
SENATE BILL 5240

State of Washington

62nd Legislature

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By Senators Fraser, Roach, Delvin, Rockefeller, Ranker, Chase, Prentice, Keiser, Shin, King, Schoesler, and Honeyford

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1 AN ACT Relating to submission of DNA markers to a database
2 accessible only to qualified laboratory personnel; amending RCW
3 43.43.753, 43.43.735, 43.43.740, 43.43.754, 46.63.110, 43.43.690, and
4 43.43.7541; adding a new section to chapter 43.43 RCW; creating a new
5 section; and prescribing penalties.

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

7 NEW SECTION. **Sec. 1.** The legislature finds there is a critical
8 need to provide law enforcement officers and agencies with the latest
9 scientific technology available for accurately and expeditiously
10 identifying and prosecuting adult violent offenders and sex offenders.

11 Although every state maintains a DNA database for felony
12 convictions, there is a growing trend toward expanding DNA databases to
13 include DNA from felony arrestees. To date, twenty-four states and the
14 federal government have already enacted such laws.

15 Studies in other jurisdictions indicate that collection of DNA from
16 arrestees may contribute to the solution of cold cases, save lives by
17 identifying recidivist offenders, reduce rates of criminality, and
18 increase the rate of successful prosecutions. For example, since 2003,

1 the Virginia database of arrestee DNA has yielded over six hundred hits
2 to DNA collected from crime scenes, ninety-nine of which were
3 associated with sexual assault cases.

4 The legislature further finds that collecting DNA from felony
5 arrestees is cost-effective. Early identification of offenders reduces
6 costs by focusing investigations and eliminating suspects. It may also
7 prevent costs associated with recidivist offenders. In a study
8 sponsored by the United States department of justice, the city of
9 Denver found that DNA testing of arrestees reduced police expenses and
10 prevented property loss, resulting in a ninety dollar return on
11 investment for every dollar spent on forensic DNA.

12 The legislature therefore finds that collecting DNA from adults
13 arrested for a violent offense or a sex offense is necessary to solve
14 cold cases, prevent recidivist acts, and lower the cost of criminal
15 investigations.

16 **Sec. 2.** RCW 43.43.753 and 2008 c 97 s 1 are each amended to read
17 as follows:

18 The legislature finds that recent developments in molecular biology
19 and genetics have important applications for forensic science. It has
20 been scientifically established that there is a unique pattern to the
21 chemical structure of the deoxyribonucleic acid (DNA) contained in each
22 cell of the human body. The process for identifying this pattern is
23 called "DNA identification."

24 The legislature further finds that DNA databases are important
25 tools in criminal investigations, in the exclusion of individuals who
26 are the subject of investigations or prosecutions, and in detecting
27 recidivist acts. It is the policy of this state to assist federal,
28 state, and local criminal justice and law enforcement agencies in both
29 the identification and detection of individuals in criminal
30 investigations and the identification and location of missing and
31 unidentified persons. Therefore, it is in the best interest of the
32 state to establish a DNA database and DNA data bank containing DNA
33 samples submitted by persons convicted of felony offenses and other
34 crimes, as well as by adults arrested for or charged with violent
35 offenses and sex offenses, as specified in RCW 43.43.754. DNA samples
36 necessary for the identification of missing persons and unidentified
37 human remains shall also be included in the DNA database.

1 The legislature further finds that the DNA identification system
2 used by the federal bureau of investigation and the Washington state
3 patrol has no ability to predict genetic disease or predisposal to
4 illness. Nonetheless, the legislature intends that biological samples
5 collected under RCW 43.43.735 and 43.43.754, and DNA identification
6 data obtained from the samples, be used only for purposes related to
7 criminal investigation, identification of human remains or missing
8 persons, or improving the operation of the system authorized under RCW
9 43.43.735 and 43.43.752 through ((43.43.758)) 43.43.759 and section 6
10 of this act.

11 The legislature further finds that the DNA collection, testing, and
12 storage process is minimally invasive to privacy based on the following
13 features:

14 (1) Biological samples for DNA testing are routinely collected by
15 an oral swab;

16 (2) A DNA profile is stored in a database accessible only to
17 qualified laboratory personnel and does not appear in an individual's
18 criminal history record;

19 (3) Entries in the DNA database contain only DNA markers necessary
20 to human identification, which are a small part of a person's total
21 genetic information; and

22 (4) Personally identifying information does not appear in the DNA
23 database.

24 **Sec. 3.** RCW 43.43.735 and 2009 c 549 s 5130 are each amended to
25 read as follows:

26 (1) It shall be the duty of the sheriff or director of public
27 safety of every county, and the chief of police of every city or town,
28 and of every chief officer of other law enforcement agencies duly
29 operating within this state, to cause the photographing and
30 fingerprinting of all adults and juveniles lawfully arrested for the
31 commission of any criminal offense constituting a felony or gross
32 misdemeanor. (a) When such juveniles are brought directly to a
33 juvenile detention facility, the juvenile court administrator is also
34 authorized, but not required, to cause the photographing,
35 fingerprinting, and record transmittal to the appropriate law
36 enforcement agency; and (b) a further exception may be made when the

1 arrest is for a violation punishable as a gross misdemeanor and the
2 arrested person is not taken into custody.

3 (2) It shall be the right, but not the duty, of the sheriff or
4 director of public safety of every county, and the chief of police of
5 every city or town, and every chief officer of other law enforcement
6 agencies operating within this state to photograph and record the
7 fingerprints of all adults lawfully arrested.

8 (3) Such sheriffs, directors of public safety, chiefs of police,
9 and other chief law enforcement officers, may record, in addition to
10 photographs and fingerprints, the palmprints, soleprints, toeprints, or
11 any other identification data of all persons whose photograph and
12 fingerprints are required or allowed to be taken under this section
13 when in the discretion of such law enforcement officers it is necessary
14 for proper identification of the arrested person or the investigation
15 of the crime with which he or she is charged.

16 (4)(a) Beginning January 1, 2013, it shall be the duty of the
17 sheriff or director of public safety of every county, and the chief of
18 police of every city or town, and of every chief officer of other law
19 enforcement agencies duly operating within this state, to cause the
20 collection of biological samples for DNA identification analysis from
21 all adults lawfully arrested for the commission of any criminal offense
22 constituting a violent offense or a sex offense under RCW 9.94A.030.

23 (b) Prior to January 1, 2013, it shall be the right, but not the
24 duty, of the sheriff or director of public safety of every county, and
25 the chief of police of every city or town, and every chief officer of
26 other law enforcement agencies operating within this state, to cause
27 the collection of biological samples for DNA identification analysis
28 from all adults lawfully arrested for the commission of any criminal
29 offense constituting a violent offense or a sex offense under RCW
30 9.94A.030.

31 (c) Biological samples collected under this subsection shall be:

32 (i) Collected using the same technique as biological samples
33 collected under RCW 43.43.754;

34 (ii) Forwarded to the forensic laboratory services bureau of the
35 Washington state patrol for inclusion in the DNA identification system
36 established under RCW 43.43.752 through 43.43.759 and section 6 of this
37 act; and

1 (iii) Used solely for the purposes of inclusion in the DNA
2 identification system established under RCW 43.43.752 through 43.43.759
3 and section 6 of this act.

4 (d) The forensic laboratory services bureau shall provide kits and
5 instructions necessary for the collection of biological samples
6 required by this section.

7 **Sec. 4.** RCW 43.43.740 and 2006 c 294 s 7 are each amended to read
8 as follows:

9 (1) It shall be the duty of the sheriff or director of public
10 safety of every county, and the chief of police of every city or town,
11 and of every chief officer of other law enforcement agencies duly
12 operating within this state to furnish within seventy-two hours from
13 the time of arrest to the section the required sets of fingerprints
14 together with other identifying data as may be prescribed by the chief,
15 of any person lawfully arrested, fingerprinted, and photographed
16 pursuant to RCW 43.43.735.

17 (2) Law enforcement agencies may retain and file copies of the
18 fingerprints, photographs, and other identifying data and information
19 obtained pursuant to RCW 43.43.735, except biological samples. Said
20 records shall remain in the possession of the law enforcement agency as
21 part of the identification record and are not returnable to the
22 subjects thereof.

23 **Sec. 5.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to read
24 as follows:

25 (1) A biological sample must be collected for purposes of DNA
26 identification analysis from:

27 (a) Every adult or juvenile individual convicted of a felony, or
28 any of the following crimes (or equivalent juvenile offenses):

29 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,
30 9.94A.835)

31 Communication with a minor for immoral purposes (RCW 9.68A.090)

32 Custodial sexual misconduct in the second degree (RCW 9A.44.170)

33 Failure to register (RCW (~~9A.44.130~~) 9A.44.132)

34 Harassment (RCW 9A.46.020)

35 Patronizing a prostitute (RCW 9A.88.110)

36 Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

1 Stalking (RCW 9A.46.110)

2 Violation of a sexual assault protection order granted under
3 chapter 7.90 RCW; (~~and~~)

4 (b) Every adult or juvenile individual who is required to register
5 under RCW 9A.44.130; and

6 (c) Every adult lawfully arrested for or charged with the
7 commission of any criminal offense constituting a violent offense or a
8 sex offense under RCW 9.94A.030.

9 (2) If the Washington state patrol crime laboratory already has a
10 DNA sample from an individual for a qualifying offense, a subsequent
11 submission is not required to be submitted.

12 (3) Biological samples shall be collected in the following manner:

13 (a) For persons convicted of any offense listed in subsection
14 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
15 offense who do not serve a term of confinement in a department of
16 corrections facility, and do serve a term of confinement in a city or
17 county jail facility, the city or county shall be responsible for
18 obtaining the biological samples.

19 (b) The local police department or sheriff's office shall be
20 responsible for obtaining the biological samples for:

21 (i) Persons convicted of any offense listed in subsection (1)(a) of
22 this section or adjudicated guilty of an equivalent juvenile offense
23 who do not serve a term of confinement in a department of corrections
24 facility, and do not serve a term of confinement in a city or county
25 jail facility; (~~and~~)

26 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
27 9A.44.130; and

28 (iii) Adults lawfully arrested for the commission of any criminal
29 offense constituting a violent offense or a sex offense under RCW
30 9.94A.030.

31 (c) For persons convicted of any offense listed in subsection
32 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
33 offense, who are serving or who are to serve a term of confinement in
34 a department of corrections facility or a department of social and
35 health services facility, the facility holding the person shall be
36 responsible for obtaining the biological samples at the time of
37 transfer to the facility. For those persons incarcerated before June

1 12, 2008, who have not yet had a biological sample collected, priority
2 shall be given to those persons who will be released the soonest.

3 (d) For adults charged with a criminal offense constituting a
4 violent offense or a sex offense under RCW 9.94A.030 whose first
5 appearance in court is caused by summons, the court shall require the
6 person to submit to collection of a biological sample if a sample has
7 not already been collected. The court shall direct the sheriff or
8 director of public safety of the county, the chief of police of the
9 city or town, or the chief officer of another law enforcement agency
10 duly operating within the state to collect the biological sample. If
11 the person is released on personal recognizance or on conditions, the
12 court shall make collection of a biological sample a condition of
13 release. If the person is detained, the designated criminal justice
14 agency may collect a biological sample at any time during the person's
15 detention.

16 (4) Any biological sample taken pursuant to RCW 43.43.735 and
17 43.43.752 through ((43.43.758 may be retained by the forensic
18 laboratory services bureau, and)) 43.43.759 and section 6 of this act
19 and sent to the forensic laboratory services bureau shall be analyzed
20 unless a complete DNA profile for the person has previously been
21 entered in the DNA database.

22 (5) Any biological sample taken pursuant to RCW 43.43.735 and
23 43.43.752 through 43.43.759 and section 6 of this act shall be used
24 solely for the purpose of providing DNA or other tests for
25 identification analysis and prosecution of a criminal offense or for
26 the identification of human remains or missing persons. Nothing in
27 this section prohibits the submission of results derived from the
28 biological samples to the federal bureau of investigation combined DNA
29 index system.

30 ~~((+5))~~ (6) The forensic laboratory services bureau of the
31 Washington state patrol is responsible for testing performed on all
32 biological samples that are collected under subsection (1) of this
33 section, to the extent allowed by funding available for this purpose.
34 ~~((The director shall give priority to testing on samples collected from~~
35 ~~those adults or juveniles convicted of a felony or adjudicated guilty~~
36 ~~of an equivalent juvenile offense that is defined as a sex offense or~~
37 ~~a violent offense in RCW 9.94A.030.)) Known duplicate samples may be~~

1 excluded from testing unless testing is deemed necessary or advisable
2 by the director.

3 ~~((+6))~~ (7) This section applies to:

4 (a) All adults and juveniles to whom this section applied prior to
5 June 12, 2008;

6 (b) All adults and juveniles to whom this section did not apply
7 prior to June 12, 2008, who:

8 (i) Are convicted on or after June 12, 2008, of an offense listed
9 in subsection (1)(a) of this section; or

10 (ii) Were convicted prior to June 12, 2008, of an offense listed in
11 subsection (1)(a) of this section and are still incarcerated on or
12 after June 12, 2008; ~~((and))~~

13 (c) All adults and juveniles who are required to register under RCW
14 9A.44.130 on or after June 12, 2008, whether convicted before, on, or
15 after June 12, 2008; and

16 (d) All adults lawfully arrested for or charged with any criminal
17 offense constituting a violent offense or a sex offense under RCW
18 9.94A.030 on or after July 24, 2011.

19 ~~((+7))~~ (8) This section creates no rights in a third person. No
20 cause of action may be brought based upon the noncollection or
21 nonanalysis or the delayed collection or analysis of a biological
22 sample authorized to be taken under RCW 43.43.735 or 43.43.752 through
23 ~~((43.43.758))~~ 43.43.759 and section 6 of this act.

24 ~~((+8))~~ (9) The detention, arrest, or conviction of a person based
25 upon a database match or database information is not invalidated if it
26 is determined that the sample was obtained or placed in the database by
27 mistake, or if the conviction or juvenile adjudication that resulted in
28 the collection of the biological sample was subsequently vacated or
29 otherwise altered in any future proceeding including but not limited to
30 posttrial or postfact-finding motions, appeals, or collateral attacks.

31 NEW SECTION. Sec. 6. A new section is added to chapter 43.43 RCW
32 to read as follows:

33 (1) A person may request expungement of the person's sample and DNA
34 records from the DNA identification system if:

35 (a) The person is not charged with an offense requiring collection
36 of a biological sample under RCW 43.43.735 within one year of arrest;

1 (b) The person has been found not guilty or has been acquitted of
2 an offense requiring collection of a biological sample under RCW
3 43.43.735; or

4 (c) The underlying conviction or adjudication requiring collection
5 of a biological sample under RCW 43.43.754 has been reversed and the
6 case dismissed.

7 (2) To request expungement, the person must submit the following
8 documents to the forensic laboratory services bureau:

9 (a) A written request for expungement;

10 (b) Proof that the person has provided written notice of the
11 request for expungement to the prosecuting attorney of the county in
12 which he or she was arrested, convicted, or adjudicated; and

13 (c)(i) A sworn affidavit that no charges for an offense requiring
14 collection of a biological sample under RCW 43.43.735 have been filed
15 within one year of arrest;

16 (ii) A certified copy of a final court order establishing that a
17 charge for an offense requiring collection of a biological sample under
18 RCW 43.43.735 has been dismissed or has resulted in an acquittal; or

19 (iii) A certified copy of a final court order reversing the
20 conviction that required collection of a biological sample under RCW
21 43.43.754.

22 (3)(a) Upon receipt of a written request for expungement, if the
23 forensic laboratory services bureau has not previously analyzed the
24 person's sample, the director shall give priority to analyzing the
25 person's sample.

26 (b) Once the forensic laboratory services bureau has analyzed the
27 person's sample and received the documents required by subsection (2)
28 of this section, the forensic laboratory services bureau shall expunge
29 the person's sample and DNA records from the DNA identification system.

30 (c) The forensic laboratory services bureau may not expunge a
31 person's sample and DNA records from the DNA identification system if
32 the person has a prior conviction or a pending charge for which
33 collection of a sample is authorized under RCW 43.43.735 or 43.43.754.

34 **Sec. 7.** RCW 46.63.110 and 2010 c 252 s 5 are each amended to read
35 as follows:

36 (1) A person found to have committed a traffic infraction shall be

1 assessed a monetary penalty. No penalty may exceed two hundred and
2 fifty dollars for each offense unless authorized by this chapter or
3 title.

4 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is
5 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
6 five hundred dollars for each offense. No penalty assessed under this
7 subsection (2) may be reduced.

8 (3) The supreme court shall prescribe by rule a schedule of
9 monetary penalties for designated traffic infractions. This rule shall
10 also specify the conditions under which local courts may exercise
11 discretion in assessing fines and penalties for traffic infractions.
12 The legislature respectfully requests the supreme court to adjust this
13 schedule every two years for inflation.

14 (4) There shall be a penalty of twenty-five dollars for failure to
15 respond to a notice of traffic infraction except where the infraction
16 relates to parking as defined by local law, ordinance, regulation, or
17 resolution or failure to pay a monetary penalty imposed pursuant to
18 this chapter. A local legislative body may set a monetary penalty not
19 to exceed twenty-five dollars for failure to respond to a notice of
20 traffic infraction relating to parking as defined by local law,
21 ordinance, regulation, or resolution. The local court, whether a
22 municipal, police, or district court, shall impose the monetary penalty
23 set by the local legislative body.

24 (5) Monetary penalties provided for in chapter 46.70 RCW which are
25 civil in nature and penalties which may be assessed for violations of
26 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
27 are not subject to the limitation on the amount of monetary penalties
28 which may be imposed pursuant to this chapter.

29 (6) Whenever a monetary penalty, fee, cost, assessment, or other
30 monetary obligation is imposed by a court under this chapter it is
31 immediately payable. If the court determines, in its discretion, that
32 a person is not able to pay a monetary obligation in full, and not more
33 than one year has passed since the later of July 1, 2005, or the date
34 the monetary obligation initially became due and payable, the court
35 shall enter into a payment plan with the person, unless the person has
36 previously been granted a payment plan with respect to the same
37 monetary obligation, or unless the person is in noncompliance of any
38 existing or prior payment plan, in which case the court may, at its

1 discretion, implement a payment plan. If the court has notified the
2 department that the person has failed to pay or comply and the person
3 has subsequently entered into a payment plan and made an initial
4 payment, the court shall notify the department that the infraction has
5 been adjudicated, and the department shall rescind any suspension of
6 the person's driver's license or driver's privilege based on failure to
7 respond to that infraction. "Payment plan," as used in this section,
8 means a plan that requires reasonable payments based on the financial
9 ability of the person to pay. The person may voluntarily pay an amount
10 at any time in addition to the payments required under the payment
11 plan.

12 (a) If a payment required to be made under the payment plan is
13 delinquent or the person fails to complete a community restitution
14 program on or before the time established under the payment plan,
15 unless the court determines good cause therefor and adjusts the payment
16 plan or the community restitution plan accordingly, the court shall
17 notify the department of the person's failure to meet the conditions of
18 the plan, and the department shall suspend the person's driver's
19 license or driving privilege until all monetary obligations, including
20 those imposed under subsections (3) and (4) of this section, have been
21 paid, and court authorized community restitution has been completed, or
22 until the department has been notified that the court has entered into
23 a new time payment or community restitution agreement with the person.

24 (b) If a person has not entered into a payment plan with the court
25 and has not paid the monetary obligation in full on or before the time
26 established for payment, the court shall notify the department of the
27 delinquency. The department shall suspend the person's driver's
28 license or driving privilege until all monetary obligations have been
29 paid, including those imposed under subsections (3) and (4) of this
30 section, or until the person has entered into a payment plan under this
31 section.

32 (c) If the payment plan is to be administered by the court, the
33 court may assess the person a reasonable administrative fee to be
34 wholly retained by the city or county with jurisdiction. The
35 administrative fee shall not exceed ten dollars per infraction or
36 twenty-five dollars per payment plan, whichever is less.

37 (d) Nothing in this section precludes a court from contracting with
38 outside entities to administer its payment plan system. When outside

1 entities are used for the administration of a payment plan, the court
2 may assess the person a reasonable fee for such administrative
3 services, which fee may be calculated on a periodic, percentage, or
4 other basis.

5 (e) If a court authorized community restitution program for
6 offenders is available in the jurisdiction, the court may allow
7 conversion of all or part of the monetary obligations due under this
8 section to court authorized community restitution in lieu of time
9 payments if the person is unable to make reasonable time payments.

10 (7) In addition to any other penalties imposed under this section
11 and not subject to the limitation of subsection (1) of this section, a
12 person found to have committed a traffic infraction shall be assessed:

13 (a) A fee of five dollars per infraction. Under no circumstances
14 shall this fee be reduced or waived. Revenue from this fee shall be
15 forwarded to the state treasurer for deposit in the emergency medical
16 services and trauma care system trust account under RCW 70.168.040;

17 (b) A fee of (~~ten~~) nine dollars and fifty cents per infraction.
18 Under no circumstances shall this fee be reduced or waived. Revenue
19 from this fee shall be forwarded to the state treasurer for deposit in
20 the Washington auto theft prevention authority account; (~~and~~)

21 (c) A fee of two dollars per infraction. Revenue from this fee
22 shall be forwarded to the state treasurer for deposit in the traumatic
23 brain injury account established in RCW 74.31.060; and

24 (d) A fee of fifty cents per infraction. Revenue from this fee
25 shall be forwarded to the state treasurer for deposit in the state DNA
26 database account established in RCW 43.43.7532.

27 (8)(a) In addition to any other penalties imposed under this
28 section and not subject to the limitation of subsection (1) of this
29 section, a person found to have committed a traffic infraction other
30 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
31 penalty of twenty dollars. The court may not reduce, waive, or suspend
32 the additional penalty unless the court finds the offender to be
33 indigent. If a court authorized community restitution program for
34 offenders is available in the jurisdiction, the court shall allow
35 offenders to offset all or a part of the penalty due under this
36 subsection (8) by participation in the court authorized community
37 restitution program.

1 (b) Eight dollars and fifty cents of the additional penalty under
2 (a) of this subsection shall be remitted to the state treasurer. The
3 remaining revenue from the additional penalty must be remitted under
4 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
5 under this subsection to the state treasurer must be deposited in the
6 state general fund. The balance of the revenue received by the county
7 or city treasurer under this subsection must be deposited into the
8 county or city current expense fund. Moneys retained by the city or
9 county under this subsection shall constitute reimbursement for any
10 liabilities under RCW 43.135.060.

11 (9) If a legal proceeding, such as garnishment, has commenced to
12 collect any delinquent amount owed by the person for any penalty
13 imposed by the court under this section, the court may, at its
14 discretion, enter into a payment plan.

15 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
16 hundred fifty dollars for the first violation; (b) five hundred dollars
17 for the second violation; and (c) seven hundred fifty dollars for each
18 violation thereafter.

19 **Sec. 8.** RCW 43.43.690 and 1992 c 129 s 2 are each amended to read
20 as follows:

21 (1) When a person has been adjudged guilty of violating any
22 criminal statute of this state and a crime laboratory analysis was
23 performed by a state crime laboratory, in addition to any other
24 disposition, penalty, or fine imposed, the court shall levy a crime
25 laboratory analysis fee of one hundred dollars for each offense for
26 which the person was convicted. (~~Upon a verified petition by the~~
27 ~~person assessed the fee, the court may suspend payment of all or part~~
28 ~~of the fee if it finds that the person does not have the ability to pay~~
29 ~~the fee.~~) The court may not suspend or defer payment of the fee.

30 (2) When a minor has been adjudicated a juvenile offender for an
31 offense which, if committed by an adult, would constitute a violation
32 of any criminal statute of this state and a crime laboratory analysis
33 was performed, in addition to any other disposition imposed, the court
34 shall assess a crime laboratory analysis fee of one hundred dollars for
35 each adjudication. Upon a verified petition by a minor assessed the
36 fee, the court may suspend payment of all or part of the fee (~~if~~)
37 if it finds that the minor does not have the ability to pay the fee.

1 (3) All crime laboratory analysis fees assessed under this section
2 shall be collected by the clerk of the court and forwarded to the state
3 general fund, to be used only for crime laboratories. The clerk may
4 retain five dollars to defray the costs of collecting the fees.

5 **Sec. 9.** RCW 43.43.7541 and 2008 c 97 s 3 are each amended to read
6 as follows:

7 Every sentence imposed under chapter 9.94A RCW for a crime
8 specified in RCW 43.43.754(1)(a) must include a fee of one hundred
9 dollars, regardless of whether a biological sample was collected. The
10 fee is a court-ordered legal financial obligation as defined in RCW
11 9.94A.030, payable by the offender after payment of all other legal
12 financial obligations included in the sentence has been completed. The
13 clerk of the court shall transmit eighty percent of the fee collected
14 to the state treasurer for deposit in the state DNA database account
15 created under RCW 43.43.7532, and shall transmit twenty percent of the
16 fee collected to the agency responsible for collection of a biological
17 sample from the offender as required under RCW 43.43.754.

18 NEW SECTION. **Sec. 10.** If any provision of this act or its
19 application to any person or circumstance is held invalid, the
20 remainder of the act or the application of the provision to other
21 persons or circumstances is not affected.

--- END ---