

HOUSE BILL REPORT

HB 2486

As Reported by House Committee On:
Public Safety & Emergency Preparedness
General Government Appropriations

Title: An act relating to costs for the collection of DNA samples.

Brief Description: Concerning costs for the collection of DNA samples.

Sponsors: Representatives Goodman, Klippert, Rodne, Green, Kessler and Kelley.

Brief History:

Committee Activity:

Public Safety & Emergency Preparedness: 1/12/10, 1/13/10 [DPS];
General Government Appropriations: 1/28/10, 2/4/10 [DPS(PSEP)].

Brief Summary of Substitute Bill

- Expands the fee for collection of a biological sample used for deoxyribonucleic acid (DNA) identification to misdemeanors and gross misdemeanors that require collection of a biological sample for DNA identification.
- Prioritizes payment of other legal financial obligations before payment of the DNA sample collection fee when the fee is imposed as a consequence of a felony conviction.
- Allows payment of the DNA sample collection fee along with other assessments when the fee is imposed as a consequence of a misdemeanor or gross misdemeanor conviction.

HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass.
Signed by 8 members: Representatives Hurst, Chair; O'Brien, Vice Chair; Pearson, Ranking
Minority Member; Klippert, Assistant Ranking Minority Member; Appleton, Goodman,
Kirby and Ross.

Staff: Alexa Silver (786-7190).

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.

Background:

The Washington State Patrol operates and maintains a deoxyribonucleic acid (DNA) identification system. The purposes of the system are to assist with criminal investigations and identify human remains and missing persons. County and city jails are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. The Department of Corrections and the Department of Social and Health Services are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. Local police and sheriff's departments are responsible for collecting biological samples for DNA analysis from offenders who do not serve any term of incarceration.

Offenders From Whom a Biological Sample Must Be Collected.

Biological samples must be collected from any person convicted of a felony, any person who is required to register as a sex or kidnapping offender, and any person convicted of the following misdemeanors and gross misdemeanors:

- assault in the fourth degree with sexual motivation;
- communication with a minor for immoral purposes;
- custodial sexual misconduct in the second degree;
- failure to register as a sex or kidnapping offender;
- harassment;
- patronizing a prostitute;
- sexual misconduct with a minor in the second degree;
- stalking; and
- violation of a sexual assault protection order.

If a DNA sample already exists from the offender in question, another biological sample does not have to be collected.

Fee for a Biological Sample.

When a sentence is imposed under the Sentencing Reform Act, a court must levy a \$100 fee for any crime that requires collection of a biological sample for DNA analysis. A sentence is imposed under the Sentencing Reform Act for felonies only.

The fee constitutes a legal financial obligation that must be paid after all other legal financial obligations included in the sentence have been satisfied. A "legal financial obligation" is defined as money ordered by the superior court for legal financial obligations, including restitution to a victim, crime victims' compensation fees, court costs, drug funds, court-appointed attorneys' fees, costs of defense, fines, and any other financial obligation assessed as a result of a felony conviction.

Eighty percent of this fee is deposited in the state DNA Database Account, and 20 percent is transmitted to the agency responsible for collection of the biological sample from the offender.

Summary of Substitute Bill:

Sentences imposed for crimes that by law require a biological sample for DNA analysis must include a \$100 fee. Thus the fee must be included in sentences not only for felonies, but also the following gross misdemeanors and misdemeanors:

- assault in the fourth degree with sexual motivation;
- communication with a minor for immoral purposes;
- custodial sexual misconduct in the second degree;
- failure to register as a sex or kidnapping offender;
- harassment;
- patronizing a prostitute;
- sexual misconduct with a minor in the second degree;
- stalking; and
- violation of a sexual assault protection order.

Substitute Bill Compared to Original Bill:

The substitute bill prioritizes payment of other legal financial obligations before payment of the DNA sample collection fee when the fee is imposed as a consequence of a felony conviction. When the DNA sample collection fee is imposed as a consequence of a misdemeanor or gross misdemeanor conviction, it may be paid along with other assessments.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) This bill is a technical correction. Felons already have to pay for the DNA test, but courts should be authorized to order misdemeanants to pay for the DNA test as well.

(Opposed) None.

Persons Testifying: Judge Brett Buckley, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS

Majority Report: The substitute bill by Committee on Public Safety & Emergency Preparedness be substituted therefor and the substitute bill do pass. Signed by 15 members: Representatives Darneille, Chair; Takko, Vice Chair; McCune, Ranking Minority Member;

Armstrong, Assistant Ranking Minority Member; Blake, Crouse, Dunshee, Hudgins, Kenney, Klippert, Pedersen, Sells, Short, Van De Wege and Williams.

Staff: Alex MacBain (786-7288).

Summary of Recommendation of Committee On General Government Appropriations Compared to Recommendation of Committee On Public Safety & Emergency Preparedness:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect 90 days after adjournment of the session in which the bill is passed.

Staff Summary of Public Testimony:

(In support) Current law requires the taking of DNA samples from offenders who are convicted of committing certain crimes that are considered precursors to more serious sex crimes. The superior courts are doing this and are allowed to charge convicted offenders a fee that helps to offset some of the costs related to collecting DNA samples, performing analysis of the samples, and maintaining a searchable database. The district courts that have jurisdiction over misdemeanor offenses are not allowed to charge the fee. This bill will allow the district courts to charge a fee. Of the fee collected, 80 percent goes to the DNA Database Account which pays for the costs of the DNA analysis and the maintenance of the database. The remaining 20 percent of the fee goes to the local governments to pay for the costs to collect the DNA samples.

(Opposed) None.

Persons Testifying: Representative Goodman, prime sponsor; and Melanie Stewart, District and Municipal Court Judges Association.

Persons Signed In To Testify But Not Testifying: None.