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HOUSE BILL 2467

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State of Washington

66th Legislature

2020 Regular Session

By Representatives Hansen, Irwin, Griffey, Barkis, and Wylie

Read first time 01/14/20. Referred to Committee on Civil Rights & Judiciary.

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; and (iv) the administrative office of  
26 the courts case management system;

27 (c) Notify the dealer without delay that the records indicate the  
28 individual is prohibited from possessing a firearm and the transfer  
29 is denied or that the individual is approved to complete the  
30 transfer. If the results of the background check are indeterminate,  
31 the Washington state patrol shall notify the dealer of the delay and  
32 conduct necessary research and investigation to resolve the inquiry;  
33 and

34 (d) Provide the dealer with a unique identifier for the inquiry.

35 (3) The Washington state patrol may hold the delivery of a  
36 firearm to an applicant under the circumstances provided in RCW  
37 9.41.090 (4) and (5).

38 (4) The Washington state patrol shall require a dealer to charge  
39 each firearm purchaser or transferee a fee for performing background  
40 checks in connection with firearms transfers. The fee shall not

1 exceed the amount necessary to cover the annual costs of operating  
2 and maintaining the firearm background check system. The Washington  
3 state patrol shall transmit the fees collected to the state treasurer  
4 for deposit in the state firearms background check system account  
5 created in section 3 of this act.

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

11 (6) The Washington state patrol shall work with the  
12 administrative office of the courts to build a link between the  
13 firearm background check system and the administrative office of the  
14 courts case management system for the purpose of accessing court  
15 records to determine a person's eligibility to possess a firearm.

16 (7) Upon establishment of the firearm background check system  
17 under this section, the Washington state patrol shall notify each  
18 dealer in the state of the existence of the system, and the dealer  
19 must use the system to conduct background checks for firearm sales or  
20 transfers beginning on the date that is thirty days after issuance of  
21 the notification.

22 (8) The Washington state patrol shall consult with the Washington  
23 firearms background check accountability board created in section 2  
24 of this act in carrying out its duties under this section.

25 (9) All records and information prepared, obtained, used, or  
26 retained by the Washington state patrol in connection with a request  
27 for a firearm background check are exempt from public inspection and  
28 copying under chapter 42.56 RCW.

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

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

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

35 (1) There is created the Washington firearms background check  
36 accountability board. The board shall consist of the following  
37 members, appointed by the governor:

38 (a) The chief of the Washington state patrol or the chief's  
39 designee;

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

3 (c) Two sheriffs;

4 (d) Two police chiefs;

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

8 (f) One representative of an organization known to actively  
9 advocate in this state on behalf of firearms rights;

10 (g) One representative of an organization known to actively  
11 advocate in this state on behalf of greater firearm regulation; and

12 (h) One member of the general public.

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

18 (3) The board shall initially convene within ninety days of the  
19 effective date of this section, and shall meet not less than  
20 quarterly thereafter.

21 (4) The board shall elect from among its membership a chairperson  
22 and other such officers from among its membership as it deems  
23 appropriate.

24 (5) Members of the board shall serve terms of four years each on  
25 a staggered schedule to be established by the first board. For  
26 purposes of initiating a staggered schedule of terms, some members of  
27 the first board may initially serve two years and some members may  
28 initially serve four years.

29 (6) The board shall:

30 (a) Oversee the firearms background check unit established in  
31 section 1 of this act;

32 (b) In consultation with the chief of the Washington state  
33 patrol, control the operation and establish policies of the firearms  
34 background check unit;

35 (c) Be actively involved in the preparation of the firearms  
36 background check unit budget and approve the firearms background  
37 check unit budget prior to its formal submission to the office of  
38 financial management pursuant to RCW 43.88.030;

39 (d) Be consulted with prior to any director-level or managerial-  
40 level staffing changes within the firearms background check unit;

1 (e) Require reports from the chief of the Washington state patrol  
2 on matters pertaining to the firearms background check unit; and

3 (f) Report to the governor and appropriate committees of the  
4 legislature on or before December 31st of each year on the activities  
5 of the board and the firearms background check unit for the preceding  
6 fiscal year.

7 (7) Members of the board shall serve without compensation, but  
8 shall be reimbursed for travel expenses pursuant to RCW 43.03.050 and  
9 43.03.060.

10 (8) The Washington state patrol shall provide the staffing and  
11 budgetary resources necessary for the board to properly fulfill its  
12 duties.

13 (9) Members serving in their official capacity on the Washington  
14 firearms background check accountability board, or either their  
15 employer or employers or other entity that selected the members to  
16 serve, are immune from a civil action based on an act performed in  
17 good faith.

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

20 The state firearms background check system account is created in  
21 the custody of the state treasurer. All receipts under section 1 of  
22 this act must be deposited into the account. Expenditures from the  
23 account may be used only for the creation, operation, and maintenance  
24 of the automated firearms background check system under section 1 of  
25 this act. Only the chief of the Washington state patrol or the  
26 chief's designee may authorize expenditures from the account. The  
27 account is subject to allotment procedures under chapter 43.88 RCW,  
28 but an appropriation is not required for expenditures.

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

31 (1) Beginning on the date that is thirty days after the  
32 Washington state patrol issues a notification to dealers that a state  
33 firearms background check system is established within the Washington  
34 state patrol under section 1 of this act, a dealer shall use the  
35 state firearms background check system to conduct background checks  
36 for all firearms transfers. A dealer may not sell or transfer a  
37 firearm to an individual unless the dealer first contacts the  
38 Washington state patrol for a background check to determine the

1 eligibility of the purchaser or transferee to possess a firearm under  
2 state and federal law and the requirements and time periods  
3 established in RCW 9.41.090 and 9.41.092 have been satisfied. When an  
4 applicant applies for the purchase or transfer of a pistol or  
5 semiautomatic assault rifle, a dealer shall comply with all  
6 requirements of this chapter that apply to the sale or transfer of a  
7 pistol or semiautomatic rifle. When an applicant applies for the  
8 purchase or transfer of a firearm that is not a pistol or  
9 semiautomatic assault rifle, a dealer shall comply with the  
10 application, background check, recordkeeping, and other requirements  
11 of this chapter that apply to the sale or transfer of a pistol.

12 (2) A dealer shall charge a purchaser or transferee a background  
13 check fee in an amount determined by the Washington state patrol and  
14 remit the proceeds from the fee to the Washington state patrol on a  
15 monthly basis.

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

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

20 ~~((1) A dealer shall report to the Washington association of~~  
21 ~~sheriffs and police chiefs information on each instance where the~~  
22 ~~dealer denies an application for the purchase or transfer of a~~  
23 ~~firearm, whether under RCW 9.41.090 or 9.41.113, or the requirements~~  
24 ~~of federal law, as the result of a background check or completed and~~  
25 ~~submitted firearm purchase or transfer application that indicates the~~  
26 ~~applicant is ineligible to possess a firearm under state or federal~~  
27 ~~law. The dealer shall report the denied application information to~~  
28 ~~the Washington association of sheriffs and police chiefs within five~~  
29 ~~days of the denial in a format as prescribed by the Washington~~  
30 ~~association of sheriffs and police chiefs. The reported information~~  
31 ~~must include the identifying information of the applicant, the date~~  
32 ~~of the application and denial of the application, and other~~  
33 ~~information or documents as prescribed by the Washington association~~  
34 ~~of sheriffs and police chiefs. In any case where the purchase or~~  
35 ~~transfer of a firearm is initially denied by the dealer as the result~~  
36 ~~of a background check that indicates the applicant is ineligible to~~  
37 ~~possess a firearm, but the purchase or transfer is subsequently~~  
38 ~~approved, the dealer shall report the subsequent approval to the~~

1 ~~Washington association of sheriffs and police chiefs within one day~~  
2 ~~of the approval.~~

3 ~~(2))~~ Upon denying an application for the purchase or transfer of  
4 a firearm as a result of a background check or completed and  
5 submitted firearm purchase or transfer application that indicates the  
6 applicant is ineligible to possess a firearm under state or federal  
7 law, the dealer shall:

8 ~~((a))~~ (1) Provide the applicant with a copy of a notice form  
9 generated and distributed by the Washington state patrol under RCW  
10 43.43.823~~((5))~~ (6), informing denied applicants of their right to  
11 appeal the denial; and

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

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

16 (1) ~~((Upon receipt of the information from the Washington~~  
17 ~~association of sheriffs and police chiefs pursuant to RCW 36.28A.400,~~  
18 ~~the))~~ The Washington state patrol shall report each instance where an  
19 application for the purchase or transfer of a firearm is denied as  
20 the result of a background check that indicates the applicant is  
21 ineligible to possess a firearm to the local law enforcement agency  
22 in the jurisdiction where the attempted purchase or transfer took  
23 place. The reported information must include the identifying  
24 information of the applicant, the date of the application and denial  
25 of the application, the basis for the denial of the application, and  
26 other information deemed appropriate by the Washington state patrol.

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

33 ~~((2))~~ (3) Upon receipt of documentation that a person has  
34 appealed a background check denial, the Washington state patrol shall  
35 immediately remove the record of the person ~~((initially reported~~  
36 ~~pursuant to RCW 36.28A.400))~~ from its electronic database accessible  
37 to law enforcement agencies and officers. The Washington state patrol  
38 must keep a separate record of the person's information for a period  
39 of one year or until such time as the appeal has been resolved. Every

1 twelve months, the Washington state patrol shall notify the person  
2 that the person must provide documentation that his or her appeal is  
3 still pending or the record of the person's background check denial  
4 will be put back in its electronic database accessible to law  
5 enforcement agencies and officers. At any time, upon receipt of  
6 documentation that a person's appeal has been granted, the Washington  
7 state patrol shall remove any record of the person's denied firearms  
8 purchase or transfer application from its electronic database  
9 accessible to law enforcement agencies and officers.

10 ~~((3))~~ (4) Upon receipt of satisfactory proof that a person  
11 ~~((who was reported to the Washington state patrol pursuant to RCW~~  
12 ~~36.28A.400))~~ is no longer ineligible to possess a firearm under state  
13 or federal law, the Washington state patrol must remove any record of  
14 the person's denied firearms purchase or transfer application from  
15 its electronic database accessible to law enforcement agencies and  
16 officers.

17 ~~((4) Upon receipt of notification from the Washington~~  
18 ~~association of sheriffs and police chiefs that a person originally~~  
19 ~~denied the purchase or transfer of a firearm as the result of a~~  
20 ~~background check or completed and submitted firearm purchase or~~  
21 ~~transfer application that indicates the applicant is ineligible to~~  
22 ~~possess a firearm under state or federal law has subsequently been~~  
23 ~~approved for the purchase or transfer, the))~~ (5) In any case where  
24 the purchase or transfer of a firearm is initially denied as the  
25 result of a background check that indicates the applicant is  
26 ineligible to possess a firearm, but the purchase or transfer is  
27 subsequently approved, the Washington state patrol must remove any  
28 record of the person's denied firearms purchase or transfer  
29 application from its electronic database accessible to law  
30 enforcement agencies and officers within five business days and  
31 report the subsequent approval to the local law enforcement agency  
32 that received notification of the original denial.

33 ~~((5))~~ (6) The Washington state patrol shall generate and  
34 distribute a notice form to all firearm dealers, to be provided by  
35 the dealers to applicants denied the purchase or transfer of a  
36 firearm as a result of a background check that indicates the  
37 applicant is ineligible to possess a firearm. The notice form must  
38 contain the following statements:



1 State law requires that ((~~the~~)) the Washington state patrol  
2 transmit the following information to the ((~~Washington~~  
3 ~~association of sheriffs and police chiefs~~)) local law  
4 enforcement agency as a result of your firearm purchase or  
5 transfer denial within five days of the denial:

6 (a) Identifying information of the applicant;

7 (b) The date of the application and denial of the  
8 application;

9 (c) The basis for the denial; and

10 (d) Other information as ((~~prescribed~~)) determined by the  
11 Washington ((~~association of sheriffs and police chiefs~~)) state  
12 patrol.

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

17 The notice form shall also contain information directing the  
18 applicant to a web site describing the process of appealing a  
19 national instant criminal background check system denial through the  
20 federal bureau of investigation and refer the applicant to ((~~local~~  
21 ~~law enforcement~~)) the Washington state patrol for information on a  
22 denial based on a state background check. The notice form shall also  
23 contain a phone number for a contact at the Washington state patrol  
24 to direct the person to resources regarding an individual's right to  
25 appeal a background check denial.

26 ((~~(6)~~)) (7) The Washington state patrol shall provide to the  
27 Washington association of sheriffs and police chiefs any information  
28 necessary for the administration of the grant program in RCW  
29 36.28A.420 or preparation of the report required under RCW  
30 36.28A.405.

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

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

35 Subject to the availability of amounts appropriated for this  
36 specific purpose, the Washington association of sheriffs and police  
37 chiefs shall prepare an annual report on the number of denied  
38 firearms sales or transfers reported pursuant to chapter 261, Laws of

1 2017 and RCW 43.43.823. The report shall indicate the number of cases  
2 in which a person was denied a firearms sale or transfer, the number  
3 of cases where the denied sale or transfer was investigated for  
4 potential criminal prosecution, and the number of cases where an  
5 arrest was made, the case was referred for prosecution, and a  
6 conviction was obtained. The Washington (~~(state patrol)~~) association  
7 of sheriffs and police chiefs shall submit the report to the  
8 appropriate committees of the legislature on or before December 31st  
9 of each year.

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

12 (1) Subject to the availability of amounts appropriated for this  
13 specific purpose, the Washington association of sheriffs and police  
14 chiefs shall establish a grant program for local law enforcement  
15 agencies to conduct criminal investigations regarding persons who  
16 illegally attempted to purchase or transfer a firearm within their  
17 jurisdiction.

18 (2) Each grant applicant must be required to submit reports to  
19 the Washington association of sheriffs and police chiefs that  
20 indicate the number of cases in which a person was denied a firearms  
21 sale or transfer, the number of cases where the denied sale or  
22 transfer was investigated for potential criminal prosecution, and the  
23 number of cases where an arrest was made, the case was referred for  
24 prosecution, and a conviction was obtained.

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

29 NEW SECTION. **Sec. 9.** RCW 36.28A.400 (Denied firearm transaction  
30 reporting system—Purge of denial records upon subsequent approval—  
31 Public disclosure exemption—Destruction of information) and 2017 c  
32 261 s 2 are each repealed.

33 NEW SECTION. **Sec. 10.** Sections 5 through 9 of this act take  
34 effect on the date that is thirty days after the Washington state  
35 patrol issues a notification to dealers that a state firearms  
36 background check system is established under section 1 of this act.  
37 The Washington state patrol shall provide written notice of the

1 effective date of sections 5 through 9 of this act to the chief clerk  
2 of the house of representatives, the secretary of the senate, the  
3 office of the code reviser, and others as deemed appropriate by the  
4 Washington state patrol.

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