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HOUSE BILL 2669

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State of Washington

63rd Legislature

2014 Regular Session

By Representatives Klippert and Haler

Read first time 01/24/14. Referred to Committee on Public Safety.

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, and 43.43.690;  
4 adding a new section to chapter 43.43 RCW; adding a new section to  
5 chapter 70.48 RCW; creating a new 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 criminal offenders. Although every state  
11 maintains a DNA database for felony convictions, there is a growing  
12 trend toward expanding DNA databases to include DNA from felony and  
13 other criminal arrestees. Studies indicate that collection of DNA from  
14 arrestees contributes to the solution of cold cases, saves lives by  
15 identifying recidivist offenders, reduces rates of criminality, and  
16 increases the rate of successful prosecutions. The legislature further  
17 finds that collecting DNA from all criminal arrestees is cost-  
18 effective. Early identification of offenders reduces costs by focusing  
19 investigations and eliminating suspects, prevents costs associated with

1 recidivist offenders, and prevents property loss. The legislature  
2 therefore finds that collecting DNA from adults who are arrested is  
3 necessary to solve cold cases, prevent recidivist acts, and lower the  
4 cost of criminal investigations. The legislature further finds that  
5 DNA samples can be collected, analyzed, and stored in a way that only  
6 minimally impacts privacy concerns. The sample, typically collected  
7 via oral swab, is analyzed only with regard to forensic loci, a small  
8 percentage of the arrestee's genetic code, which allows identification  
9 but does not reveal other genetic information, other than gender.  
10 Arrestee samples will not be analyzed unless a probable cause  
11 determination has been made. Once analyzed, the profile is stored  
12 without any personally identifying information, only a sample number  
13 and agency identifiers. The DNA profile and sample is accessible only  
14 to qualified laboratory personnel. If a hit is made between a stored  
15 sample and the forensic profile developed from a crime scene, the  
16 laboratory will notify the submitting law enforcement agency who must  
17 follow certain procedures to confirm the hit. Innocent individuals are  
18 further protected through expungement procedures, which allow removal  
19 of their samples and profiles if convictions are not made or are  
20 overturned.

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

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

29 The legislature further finds that DNA databases are important  
30 tools in criminal investigations, in the exclusion of individuals who  
31 are the subject of investigations or prosecutions, and in detecting  
32 recidivist acts. It is the policy of this state to assist federal,  
33 state, and local criminal justice and law enforcement agencies in both  
34 the identification and detection of individuals in criminal  
35 investigations and the identification and location of missing and  
36 unidentified persons. Therefore, it is in the best interest of the  
37 state to establish a DNA database (~~(and DNA data bank)~~) containing DNA

1 samples submitted by persons convicted of felony offenses and other  
2 crimes, as well as by adults arrested for or charged with any criminal  
3 offense, as specified in RCW 43.43.754. DNA samples necessary for the  
4 identification of missing persons and unidentified human remains shall  
5 also be included in the DNA database.

6 The legislature further finds that the DNA identification system  
7 used by the federal bureau of investigation and the Washington state  
8 patrol has no ability to predict genetic disease or predisposal to  
9 illness. Nonetheless, the legislature intends that biological samples  
10 collected under RCW 43.43.735 and 43.43.754, and DNA identification  
11 data obtained from the samples, be used only for purposes related to  
12 criminal investigation, identification of human remains or missing  
13 persons, or improving the operation of the system authorized under RCW  
14 43.43.735, 43.43.752 through ((43.43.758)) 43.43.759, and section 6 of  
15 this act.

16 The legislature further finds that the DNA collection, testing, and  
17 storage process is minimally invasive to privacy based on the following  
18 features:

19 (1) Biological samples for DNA testing are routinely collected by  
20 an oral swab as part of the legitimate police identification procedure;

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

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

27 (4) Personally identifying information does not appear in the DNA  
28 database.

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

31 (1) It shall be the duty of the sheriff or director of public  
32 safety of every county, and the chief of police of every city or town,  
33 and of every chief officer of other law enforcement agencies duly  
34 operating within this state, to cause the photographing and  
35 fingerprinting of all adults and juveniles lawfully arrested for the  
36 commission of any criminal offense constituting a felony or gross  
37 misdemeanor. (a) When such juveniles are brought directly to a

1 juvenile detention facility, the juvenile court administrator is also  
2 authorized, but not required, to cause the photographing,  
3 fingerprinting, and record transmittal to the appropriate law  
4 enforcement agency; and (b) a further exception may be made when the  
5 arrest is for a violation punishable as a gross misdemeanor and the  
6 arrested person is not taken into custody.

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

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

20 (4)(a) Beginning July 1, 2015, it is the duty of the sheriff or  
21 director of public safety of every county, the chief of police of every  
22 city or town, and every chief officer of other law enforcement agencies  
23 duly operating within this state to cause the collection of biological  
24 samples for DNA identification analysis from all adults lawfully  
25 arrested for the commission of any criminal offense.

26 (b) Until June 30, 2015, it is the right, but not the duty, of the  
27 sheriff or director of public safety of every county, the chief of  
28 police of every city or town, and every chief officer of other law  
29 enforcement agencies operating within this state to cause the  
30 collection of biological samples for DNA identification analysis from  
31 all adults lawfully arrested for the commission of any criminal  
32 offense.

33 (c) The sheriff or director of public safety of every county, the  
34 chief of police of every city or town, and every chief officer of other  
35 law enforcement agencies operating within this state must cause to be  
36 determined, prior to collection of a biological sample under this  
37 subsection, whether the adult lawfully arrested has been convicted of

1 a felony subsequent to July 25, 1999. If so, no sample may be  
2 collected.

3 (d) Biological samples collected under this subsection must be:

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

6 (ii) Forwarded to the forensic laboratory services bureau of the  
7 Washington state patrol; and

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

11 (e) The forensic laboratory services bureau must provide kits and  
12 instructions necessary for the collection of biological samples  
13 required by this section.

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

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

24 (2) Law enforcement agencies may retain and file copies of the  
25 fingerprints, photographs, and other identifying data and information  
26 obtained pursuant to RCW 43.43.735, except biological samples. Said  
27 records shall remain in the possession of the law enforcement agency as  
28 part of the identification record and are not returnable to the  
29 subjects thereof.

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

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

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

1 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,  
2 9.94A.835)

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

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

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

6 Harassment (RCW 9A.46.020)

7 Patronizing a prostitute (RCW 9A.88.110)

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

9 Stalking (RCW 9A.46.110)

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

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

14 (c) Every adult lawfully arrested for or charged with a criminal  
15 offense.

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

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

20 (a) For persons convicted of any offense listed in subsection  
21 (1)(a) of this section or adjudicated guilty of an equivalent juvenile  
22 offense who do not serve a term of confinement in a department of  
23 corrections facility, and do serve a term of confinement in a city or  
24 county jail facility, the city or county shall be responsible for  
25 obtaining the biological samples at the time of transfer to the  
26 facility.

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

29 (i) Persons convicted of any offense listed in subsection (1)(a) of  
30 this section or adjudicated guilty of an equivalent juvenile offense  
31 who do not serve a term of confinement in a department of corrections  
32 facility, and do not serve a term of confinement in a city or county  
33 jail facility; and

34 (ii) Persons who are required to register under RCW (~~9A.44.030~~)  
35 9A.44.130.

36 (c) For persons convicted of any offense listed in subsection  
37 (1)(a) of this section or adjudicated guilty of an equivalent juvenile  
38 offense, who are serving or who are to serve a term of confinement in

1 a department of corrections facility or a department of social and  
2 health services facility, the facility holding the person shall be  
3 responsible for obtaining the biological samples at the time of  
4 transfer to the facility. For those persons incarcerated before June  
5 12, 2008, who have not yet had a biological sample collected, priority  
6 shall be given to those persons who will be released the soonest.

7 (d)(i) For adults lawfully arrested for a criminal offense, the  
8 city or county jail must obtain a biological sample prior to the  
9 person's release. The jail must provide the person with a notice of  
10 the rights to expungement and destruction as required by section 7 of  
11 this act.

12 (ii) The city or county jail must submit the biological sample to  
13 the forensic laboratory services bureau by the end of the business day  
14 of the collection. The biological sample must be submitted in a sealed  
15 container with no identifiers indicating the source of the sample,  
16 except for a case or docket number allowing a technician to search the  
17 superior court management information system to determine if a probable  
18 cause determination has been made.

19 (iii) The sealed container may not be opened, or the sample  
20 removed, until an employee of the forensic laboratory services bureau  
21 determines that a probable cause determination has been made by a  
22 court. If a court finds probable cause for the arrest, the sample may  
23 be removed from the sealed container for analysis. If a court does not  
24 find probable cause for an arrest, the sealed container and sample must  
25 be destroyed.

26 (e) For adults charged with a criminal offense whose first  
27 appearance in court is caused by a summons, the court must require the  
28 person to submit to the collection of a biological sample if the court  
29 makes a determination of probable cause and a sample has not already  
30 been collected. The court must direct the sheriff or director of  
31 public safety of the county, the chief of police of the city or town,  
32 or the chief officer of another law enforcement agency duly operating  
33 within the state to collect the biological sample. If the person is  
34 released on personal recognizance or on conditions, the court must make  
35 the collection of a biological sample a condition of release. If the  
36 person is detained, a biological sample may be collected at any time  
37 during the person's detention.

1 (4) Any biological sample taken pursuant to RCW 43.43.735,  
2 43.43.752 through ((43.43.758)) 43.43.759, and section 6 of this act  
3 may be retained by the forensic laboratory services bureau, and must be  
4 analyzed by the forensic laboratory services bureau unless a complete  
5 DNA profile for the person has previously been entered in the DNA  
6 database.

7 (5) Any biological sample taken pursuant to RCW 43.43.735,  
8 43.43.752 through 43.43.759, and section 6 of this act shall be used  
9 solely for the purpose of providing DNA or other tests for  
10 identification analysis and prosecution of a criminal offense or for  
11 the identification of human remains or missing persons. Nothing in  
12 this section prohibits the submission of results derived from the  
13 biological samples to the federal bureau of investigation combined DNA  
14 index system.

15 ~~((+5))~~ (6) The forensic laboratory services bureau of the  
16 Washington state patrol is responsible for testing performed on all  
17 biological samples that are collected under subsection (1) of this  
18 section, to the extent allowed by funding available for this purpose~~((-~~  
19 ~~The director shall give priority to testing on samples collected from~~  
20 ~~those adults or juveniles convicted of a felony or adjudicated guilty~~  
21 ~~of an equivalent juvenile offense that is defined as a sex offense or~~  
22 ~~a violent offense in RCW 9.94A.030))~~, except as described in subsection  
23 (3)(d)(iii) of this section. Known duplicate samples may be excluded  
24 from testing unless testing is deemed necessary or advisable by the  
25 director.

26 ~~((+6))~~ (7) This section applies to:

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

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

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

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

36 (c) All adults and juveniles who are required to register under RCW  
37 9A.44.130 on or after June 12, 2008, whether convicted before, on, or  
38 after June 12, 2008; and



1 (d) All adults lawfully arrested for or charged with a criminal  
2 offense on or after the effective date of this section.

3 ~~((+7))~~ (8)(a) Except as provided in (b) of this subsection, this  
4 section creates no rights in a third person. No cause of action may be  
5 brought based upon the noncollection or nonanalysis or the delayed  
6 collection or analysis of a biological sample authorized to be taken  
7 under RCW ~~43.43.735~~ or 43.43.752 through ~~((43.43.758))~~ ~~43.43.759~~ and  
8 section 6 of this act.

9 (b) If the forensic laboratory services bureau willfully or  
10 negligently fails to destroy a biological sample as required by  
11 subsection (3)(d)(iii) of this section, the person from whom the jail  
12 facility obtained the sample may bring an action against the state for  
13 actual damages.

14 (c) The director of the Washington state patrol's forensic  
15 laboratory services shall perform an annual audit to ensure that  
16 biological samples are destroyed as required by subsection (3)(d)(iii)  
17 of this section. The director shall issue an annual report to be  
18 posted on the Washington state patrol's web site listing the number of  
19 DNA samples collected, the number of times a forensic match was made,  
20 and the number of times a forensic laboratory services bureau failed to  
21 destroy a biological sample as required by subsection (3)(d)(iii) of  
22 this section.

23 ~~((+8))~~ (9) The detention, arrest, or conviction of a person based  
24 upon a database match or database information is not invalidated if it  
25 is determined that the sample was obtained or placed in the database by  
26 mistake, if the sample is subject to expungement pursuant to this  
27 chapter, 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 the  
36 collection of a biological sample under RCW 43.43.735 within one year  
37 of arrest;

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

4 (c) The underlying conviction or adjudication requiring the  
5 collection of a biological sample under RCW 43.43.754 has been reversed  
6 and the 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 the collection of a biological sample under RCW 43.43.735 have been  
15 filed within one year of arrest;

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

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

23 (3)(a) Upon receipt of a written request for expungement, if the  
24 forensic laboratory services bureau has not previously analyzed the  
25 person's sample, the Washington state patrol must give priority to  
26 analyzing the person's sample and searching the DNA identification  
27 system for a match.

28 (b) Once the forensic laboratory services bureau has analyzed the  
29 person's sample, searched the DNA identification system for a match,  
30 and received the documents required by subsection (2) of this section,  
31 the forensic laboratory services bureau must expunge the person's  
32 sample and DNA records from the DNA identification system.

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

37 (4) The forensic laboratory services bureau must provide

1 information regarding the rights to expungement and destruction on the  
2 Washington state patrol's official web site. The information must  
3 include the procedures for requesting expungement.

4 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.48 RCW  
5 to read as follows:

6 (1) The jail administrator or his or her designee or chief law  
7 enforcement executive or his or her designee must provide notice of the  
8 requirements of RCW 43.43.735, 43.43.740, 43.43.754, and section 6 of  
9 this act to jail staff who perform booking procedures and other staff  
10 as appropriate.

11 (2) Jail staff must provide a notice of the rights to expungement  
12 and destruction to all adults arrested for a criminal offense at the  
13 time the biological sample for DNA testing is taken. The notice must  
14 be in substantially the following form:

15 "Washington law requires the collection of a biological sample for  
16 DNA testing from all adults arrested for a criminal offense. The  
17 sample will be sent to the forensic laboratory services bureau and, if  
18 a court has made a determination of probable cause, the sample will be  
19 analyzed for inclusion in the DNA database. If a court finds there is  
20 no probable cause, the laboratory must destroy the biological sample.

21 THE LABORATORY MUST EXPUNGE YOUR DNA SAMPLE AND RECORDS IF: (1)  
22 YOU ARE NOT CHARGED WITHIN ONE YEAR OF ARREST; (2) YOU ARE FOUND NOT  
23 GUILTY; OR (3) YOUR CONVICTION IS REVERSED AND THE CASE DISMISSED. YOU  
24 ALSO HAVE A RIGHT TO BRING SUIT AGAINST THE STATE IF THE LABORATORY  
25 FAILS TO DESTROY YOUR BIOLOGICAL SAMPLE.

26 For more information regarding your rights to expungement and  
27 destruction, see RCW 43.43.754 and section 6 of this act."

28 **Sec. 8.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read  
29 as follows:

30 (1) A person found to have committed a traffic infraction shall be  
31 assessed a monetary penalty. No penalty may exceed two hundred and  
32 fifty dollars for each offense unless authorized by this chapter or  
33 title.

34 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is  
35 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is

1 five hundred dollars for each offense. No penalty assessed under this  
2 subsection (2) may be reduced.

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

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

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

24 (6) Whenever a monetary penalty, fee, cost, assessment, or other  
25 monetary obligation is imposed by a court under this chapter, it is  
26 immediately payable and is enforceable as a civil judgment under Title  
27 6 RCW. If the court determines, in its discretion, that a person is  
28 not able to pay a monetary obligation in full, and not more than one  
29 year has passed since the later of July 1, 2005, or the date the  
30 monetary obligation initially became due and payable, the court shall  
31 enter into a payment plan with the person, unless the person has  
32 previously been granted a payment plan with respect to the same  
33 monetary obligation, or unless the person is in noncompliance of any  
34 existing or prior payment plan, in which case the court may, at its  
35 discretion, implement a payment plan. If the court has notified the  
36 department that the person has failed to pay or comply and the person  
37 has subsequently entered into a payment plan and made an initial  
38 payment, the court shall notify the department that the infraction has

1 been adjudicated, and the department shall rescind any suspension of  
2 the person's driver's license or driver's privilege based on failure to  
3 respond to that infraction. "Payment plan," as used in this section,  
4 means a plan that requires reasonable payments based on the financial  
5 ability of the person to pay. The person may voluntarily pay an amount  
6 at any time in addition to the payments required under the payment  
7 plan.

8 (a) If a payment required to be made under the payment plan is  
9 delinquent or the person fails to complete a community restitution  
10 program on or before the time established under the payment plan,  
11 unless the court determines good cause therefor and adjusts the payment  
12 plan or the community restitution plan accordingly, the court may refer  
13 the unpaid monetary penalty, fee, cost, assessment, or other monetary  
14 obligation for civil enforcement until all monetary obligations,  
15 including those imposed under subsections (3) and (4) of this section,  
16 have been paid, and court authorized community restitution has been  
17 completed, or until the court has entered into a new time payment or  
18 community restitution agreement with the person. For those infractions  
19 subject to suspension under RCW 46.20.289, the court shall notify the  
20 department of the person's failure to meet the conditions of the plan,  
21 and the department shall suspend the person's driver's license or  
22 driving privileges.

23 (b) If a person has not entered into a payment plan with the court  
24 and has not paid the monetary obligation in full on or before the time  
25 established for payment, the court may refer the unpaid monetary  
26 penalty, fee, cost, assessment, or other monetary obligation to a  
27 collections agency until all monetary obligations have been paid,  
28 including those imposed under subsections (3) and (4) of this section,  
29 or until the person has entered into a payment plan under this section.  
30 For those infractions subject to suspension under RCW 46.20.289, the  
31 court shall notify the department of the person's delinquency, and the  
32 department shall suspend the person's driver's license or driving  
33 privileges.

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

1 (d) Nothing in this section precludes a court from contracting with  
2 outside entities to administer its payment plan system. When outside  
3 entities are used for the administration of a payment plan, the court  
4 may assess the person a reasonable fee for such administrative  
5 services, which fee may be calculated on a periodic, percentage, or  
6 other basis.

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

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

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

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

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

26 (d) A fee of fifty cents per infraction. Revenues from this fee  
27 must be forwarded to the state treasurer for deposit in the state DNA  
28 database account established in RCW 43.43.7532.

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

1 subsection (8) by participation in the court authorized community  
2 restitution program.

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

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

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

21 **Sec. 9.** RCW 43.43.690 and 1992 c 129 s 2 are each amended to read  
22 as follows:

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

32 (2) When a minor has been adjudicated a juvenile offender for an  
33 offense which, if committed by an adult, would constitute a violation  
34 of any criminal statute of this state and a crime laboratory analysis  
35 was performed, in addition to any other disposition imposed, the court  
36 shall assess a crime laboratory analysis fee of one hundred dollars for

1 each adjudication. Upon a verified petition by a minor assessed the  
2 fee, the court may suspend payment of all or part of the fee (~~{if}~~)  
3 if it finds that the minor does not have the ability to pay the fee.

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

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

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