

HOUSE BILL REPORT

SSB 6473

As Reported by House Committee On:
Criminal Justice & Corrections
Appropriations

Title: An act relating to the convicted offender DNA data base.

Brief Description: Facilitating the convicted offender DNA data base.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Hargrove, Long, Costa and Winsley; by request of Governor Locke).

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/28/02 [DPA];
Appropriations: 3/2/02, 3/4/02 [DPA(CJC)].

Brief Summary of Substitute Bill
(As Amended by House Committee)

- Expands the deoxyribonucleic acid (DNA) identification system to include persons convicted of any felony and certain misdemeanor offenses.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass as amended. Signed by 7 members: Representatives O'Brien, Chair; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

Staff: Jim Morishima (786-7191).

Background:

The Washington State Patrol operates and maintains a DNA identification system. The system contains DNA information on: 1) All adults convicted of felony sex offenses and felony violent offenses after July 1, 1990; 2) all juveniles convicted of such offenses after July 1, 1994; and 3) all persons incarcerated for such offenses as of July 25, 1999.

The county is responsible for collecting blood samples from offenders who serve their

terms of confinement in a county facility. The Department of Corrections and the Department of Social and Health Services (Juvenile Rehabilitation Administration) are responsible for collecting blood samples from offenders who serve their terms of confinement in their respective facilities.

Blood samples must be used only for providing DNA or other blood grouping tests for identification analysis and prosecuting sex or violent offenses. The DNA identification data cannot be used for any purpose other than criminal investigation or improving the operation of the system.

Summary of Amended Bill:

The class of persons from whom DNA samples are taken is expanded to include persons convicted of:

- Any felony;
- Stalking;
- Harassment; and
- Communicating with a minor for immoral purposes.

Samples must also be taken from persons convicted before the effective date of the act who are still incarcerated as of the effective date of the act. The method of collecting the samples is no longer limited to drawing blood only.

A county or city is responsible for collecting samples from offenders who serve their terms of confinement in a county or city facility. The local police department or sheriff's office is responsible for collecting samples from individuals who do not serve any term of confinement.

The director of the Forensic Laboratory Services Bureau of the state patrol must perform the testing of the samples within available funding. Samples from persons convicted of felony sex offenses or felony violent offenses must be given priority. The samples may be retained by the bureau and may be submitted to the Federal Bureau of Investigation's combined DNA index system. The list of purposes for which the DNA information may be used is expanded to include the identification of human remains or missing persons.

The state patrol must consult with the Forensic Investigations Council when adopting rules to implement the DNA identification system. The rules must identify appropriate sources and collection methods for biological samples needed for purposes of DNA identification analysis.

No cause of action may be brought based on the non-collection of, non-analysis of, or delay in collecting the DNA samples. The detention, arrest, or conviction of a person based on the DNA identification system is not invalidated because the DNA sample was

in the system by mistake, or the conviction pursuant to which the sample was collected was overturned or altered.

An offender convicted of a felony must be assessed a fee of \$100 for the collection of a DNA sample, unless the court finds that the fee would result in undue hardship on the offender. The fee is a legal financial obligation and is payable only after payment of all other legal financial obligations in the sentence.

The DNA Data Base Account is created in the custody of the State Treasurer. The fees collected from convicted felons for the collection of DNA samples are to be deposited in the account. Expenditures from the account may only be used for the creation, operation, and maintenance of the DNA data base. Only the chief of the Washington State Patrol may authorize expenditures from the account.

Amended Bill Compared to Substitute Bill:

The amended shifts responsibility for collection of samples from non-incarcerated offenders from the cities and counties to the local police department or sheriff's office.

Appropriation: None.

Fiscal Note: Not Requested.

Effective Date of Amended Bill: The bill takes effect on July 1, 2002.

Testimony For: This bill reduces crime by solving crimes. We have the opportunity to catch many more criminals, especially sex and violent offenders. The bill will expand the system from 3,000 samples per year to 25,000. The requirement that a biological sample be collected instead of a blood sample, will reduce costs. Funding from federal resources can also be obtained to conduct the analysis.

Testimony Against: None.

Testified: Dick Van Wagenen, Governor's Policy Office; and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass as amended by Committee on Criminal Justice & Corrections. Signed by 25 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Lisk, Mastin, McIntire, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Staff: Heather Flodstrom (786-7391).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Criminal Justice & Corrections:

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date of Amended Bill: The bill takes effect July 1, 2002.

Testimony For: This bill does something about crime by taxing those who commit it. The number of DNA samples in the database would change from 3,000 to 25,000 per year. Federal grants will be available for entering the DNA samples into the database and there is a cost savings from the saliva swab collection method instead of drawing blood for the DNA sample. This technology helps convict the guilty and exonerate the innocent. It is a modest investment with tremendous potential, and could allow the state to solve many more murders or rapes per year.

Testimony Against: None.

Testified: Dick VanWagenen, Governor's Policy Office; and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.