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HOUSE BILL 2468

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Orwall, Kochmar, Appleton, Sells, Takko, Dahlquist, Roberts, Wylie, Goodman, Stonier, Moscoso, Springer, Jenkins, Fitzgibbon, and Carlyle

Read first time 01/17/14. Referred to Committee on Public Safety.

1 AN ACT Relating to the retention of biological material collected  
2 during criminal investigations; adding a new section to chapter 10.73  
3 RCW; creating a new section; providing an effective date; and providing  
4 expiration dates.

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

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 10.73 RCW  
7 to read as follows:

8 (1) It is prohibited for a governmental entity to destroy  
9 biological material collected or work product generated by law  
10 enforcement, during or in connection with a criminal investigation or  
11 case relating to a felony offense. The governmental entity in  
12 possession of the biological material has discretion to determine how  
13 the biological material or work product is retained pursuant to this  
14 section, provided that the biological material or work product  
15 collected by law enforcement is retained in a condition suitable for  
16 deoxyribonucleic acid testing.

17 (2) For purposes of this section:

18 (a) "Biological material" means the contents of a sexual assault  
19 examination kit or any blood, semen, hair, saliva, skin tissue,

1 fingerprints, or any other identifiable human biological material or  
2 physical evidence that may reasonably be used to incriminate or  
3 exculpate any person in a felony criminal investigation, whether that  
4 material is catalogued separately on a slide or swab, in a test tube,  
5 or some other similar method, or is present on any item of evidence,  
6 including those that are alleged to have been touched or worn by the  
7 perpetrator of the felony offense; and

8 (b) "Governmental entity" means any general law enforcement agency  
9 or any person or organization acting on behalf of the state or any  
10 political subdivision of the state, involved in the collection,  
11 examination, tracking, packaging, storing, or disposition of biological  
12 material collected in connection with a criminal investigation relating  
13 to a felony offense.

14 (3) Nothing in this section precludes an evidence technician or  
15 other person trained in handling biological material and acting on  
16 behalf of a governmental entity from documenting the location of  
17 biological material and then removing representative samples from large  
18 items of evidence and retaining only the parts containing biological  
19 material.

20 (4) This section expires January 1, 2016.

21 NEW SECTION. **Sec. 2.** (1) A work group on preservation of evidence  
22 for criminal justice purposes is established to study and make  
23 recommendations relating to establishing statewide standards for  
24 preserving biological material in felony cases in Washington state.

25 (2) The work group shall consist of the following members:

26 (a) One member from each of the two largest caucuses of the senate,  
27 appointed by the president of the senate;

28 (b) One member from each of the two largest caucuses of the house  
29 of representatives, appointed by the speaker of the house of  
30 representatives;

31 (c) The chief of the Washington state patrol or the chief's  
32 designee;

33 (d) The executive director of the Washington association of  
34 sheriffs and police chiefs or the executive director's designee;

35 (e) One member representing the superior court judges' association;

36 (f) One member representing the district and municipal court  
37 judges' association;

1 (g) One member representing the Washington state association of  
2 counties;

3 (h) One member representing the Washington association of  
4 prosecuting attorneys;

5 (i) One member representing the Washington defender's association  
6 or the Washington association of criminal defense lawyers;

7 (j) One member representing the Washington state association of  
8 cities; and

9 (k) One member representing the Washington association of county  
10 officials;

11 (l) One member representing the Washington state forensic  
12 investigations council; and

13 (m) Two members, appointed by the governor, who represent the  
14 community from the innocence network in Washington state.

15 (3) Members of the work group shall select a chair.

16 (4) At a minimum, the work group shall research, review, and make  
17 recommendations on whether to:

18 (a) Preserve all items of biological material relating to felony  
19 offenses;

20 (b) Ensure biological material is not lost, destroyed, or  
21 contaminated;

22 (c) Determine consistent specified time periods that biological  
23 material be retained and secured in connection with a felony criminal  
24 investigation;

25 (d) Develop a model policy for the collection, tracking, packaging,  
26 storing, and disposition of biological material, including the length  
27 of time biological material should be retained by a governmental  
28 entity; and

29 (e) Develop a statewide policy that provides clear direction for  
30 the disposal of recovered property from misdemeanor criminal  
31 investigations when storage of evidence is an issue for felony criminal  
32 investigations.

33 (5) The work group shall compile its findings and recommendations  
34 for the retention and disposition of biological material into a final  
35 report and provide its report to the appropriate committees of the  
36 legislature and governor by December 1, 2014.

37 (6) The work group shall function within existing resources and no

1 specific budget may be provided to complete the report. The  
2 participants are encouraged to donate their time to offset any costs.

3 (7) This section expires January 1, 2015.

4 NEW SECTION. **Sec. 3.** Section 1 of this act takes effect July 1,  
5 2014.

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