, but the purchase or transfer is
2 subsequently approved, the Washington state patrol must remove any
3 record of the person's denied firearms purchase or transfer
4 application from its electronic database accessible to law
5 enforcement agencies and officers within five business days and
6 report the subsequent approval to the local law enforcement agency
7 that received notification of the original denial.

8 ((+5)) (6) The Washington state patrol shall generate and
9 distribute a notice form to all firearm dealers, to be provided by
10 the dealers to applicants denied the purchase or transfer of a
11 firearm as a result of a background check that indicates the
12 applicant is ineligible to possess a firearm. The notice form must
13 contain the following statements:

14 State law requires that ((F)) the Washington state patrol
15 transmit the following information to the ((Washington
16 ~~association of sheriffs and police chiefs~~) local law
17 enforcement agency as a result of your firearm purchase or
18 transfer denial within five days of the denial:

19 (a) Identifying information of the applicant;

20 (b) The date of the application and denial of the
21 application;

22 (c) The basis for the denial; and

23 (d) Other information as ((prescribed)) determined by the
24 Washington ((~~association of sheriffs and police chiefs~~) state
25 patrol.

26 If you believe this denial is in error, and you do not
27 exercise your right to appeal, you may be subject to criminal
28 investigation by the Washington state patrol and/or a local
29 law enforcement agency.

30 The notice form shall also contain information directing the
31 applicant to a web site describing the process of appealing a
32 ((national instant criminal)) background check system denial
33 ((through the federal bureau of investigation)) and refer the
34 applicant to ((local law enforcement)) the Washington state patrol
35 for information on a denial based on a state background check. The
36 notice form shall also contain a phone number for a contact at the
37 Washington state patrol to direct the person to resources regarding
38 an individual's right to appeal a background check denial.

1 ~~((6))~~ (7) The Washington state patrol shall provide to the
2 Washington association of sheriffs and police chiefs any information
3 necessary for the administration of the grant program in RCW
4 36.28A.420, providing notice to a protected person pursuant to RCW
5 36.28A.410, or preparation of the report required under RCW
6 36.28A.405.

7 (8) The Washington state patrol may adopt rules as are necessary
8 to carry out the purposes of this section.

9 **Sec. 7.** RCW 36.28A.405 and 2017 c 261 s 4 are each amended to
10 read as follows:

11 Subject to the availability of amounts appropriated for this
12 specific purpose, the Washington association of sheriffs and police
13 chiefs shall prepare an annual report on the number of denied
14 firearms sales or transfers reported pursuant to chapter 261, Laws of
15 2017 and RCW 43.43.823. The report shall indicate the number of cases
16 in which a person was denied a firearms sale or transfer, the number
17 of cases where the denied sale or transfer was investigated for
18 potential criminal prosecution, and the number of cases where an
19 arrest was made, the case was referred for prosecution, and a
20 conviction was obtained. The Washington ~~((state patrol))~~ association
21 of sheriffs and police chiefs shall submit the report to the
22 appropriate committees of the legislature on or before December 31st
23 of each year.

24 **Sec. 8.** RCW 36.28A.420 and 2017 c 261 s 6 are each amended to
25 read as follows:

26 (1) Subject to the availability of amounts appropriated for this
27 specific purpose, the Washington association of sheriffs and police
28 chiefs shall establish a grant program for local law enforcement
29 agencies to conduct criminal investigations regarding persons who
30 illegally attempted to purchase or transfer a firearm within their
31 jurisdiction.

32 (2) Each grant applicant must be required to submit reports to
33 the Washington association of sheriffs and police chiefs that
34 indicate the number of cases in which a person was denied a firearms
35 sale or transfer, the number of cases where the denied sale or
36 transfer was investigated for potential criminal prosecution, and the
37 number of cases where an arrest was made, the case was referred for
38 prosecution, and a conviction was obtained.

1 (3) Information and records prepared, owned, used, or retained by
2 the Washington association of sheriffs and police chiefs pursuant to
3 chapter 261, Laws of 2017 and RCW 43.43.823 are exempt from public
4 inspection and copying under chapter 42.56 RCW.

5 NEW SECTION. **Sec. 9.** RCW 36.28A.400 (Denied firearm transaction
6 reporting system—Purge of denial records upon subsequent approval—
7 Public disclosure exemption—Destruction of information) and 2017 c
8 261 s 2 are each repealed.

9 NEW SECTION. **Sec. 10.** Sections 5 through 9 of this act take
10 effect on the date that is thirty days after the Washington state
11 patrol issues a notification to dealers that a state firearms
12 background check system is established under section 1 of this act.
13 The Washington state patrol shall provide written notice of the
14 effective date of sections 5 through 9 of this act to the chief clerk
15 of the house of representatives, the secretary of the senate, the
16 office of the code reviser, and others as deemed appropriate by the
17 Washington state patrol.

Passed by the House February 13, 2020.
Passed by the Senate March 5, 2020.
Approved by the Governor March 18, 2020.
Filed in Office of Secretary of State March 18, 2020.

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FINAL BILL REPORT

E2SHB 2467

C 28 L 20
Synopsis as Enacted

Brief Description: Establishing a centralized single point of contact background check system for firearms transfers.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Hansen, Irwin, Griffey, Barkis and Wylie).

House Committee on Civil Rights & Judiciary
House Committee on Appropriations
Senate Committee on Law & Justice
Senate Committee on Ways & Means

Background:

Federal Background Check Laws.

Under the federal Brady Handgun Violence Prevention Act, a federally licensed dealer must, with few exceptions, conduct a background check on all firearms transfers to determine whether the purchaser is prohibited by state or federal law from possessing a firearm. This background check is conducted through the National Instant Criminal Background Check System (NICS). When the NICS became operational, the Federal Bureau of Investigation requested each state to designate themselves as either a full point of contact (POC) state, a partial POC state, or a non-POC state. Washington opted to act as a partial POC state, which means the NICS check for pistol transfers is conducted by the state, and the NICS check for long gun transfers is conducted by the dealer. Local law enforcement agencies serve as the partial POC for dealers in conducting the NICS checks for pistol transfers.

State Background Check Laws.

State law requires background checks for all firearms transfers. A sale or transfer of a firearm where neither party is a dealer must be completed through a dealer, and the dealer must process the transaction by complying with all federal and state laws that would apply if the dealer were selling or transferring the firearm from the dealer's inventory.

Specific requirements apply to the sale or transfer of a pistol or semiautomatic assault rifle, including a requirement that the dealer contact the local law enforcement agency to conduct a state background check for these transfers. In addition to the NICS check, the local law enforcement agency conducts a check of the Washington State Patrol (WSP) databases, the

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.

Department of Licensing firearms database, local records management systems, state and local mental health agencies, and other agencies or resources as appropriate.

State law does not require a background check of state databases by local law enforcement for sales or transfers of shotguns or rifles that are not semiautomatic assault rifles. However, the dealer must conduct a NICS check as required under federal law.

Denied Firearms Transfers.

Dealers are required to report to the Washington Association of Sheriffs and Police Chiefs (WASPC) each instance where the sale or transfer of a firearm is denied as the result of a background check indicating the applicant is ineligible to possess a firearm. The WASPC reports this information to the local law enforcement agency and to the WSP, which must include the information in its electronic database accessible to law enforcement agencies. The WASPC operates a grant program for local law enforcement agencies to conduct criminal investigations of persons who illegally attempt to obtain a firearm within their jurisdictions. In addition, the WASPC must prepare an annual report on the number of denied firearms sales or transfers reported by firearms dealers, and operate a victim protective order notification program.

Single Point of Contact System Feasibility Study.

Legislation enacted in 2019 directed the Office of Financial Management (OFM) to conduct a feasibility study regarding the establishment of a single POC firearms background check system. The OFM submitted its report and recommendations in November 2019, finding that the creation of a single POC background check system is both feasible and an advisable course of action. The report indicated that creating a single POC background check system would improve public safety and streamline the background check process. The report recommended the centralized background check unit and associated systems be placed within the WSP.

Summary:

Washington State Patrol Firearms Background Check Unit.

The Washington State Patrol (WSP) must establish a Firearms Background Check Unit to serve as a centralized single point of contact for dealers to conduct background checks for firearms sales or transfers required under state law and the federal Brady Handgun Violence Prevention Act.

The WSP must establish an automated firearms background check system to conduct background checks on applicants for the purchase or transfer of a firearm. The system must allow a dealer to contact the WSP through a web portal or other electronic means and by telephone to request a background check and provide an automated response to the dealer indicating whether the transfer may proceed or is denied, or that the check is indeterminate and will require further investigation. The system must include measures to ensure data integrity and the confidentiality and security of records in the system and a performance metrics tracking system to evaluate the performance of the system.

The WSP must provide the dealer with a notification that a firearm transfer application has been received, conduct a background check of the applicant, and notify the dealer without

delay that the records indicate the individual is prohibited from possessing a firearm and the transfer is denied or that the individual is approved to complete the transfer. If the results of the background check are indeterminate, the WSP must notify the dealer of the delay and conduct necessary research and investigation to resolve the inquiry. The WSP must provide the dealer with a unique identifier for each background check inquiry.

The background check must include a check of the following databases:

- the National Instant Criminal Background Check System;
- the Washington Crime Information Center and Washington State Identification System;
- the Health Care Authority electronic database;
- the Federal Bureau of Investigation national data exchange database and any available repository of statewide law enforcement record management systems information;
- the Administrative Office of the Courts (AOC) case management system; and
- other databases or resources as appropriate.

The WSP must work with the AOC to build a link between the firearm background check system and the AOC case management system for the purpose of accessing court records to determine a person's eligibility to possess a firearm.

The WSP must perform an equivalency analysis on criminal charges in foreign jurisdictions to determine if a person has been convicted of a felony that is equivalent to a state felony. In addition, the WSP must establish a procedure for a person who has been denied a firearms purchase or transfer as the result of a background check to appeal the denial to the WSP and to obtain information on the basis for the denial and procedures to review and correct any erroneous records that led to the denial.

The WSP must establish a fee that a dealer must charge each firearm purchaser or transferee, except the fee does not apply to any background check conducted in connection with a pawnbroker's receipt of a pawned firearm or the redemption of a pawned firearm. The fee must be established in an amount necessary to cover the annual costs of operating and maintaining the firearm background check system, but must not exceed \$18. Legislative intent is stated that this fee will replace the fee for semiautomatic assault rifle transfers once the state background check system is established. The WSP must transmit the fees collected to the State Treasurer for deposit in the newly created State Firearms Background Check System Account. Expenditures from the account may be used only for the creation, operation, and maintenance of the state firearms background check system.

All records and information prepared, obtained, used, or retained by the WSP in connection with a request for a firearm background check are exempt from public inspection and copying under the Public Records Act.

Dealer Requirements.

Beginning on the date that is 30 days after the WSP issues a notification to dealers that a state firearms background check system is established within the WSP, a dealer must use the state system to conduct background checks for all firearm sales or transfers, except sales or transfers to licensed dealers and sales or transfers of antique firearms. For sales or transfers

of pistols and semiautomatic assault rifles, a dealer must comply with all requirements of state firearms laws that apply to the sale or transfer of a pistol or semiautomatic assault rifle. The purchase or transfer of a firearm that is not a pistol or semiautomatic assault rifle must be processed under the same requirements that apply to the sale or transfer of a pistol, except that current Department of Licensing recordkeeping requirements do not apply to these transactions. A dealer must charge a purchaser or transferee a background check fee established by the WSP and remit the proceeds to the WSP on a monthly basis.

Washington Background Check Advisory Board.

The Washington Background Check Advisory Board (Board) is established with a primary purpose of ensuring that the WSP Firearms Background Check Unit (Unit) is administered efficiently and effectively, and in a manner that honors individual firearms rights while preventing prohibited persons from obtaining firearms. The WSP must consult with the Board in carrying out its duties in establishing and operating the state firearms background check system.

The Board consists of the following members, appointed by the Governor:

- the chief of the WSP or the chief's designee;
- the executive director of the Washington Association of Sheriffs and Police Chiefs or the executive director's designee;
- one sheriff and one police chief;
- one representative of an organization known to actively advocate in Washington on behalf of greater firearm regulation; and
- one member of the general public.

The Board's duties are to provide input and feedback on the establishment of the Unit, provide input on the development of the Unit's budget, and be consulted with prior to the proposal and adoption of any rule relating to the Unit. In addition, the Board must require reports from the chief of the WSP on matters pertaining to the Unit, and report annually to the Governor and the Legislature on the activities of the Board and the Unit.

Members of the Board serve four-year terms on a staggered schedule. Members serve without compensation but are entitled to travel reimbursement. The WSP must provide the staffing and budgetary resources necessary for the Board to properly fulfill its duties. Members serving in their official capacity on the Board, or their employers or other entity that selected the members to serve, are immune from a civil action based on an act performed in good faith.

Denied Firearms Transfers.

Procedures relating to the reporting of denied firearms purchases are revised, effective 30 days after the WSP issues a notification that a state firearms background check system is established. Dealers are no longer required to report to the WASPC each instance where an application for the purchase or transfer of a firearm is denied. Instead, the WSP must report denied firearms purchases or transfers to the local law enforcement agency in the jurisdiction where the attempted purchase or transfer took place. The WSP must provide the local law enforcement agency with updates for reports that indicated an initial denial but that are subsequently approved. The WSP, rather than local law enforcement, will serve as the contact for information on a denial based on a state background check. The WSP must

provide the WASPC with any information necessary for the preparation of the denied firearms transfers report, operation of the victim protective order notification program, and administration of the grant program for criminal investigations of illegal attempts to purchase firearms.

Votes on Final Passage:

House 66 32

Senate 29 20

Effective: June 11, 2020

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ADDENDA

B

Centralized Firearms Background Check Program Advisory Board

October 6, 2020

Background and Introduction

CFBC Program Implementation Plan Overview

- Why are we implementing this program?
- What is the scope of the program?
- How will the implementation happen? And when?
- Budget
- Questions/discussion

Why are we implementing this program?

- E2SHB 2467 (2020 Session) directed WSP to develop an implementation plan
- Benefits of a centralized point-of-contact approach
 - One place for FFLs to go for background checks
 - Streamlined submission process (online portal, telephone submission available)
 - Allow FFLs to check the status of any check at any time
 - Potentially reduced paperwork for FFLs
 - Local law enforcement agencies no longer need to devote resources to checks
 - Economies of scale
 - Improved public safety: long guns get the same enhanced check as handguns/SARs
 - Improved public safety: consistency of check statewide
 - Improved public safety: all jurisdictions' local records included
 - Improve efficiency of the process

What is the scope of the program?

- CFBC Program unit at WSP
- FFL background check portal - secure online submission of checks
- Telephone submission will be available also
- Automated query approach (expect 30% lights-out dispositions)
- Checks requiring manual review or research queued for unit staff to handle
- Automated sharing of data with WASPC and DOL as required by statute
- Ensure retention (and destruction) of records in accordance with legal requirements
- Performance management and reporting

How will the implementation happen? And when?

- WSP to engage project manager and technical consultant to oversee technology procurements and overall implementation (January 2021)
- Senior staff hired (Spring 2021)
- Technology implementation begins (September 2021)
- Facility plans finalized (January 2023)
- Occupy office space (Spring 2023)
- Technology implementation complete (June 2023)
- Begin hiring background check staff (July 2023)
- First pilot background checks (September 2023)
- Statewide implementation (January 2024)

Budget

- Startup costs (1/1/2021 - 8/31/2023): \$5.2 million (WSP costs only)
- Startup costs higher than OFM Feasibility Study
 - Longer implementation timeline
 - Feasibility study did not plan for WSP staffing during implementation
 - RFI revealed higher software costs
 - Higher project management and oversight costs
- AOC, HCA, and DOL integration estimates (startup costs): about \$2.5 million
- Annual costs: \$7.7 million per year
- Annual costs about 30% lower than feasibility study forecast
 - Lower staffing requirements
 - Lower facility costs

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Centralized Firearms Background Check Program

Advisory Board
November 10, 2020

Current Status

- Draft Implementation Plan Complete – ready for review by Advisory Board – request feedback by November 24th.
- Deliver plan to Governor/Legislature by December 1.
- RFP published for a Project Manager / Technical Architect.
- Brief the House Civil Rights & Judiciary Committee Meeting on December 1.
- Awaiting budget reduction decisions.

Implementation Plan Chapters

- Mgt. Overview / Implementation Schedule
- Workload Assumptions
- Personnel / Staffing
- Training
- Stakeholder Management
- Technological Solutions and Support
- Interagency System Integration
- Facilities
- Documentation
- Performance Management
- Regulatory Requirements
- Risks
- Budget

Stakeholder Collaboration

- **Department of Licensing (DOL)** – significant design and stakeholder work accomplished for their new firearms database
- **Health Care Authority (HCA)** – mental health records
- **Administration Office of the Court (AOC)** – court records
- **WA Tech** – technology conduit for FFL connection to the state/WSP
- **Federal Firearm Licensees (FFLs)** – submitters of background checks
- **Advisory Board** – WASPC/Sheriff/Police Chief/FFL/citizen
- **LInX NW** – Local agency information
- **Other States** – lessons learned from point of contact programs
- **FBI NICS Section** – federal laws, processes, and requirements

Future Checks

- The newly formed CFBC program will conduct all firearm related background checks, this includes: Long-guns, Handguns, Semi-Automatic Rifles (SAR), Other/Parts, and Concealed Pistol Licenses (assuming a legislative change).
- Plan provides supplementary analysis if Initiative 1-639 re-checks are added to the new program.

Firearm Transfer Process

- The FFL will submit a request through a SAW account through a web portal type application to WSP.
- The FFL will receive an identification number for each submission, to identify where in the process they are with the background check (this does not exist today).
- The FFL will have a dashboard type feel so they can keep track of their background check submissions. Red light / Yellow light / Green light look.
- Once the check is received at WSP it will check the various databases required automatically
 - **NICS check:** which includes NCIC - national warrants / NICS Indices - mental prohibitors, renounced citizenship, etc. and III – Interstate Identification Index (national criminal history)
 - **State databases:** WACIC – Washington Crime Information Center – Washington warrants, protection orders, etc. / WASIS – Washington State Identification System – Washington State Criminal History / HCA – Health Care Authority – mental health records that are not in the NICS Indices / AOC – Court Records / LInX-NW - Misdemeanor domestic violence cases not yet visible in AOC's systems. Admissions of drug/alcohol abuse in narratives for incidents that don't result in arrest.
- If there is nothing found/no hits – the transaction is proceeded and the FFL is notified through the portal. If there are hits, the transaction goes to a queue for staff to review and verify the information to see if there is anything prohibiting. If there is something prohibiting the FFL is notified to deny the sale or transfer.

Implementation schedule – critical path technology

- WSP to engage project manager and technical consultant to oversee technology procurements and overall implementation (January 2021)
- Senior staff hired (Spring 2021)
- Technology implementation begins (September 2021)
- Facility plans finalized (January 2023)
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Issues or Questions

- Go live date – January 2024 instead of January 2023
- Revenue to support program – either assume that the new program will not do CPL and return from evidence checks (thus, fewer FTEs needed) or establish a funding source that does not currently exist within the \$18 fee for transfers.
- Technology development cost and time in OFM study is less due to the more detailed analysis of requirements contained in the Implementation Plan.
- 62 FTE need is based on assumptions for a variety of variables – actual experience will likely vary from assumptions so the FTE need may change.
- If WSP is required to conduct the rechecks from I-1639, an additional 30 FTE's are needed to process approximately 1.5 million rechecks per year.
- Request extension from FBI NICS for conducting “other” checks when implementation date is closer.

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WSP Centralized Firearms Background Check Program

Status Update Report

12/8/2020

Implementation Plan

- Incorporated feedback from Advisory Board member review of final draft.
- Completed plan delivered to the Governor and Legislative Committees on December 1.
- Presentation given to House Civil Rights & Judiciary Committee Meeting on December 1.

Budget

- As of November 30, Governor not planning to reduce funding for start-up of the program in Fiscal Year 2021 or in the 2021-23 Biennial budget that will begin on July 1, 2021.

Project Manager and Technical Architect Consulting Services

- 12 firms submitted proposals.
- Review and scoring of proposals this week and next.
- Interview the top 2 or 3 firms late December / early January.
- Select preferred firm and execute contract in January/February.

Investment Plan & Technology Budget

- Currently being developed for submission to the Office of Chief Information Officer (OCIO) and OFM in January.

Upcoming Tasks

- Respond to queries during the 2021 Legislative Session beginning 1/11/2021.
- Issue Request for Proposal (RFP) for Quality Assurance consulting.
- Extend consulting services contract for Cascadia Analytics.
- Begin development of RFP for software / interface development services.

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ADDENDA

C

Centralized Firearm Background Check Funding

October 6, 2020

The State Firearms Background Check System Account

- Nonappropriated/allotted account with a fund balance of \$8,951,000 as of July 1st, 2020
- Expenditures could be charged starting July 1st, 2020
- FY20 expenditures were absorbed within existing agency resources (\$23,033)
- Assumes program will be fee supported as of January 1st, 2023 (original projected go live date)
- Background Check fee is limited to \$18 per check

2019-21 biennium - \$1,012,000

- \$400,000 – Implementation Plan
- \$176,000 - Division Commander & IT Business Analyst (assumes start date January 1st, 2021)
- \$156,000 – Contracted IT Project Manager for 6 months (assumes start date January 1st, 2021)
- \$18,000 – Accountability Board
- \$192,000 – Attorney General Legal Services
- \$70,000 – Indirect Costs*

2021-23 biennium - \$13,118,000 (assumes fees will support program as of January 1st, 2023)

- \$7,324,000 – FTEs (staggered hiring of FTEs, up to 14 FTEs in FY22 and 79 FTEs in FY23)
- \$1,638,000 – IT Software and Integration, Project Manager, and Quality Assurance
- \$732,000 – Buildout and Network setup
- \$818,000 – Rent (assumes start date January 1st, 2022)
- \$305,000 – Ongoing Software & Integration Maintenance and Network costs
- \$30,000 – Accountability Board
- \$384,000 – Attorney General Legal Services
- \$1,887,000 – Indirect Costs*

2023-25 biennium – \$20,030,000 (assumes fees will support program)

- \$14,418,000 – 79 FTEs
- \$1,090,000 - Rent
- \$610,000 - Ongoing Software & Integration Maintenance and Network costs
- \$12,000 - Accountability Board
- \$3,900,000 – Indirect Costs*

*Indirect costs include, but are not limited to, computer and telecommunications support, payroll processing, vendor payments, general accounting, procurement administration, inventory control, and human resource management.

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Centralized Firearm Background Check Funding

November 10, 2020

The State Firearms Background Check System Account

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Centralized Firearm Background Check Budget
2019-21 Biennium
actual expenditure data as of December 3, 2020

Expenditures	Budget	Actual	Variance
Salary/Benefits	\$ 153,000	\$ -	\$ 153,000
Contracts/Goods/Services	\$ 755,000	\$ 279,253	\$ 475,747
Travel	\$ 19,000	\$ -	\$ 19,000
Equipment	\$ 15,000	\$ -	\$ 15,000
	\$ 942,000	\$ 279,253	\$ 662,747

Funding	Budget	Actual	Variance
State Firearms Background Check Funding	\$ 942,000	\$ 256,220	\$ 685,780
Internal Agency Funding*	\$ -	\$ 23,033	\$ (23,033)
	\$ 942,000	\$ 279,253	\$ 662,747

Notes

*Internal agency funding was used for expenditures before July 1, 2020 when the State Firearms Background Check funding first became available.

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