

2020

# Firearms Eligibility Report

JULY 2020



### Executive Summary

Since the passage of Initiative 1639 and its subsequent statute, the Department of Licensing, Washington State Patrol, and local law enforcement agencies have worked with a multitude of stakeholders to discuss the creation of a firearms eligibility re-check system. Throughout this process, DOL determined there is no “cost-effective and efficient” method for conducting these checks due to its firearms system limitations and the overwhelming number of records law enforcement would have to cross-check. Consequently, DOL recommends that the eligibility re-check requirement be re-evaluated once the newly authorized centralized background check system has been established through WSP.

### Report Requirement

Initiative 1639, approved by voters in 2018, created a new requirement for the Department of Licensing (DOL) in conjunction with the Washington State Patrol (WSP) and local law enforcement agencies (LEAs), to develop a “cost-effective and efficient” process for verifying individuals who purchased pistols or semi-automatic rifles (SARs) remain eligible to possess them. This statute, see Appendix 1, states that the process should be developed by July 1, 2020.

### Background Information

#### Stakeholder Involvement

Beginning in June 2019, DOL held several meetings with relevant stakeholders to address the requirements outlined in the statute. These parties included the WSP, Administrative Office of the Courts (AOC), Health Care Authority (HCA), Washington Association of Sheriffs and Police Chiefs (WASPC), the Office of Financial Management (OFM), and the Office of the Governor. The team also invited the Alliance for Gun Responsibility, National Rifle Association (NRA), and other organizations. Discussions centered on the current system process, applicable state and federal laws, and other considerations for process recommendations.

#### Acquiring a Firearm in Washington State

DOL's firearms unit receives information regarding the transfer of firearms and firearms related licenses from firearms dealers and LEAs. This information is provided to DOL via Firearms Online, email, or mail. The majority of this information comes from the 780 actively licensed Washington firearm dealers who provide transactional information about the firearms transfer. The process begins with a customer filling out a firearm transfer application (FTA), which includes basic information about the customer, the dealer, and the firearm make, model, and caliber. Firearms dealers submit this FTA to the LEA where the buyer resides for a background check that must be completed within 10 days. During this step, several systems are checked including the National Instant Criminal Background Check System (NICS)<sup>1</sup>, electronic databases

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<sup>1</sup> The NICS background check is a national check and maintained by the FBI.

managed by the Washington State Patrol and Health Care Authority, as well as other applicable agency records. Once a customer passes this background check, the LEA notifies the dealer who will then complete the firearm sale and list the transfer date on the FTA. If the firearm being purchased is a SAR the dealer will also collect a fee, which will be mailed along with the application to DOL for processing. The current firearm database contains over 4.7 million records with an estimated 15,000-20,000 transfers added every month (2019/2020 data).

### Report Considerations and Recommendations

DOL's current firearms system only records the original information listed on each FTA (based on the transfer date). When these forms are submitted to DOL, there is no requirement, authority, or merging in the system to update any data fields, such as name, address, and date of birth, to fully identify the firearm purchaser. Consequently, if the state were to run an eligibility re-check on these records, it would have the following limitations:

- The re-check would include individuals that may have moved out-of-state, died, or no longer have a firearm;
- The re-check would omit individuals that brought firearms into Washington from another state or country because there is no transfer record; and
- The re-check would use outdated information (e.g. old addresses) in some cases.
- The re-check would not include national information from NICS which can only be used for firearm transactions and would thus be limited to information at the state level.

### Cost Analysis

To determine the method for conducting these routine checks, DOL completed a cost analysis with several assumptions:

- *Analysis timeframe* – As RCW 9.41.139 did not specify a timeframe in which to conduct these re-checks, DOL utilized two example time spans for their analysis. One ran from July 1, 2019 to December 31, 2019 (encompassed 173,047 records), and the other from 2004 to the present (encompassed 4.7 million records). The first date range was chosen to begin on the date provided in RCW 9.41.139 and be completed at the end of that calendar year. The second was chosen to start from the inception of DOL's firearms system.
- *Report format* – DOL's firearms staff collaborated with their Information Services (IS) division to complete an analysis for providing the information to WSP. During this process, IS gathered data fields, such as name and address, into an Excel spreadsheet that would be provided to WSP.
- *Report frequency* – DOL would send this report to WSP every 6 months. This would allow WSP staff adequate time to check the report for standardization and consistency. WSP would then run a background check at the state level for the names and dates of birth listed on the report, and send the resultant information to applicable law enforcement in the individual's jurisdiction.

The significant cost driver in either of the timeframes mentioned above would come from law enforcement partners and other agencies that would be required to re-check a vast number of records per year for firearm eligibility, and the staff that would need to sort through the checks to provide information to the jurisdictional law enforcement agencies.

Within the existing system, there is no “cost-effective and efficient” way that DOL, WSP, or LEAs could annually re-check this vast number of FTA records to determine an individual’s continued eligibility to possess a firearm.

### **Additional Considerations**

#### *Related Legislative Changes*

- New legislation passed during the 2020 session authorizes a centralized single point of contact background check system managed by WSP. This would alter the current process for conducting background checks, which is decentralized with multiple LEAs conducting, responding, and maintaining the same records. This new background check system will work closely with DOL’s firearms processes.

### **DOL’s Recommendation**

Based on the information provided throughout this report, DOL recommends that the eligibility re-check requirement be re-evaluated once the WSP centralized background check system has been established. This decision will ensure that all state firearms systems are cohesive, as well as streamline the background check process.

## Appendix 1

### **RCW 9.41.139**

#### **Department of licensing—Eligibility to possess firearms.**

(1) Within twelve months of July 1, 2019, the department of licensing shall, in conjunction with the Washington state patrol and other state and local law enforcement agencies as necessary, develop a cost-effective and efficient process to:

(a) Verify, on an annual or more frequent basis, that persons who acquired pistols or semiautomatic assault rifles pursuant to this chapter remain eligible to possess a firearm under state and federal law; and

(b) If such persons are determined to be ineligible for any reason, (i) notify and provide the relevant information to the chief of police or the sheriff of the jurisdiction in which the purchaser resides and (ii) take steps to ensure such persons are not illegally in possession of firearms.

(2) The department of licensing, where appropriate, may consult with individuals from the public and private sector or ask the individuals to establish a temporary advisory committee to accomplish the purposes in subsection (1) of this section. Members of such an advisory committee are not entitled to expense reimbursement.