
SUBSTITUTE HOUSE BILL 2588

State of Washington

62nd Legislature

2012 Regular Session

By House Public Safety & Emergency Preparedness (originally sponsored by Representatives Darneille, Hurst, Roberts, Miloscia, Kirby, McCoy, Ladenburg, Dammeier, Pearson, and Tharinger)

READ FIRST TIME 01/31/12.

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

13 Further, DNA samples are collected, analyzed, and stored in a way
14 that only minimally impacts privacy concerns. The sample, typically
15 collected via oral swab, is analyzed only with regard to forensic loci,
16 a small percentage of an individual's genetic code, which allows
17 identification but does not reveal genetic information, other than
18 gender. Arrestee samples will not be analyzed unless a probable cause
19 determination has been made. Once analyzed, the profile is stored
20 without any personally identifying information, only a sample number
21 and agency identifiers. The DNA profile and sample is accessible only
22 to qualified laboratory personnel. If a hit is made between a stored
23 sample and the forensic profile developed from a crime scene, the
24 laboratory will notify the submitting law enforcement agency, which
25 follows certain procedures to confirm the hit. Innocent individuals
26 are further protected through expungement procedures, which allow
27 removal of their samples and profiles if convictions are not made or
28 are overturned.

29 The legislature therefore finds that collecting DNA from adults
30 arrested for a ranked felony or a gross misdemeanor violation of an
31 order, as described in RCW 26.50.110, is a necessary and minimally
32 intrusive way to solve cold cases, prevent recidivist acts, and lower
33 the cost of criminal investigations.

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

36 The legislature finds that recent developments in molecular biology
37 and genetics have important applications for forensic science. It has

1 been scientifically established that there is a unique pattern to the
2 chemical structure of the deoxyribonucleic acid (DNA) contained in each
3 cell of the human body. The process for identifying this pattern is
4 called "DNA identification."

5 The legislature further finds that DNA databases are important
6 tools in criminal investigations, in the exclusion of individuals who
7 are the subject of investigations or prosecutions, and in detecting
8 recidivist acts. It is the policy of this state to assist federal,
9 state, and local criminal justice and law enforcement agencies in both
10 the identification and detection of individuals in criminal
11 investigations and the identification and location of missing and
12 unidentified persons. Therefore, it is in the best interest of the
13 state to establish a DNA database (~~(and DNA data bank)~~) containing DNA
14 samples submitted by persons convicted of felony offenses and other
15 crimes, as well as by adults arrested for or charged with ranked felony
16 offenses and other crimes, as specified in RCW 43.43.754. DNA samples
17 necessary for the identification of missing persons and unidentified
18 human remains shall also be included in the DNA database.

19 The legislature further finds that the DNA identification system
20 used by the federal bureau of investigation and the Washington state
21 patrol has no ability to predict genetic disease or predisposal to
22 illness. Nonetheless, the legislature intends that biological samples
23 collected under RCW 43.43.735 and 43.43.754, and DNA identification
24 data obtained from the samples, be used only for purposes related to
25 criminal investigation, identification of human remains or missing
26 persons, or improving the operation of the system authorized under RCW
27 43.43.735 and 43.43.752 through (~~(43.43.758)~~) 43.43.759 and section 6
28 of this act.

29 The legislature further finds that the DNA collection, testing, and
30 storage process is minimally invasive to privacy based on the following
31 features:

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

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

37 (3) Entries in the DNA database contain only DNA markers necessary

1 to human identification, which are a small part of a person's total
2 genetic information; and

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

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

7 (1) It shall be the duty of the sheriff or director of public
8 safety of every county, and the chief of police of every city or town,
9 and of every chief officer of other law enforcement agencies duly
10 operating within this state, to cause the photographing and
11 fingerprinting of all adults and juveniles lawfully arrested for the
12 commission of any criminal offense constituting a felony or gross
13 misdemeanor. (a) When such juveniles are brought directly to a
14 juvenile detention facility, the juvenile court administrator is also
15 authorized, but not required, to cause the photographing,
16 fingerprinting, and record transmittal to the appropriate law
17 enforcement agency; and (b) a further exception may be made when the
18 arrest is for a violation punishable as a gross misdemeanor and the
19 arrested person is not taken into custody.

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

25 (3) Such sheriffs, directors of public safety, chiefs of police,
26 and other chief law enforcement officers, may record, in addition to
27 photographs and fingerprints, the palmprints, soleprints, toeprints, or
28 any other identification data of all persons whose photograph and
29 fingerprints are required or allowed to be taken under this section
30 when in the discretion of such law enforcement officers it is necessary
31 for proper identification of the arrested person or the investigation
32 of the crime with which he or she is charged.

33 (4)(a) Beginning July 1, 2013, it shall be the duty of the sheriff
34 or director of public safety of every county, and the chief of police
35 of every city or town, and of every chief officer of other law
36 enforcement agencies duly operating within this state, to cause the
37 collection of biological samples for DNA identification analysis from

1 all adults lawfully arrested for the commission of any criminal offense
2 constituting a ranked felony or a gross misdemeanor violation of an
3 order, as described in RCW 26.50.110(1)(a).

4 (b) From January 1, 2013, through June 30, 2013, it shall be the
5 right, but not the duty, of the sheriff or director of public safety of
6 every county, and the chief of police of every city or town, and every
7 chief officer of other law enforcement agencies operating within this
8 state, to cause the collection of biological samples for DNA
9 identification analysis from all adults lawfully arrested for the
10 commission of any criminal offense constituting a ranked felony or a
11 gross misdemeanor violation of an order, as described in RCW
12 26.50.110(1)(a).

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

14 (i) Collected using the same technique as biological samples
15 collected under RCW 43.43.754; and

16 (ii) Forwarded to the forensic laboratory services bureau of the
17 Washington state patrol.

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

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

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

31 (2) Law enforcement agencies may retain and file copies of the
32 fingerprints, photographs, and other identifying data and information
33 obtained pursuant to RCW 43.43.735, except biological samples. Said
34 records shall remain in the possession of the law enforcement agency as
35 part of the identification record and are not returnable to the
36 subjects thereof.

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

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

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

7 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,
8 9.94A.835)

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

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

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

12 Harassment (RCW 9A.46.020)

13 Patronizing a prostitute (RCW 9A.88.110)

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

15 Stalking (RCW 9A.46.110)

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

18 (b) Every adult or juvenile individual who is required to register
19 under RCW (~~9A.44.130~~) 9A.44.132; and

20 (c) Every adult lawfully arrested for or charged with a ranked
21 felony or a gross misdemeanor violation of an order, as described in
22 RCW 26.50.110.

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

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

27 (a) For persons convicted of any offense listed in subsection
28 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
29 offense who do not serve a term of confinement in a department of
30 corrections facility, and do serve a term of confinement in a city or
31 county jail facility, the city or county shall be responsible for
32 obtaining the biological samples at the time of transfer to the
33 facility.

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

36 (i) Persons convicted of any offense listed in subsection (1)(a) of
37 this section or adjudicated guilty of an equivalent juvenile offense

1 who do not serve a term of confinement in a department of corrections
2 facility, and do not serve a term of confinement in a city or county
3 jail facility; and

4 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
5 9A.44.132.

6 (c) For persons convicted of any offense listed in subsection
7 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
8 offense, who are serving or who are to serve a term of confinement in
9 a department of corrections facility or a department of social and
10 health services facility, the facility holding the person shall be
11 responsible for obtaining the biological samples at the time of
12 transfer to the facility. For those persons incarcerated before June
13 12, 2008, who have not yet had a biological sample collected, priority
14 shall be given to those persons who will be released the soonest.

15 (d)(i) For adults lawfully arrested for a ranked felony or a gross
16 misdemeanor violation of an order, as described in RCW 26.50.110, the
17 city or county jail shall obtain a biological sample prior to the
18 person's release. The jail shall provide the person with notice of the
19 rights to expungement and destruction as required by section 7 of this
20 act.

21 (ii) The biological sample shall be submitted in a sealed envelope.

22 (iii) The sample shall not be removed from the envelope until an
23 employee of the forensic laboratory services bureau determines that a
24 probable cause determination has been made by a court. If a court
25 finds probable cause, the sample may be removed from the envelope for
26 analysis. If a court does not find probable cause, the envelope and
27 sample must be destroyed.

28 (e) For adults charged with a ranked felony or a gross misdemeanor
29 violation of an order, as described in RCW 26.50.110, whose first
30 appearance in court is caused by summons, the court shall require the
31 person to submit to collection of a biological sample if the court
32 makes a determination of probable cause and a sample has not already
33 been collected. The court shall direct the sheriff or director of
34 public safety of the county, the chief of police of the city or town,
35 or the chief officer of another law enforcement agency duly operating
36 within the state to collect the biological sample. If the person is
37 released on personal recognizance or on conditions, the court shall

1 make collection of a biological sample a condition of release. If the
2 person is detained, a biological sample may be collected at any time
3 during the person's detention.

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

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

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

29 ((+6)) (7) This section applies to:

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

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

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

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

1 (c) All adults and juveniles who are required to register under RCW
2 (~~9A.44.130~~) 9A.44.132 on or after June 12, 2008, whether convicted
3 before, on, or after June 12, 2008; and

4 (d) All adults lawfully arrested for or charged with a ranked
5 felony or a gross misdemeanor violation of an order, as described in
6 RCW 26.50.110, on or after January 1, 2013.

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

13 (b) If the forensic laboratory services bureau negligently or
14 willfully fails to destroy a biological sample as required by
15 subsection (3)(d)(iii) of this section, the person from whom the jail
16 facility obtained the sample may bring an action against the state for
17 actual damages and reasonable attorneys' fees and costs.

18 (~~(+8)~~) (9) The detention, arrest, or conviction of a person based
19 upon a database match or database information is not invalidated if it
20 is determined that the sample was obtained or placed in the database by
21 mistake, if the sample is subject to expungement pursuant to this
22 chapter, or if the conviction or juvenile adjudication that resulted in
23 the collection of the biological sample was subsequently vacated or
24 otherwise altered in any future proceeding including but not limited to
25 posttrial or postfact-finding motions, appeals, or collateral attacks.

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

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

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

32 (b) The person has been found not guilty or has been acquitted of
33 an offense requiring collection of a biological sample under RCW
34 43.43.735; or

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

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

3 (a) A written request for expungement;

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

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

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

13 (iii) A certified copy of a final court order reversing the
14 conviction that required collection of a biological sample under RCW
15 43.43.754.

16 (3)(a) Upon receipt of a written request for expungement, if the
17 forensic laboratory services bureau has not previously analyzed the
18 person's sample, the Washington state patrol shall give priority to
19 analyzing the person's sample and searching the DNA identification
20 system for a match.

21 (b) Once the forensic laboratory services bureau has analyzed the
22 person's sample, searched the DNA identification system for a match,
23 and received the documents required by subsection (2) of this section,
24 the forensic laboratory services bureau shall expunge the person's
25 sample and DNA records from the DNA identification system.

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

30 (4) The forensic laboratory services bureau shall provide
31 information regarding the rights to expungement and destruction on the
32 Washington state patrol's official web site. The information must
33 include procedures for requesting expungement.

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

36 (1) The jail administrator or his or her designee or chief law
37 enforcement executive or his or her designee shall provide notice of

1 the requirements of RCW 43.43.735, 43.43.740, 43.43.754, and section 6
2 of this act to jail staff who perform booking procedures and other
3 staff as appropriate.

4 (2) Jail staff shall provide a notice of the rights to expungement
5 and destruction to all adults arrested for a ranked felony offense or
6 a gross misdemeanor violation of an order, as described in RCW
7 26.50.110, at the time a biological sample for DNA testing is taken.
8 The notice must be in substantially the following form:

9 "Washington law requires the collection of a biological sample for
10 DNA testing from all adults arrested for a ranked felony and certain
11 other offenses. The sample will be sent to the forensic laboratory
12 services bureau and, if the court has made a determination of probable
13 cause, the sample will be analyzed for inclusion in the DNA database.
14 If a court finds there is no probable cause, the laboratory will
15 destroy the biological sample.

16 YOU HAVE A RIGHT TO REQUEST EXPUNGEMENT OF YOUR DNA SAMPLE AND
17 RECORDS IF: (1) YOU ARE NOT CHARGED WITHIN ONE YEAR OF ARREST; (2) YOU
18 ARE FOUND NOT GUILTY; OR (3) YOUR CONVICTION IS REVERSED AND THE CASE
19 DISMISSED. YOU ALSO HAVE A RIGHT TO BRING SUIT IF THE LABORATORY FAILS
20 TO DESTROY YOUR BIOLOGICAL SAMPLE, AS REQUIRED BY RCW 43.43.754.

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

23 **Sec. 8.** RCW 46.63.110 and 2010 c 252 s 5 are each amended to read
24 as follows:

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

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

33 (3) The supreme court shall prescribe by rule a schedule of
34 monetary penalties for designated traffic infractions. This rule shall
35 also specify the conditions under which local courts may exercise
36 discretion in assessing fines and penalties for traffic infractions.

1 The legislature respectfully requests the supreme court to adjust this
2 schedule every two years for inflation.

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

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

18 (6) Whenever a monetary penalty, fee, cost, assessment, or other
19 monetary obligation is imposed by a court under this chapter it is
20 immediately payable. If the court determines, in its discretion, that
21 a person is not able to pay a monetary obligation in full, and not more
22 than one year has passed since the later of July 1, 2005, or the date
23 the monetary obligation initially became due and payable, the court
24 shall enter into a payment plan with the person, unless the person has
25 previously been granted a payment plan with respect to the same
26 monetary obligation, or unless the person is in noncompliance of any
27 existing or prior payment plan, in which case the court may, at its
28 discretion, implement a payment plan. If the court has notified the
29 department that the person has failed to pay or comply and the person
30 has subsequently entered into a payment plan and made an initial
31 payment, the court shall notify the department that the infraction has
32 been adjudicated, and the department shall rescind any suspension of
33 the person's driver's license or driver's privilege based on failure to
34 respond to that infraction. "Payment plan," as used in this section,
35 means a plan that requires reasonable payments based on the financial
36 ability of the person to pay. The person may voluntarily pay an amount
37 at any time in addition to the payments required under the payment
38 plan.

1 (a) If a payment required to be made under the payment plan is
2 delinquent or the person fails to complete a community restitution
3 program on or before the time established under the payment plan,
4 unless the court determines good cause therefor and adjusts the payment
5 plan or the community restitution plan accordingly, the court shall
6 notify the department of the person's failure to meet the conditions of
7 the plan, and the department shall suspend the person's driver's
8 license or driving privilege until all monetary obligations, including
9 those imposed under subsections (3) and (4) of this section, have been
10 paid, and court authorized community restitution has been completed, or
11 until the department has been notified that the court has entered into
12 a new time payment or community restitution agreement with the person.

13 (b) If a person has not entered into a payment plan with the court
14 and has not paid the monetary obligation in full on or before the time
15 established for payment, the court shall notify the department of the
16 delinquency. The department shall suspend the person's driver's
17 license or driving privilege until all monetary obligations have been
18 paid, including those imposed under subsections (3) and (4) of this
19 section, or until the person has entered into a payment plan under this
20 section.

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

26 (d) Nothing in this section precludes a court from contracting with
27 outside entities to administer its payment plan system. When outside
28 entities are used for the administration of a payment plan, the court
29 may assess the person a reasonable fee for such administrative
30 services, which fee may be calculated on a periodic, percentage, or
31 other basis.

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

37 (7) In addition to any other penalties imposed under this section

1 and not subject to the limitation of subsection (1) of this section, a
2 person found to have committed a traffic infraction shall be assessed:

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

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

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

14 (d) A fee of fifty cents per infraction. Revenues from this fee
15 shall be forwarded to the state treasurer for deposit in the state DNA
16 database account established in RCW 43.43.7532.

17 (8)(a) In addition to any other penalties imposed under this
18 section and not subject to the limitation of subsection (1) of this
19 section, a person found to have committed a traffic infraction other
20 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
21 penalty of twenty dollars. The court may not reduce, waive, or suspend
22 the additional penalty unless the court finds the offender to be
23 indigent. If a court authorized community restitution program for
24 offenders is available in the jurisdiction, the court shall allow
25 offenders to offset all or a part of the penalty due under this
26 subsection (8) by participation in the court authorized community
27 restitution program.

28 (b) Eight dollars and fifty cents of the additional penalty under
29 (a) of this subsection shall be remitted to the state treasurer. The
30 remaining revenue from the additional penalty must be remitted under
31 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
32 under this subsection to the state treasurer must be deposited in the
33 state general fund. The balance of the revenue received by the county
34 or city treasurer under this subsection must be deposited into the
35 county or city current expense fund. Moneys retained by the city or
36 county under this subsection shall constitute reimbursement for any
37 liabilities under RCW 43.135.060.

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

5 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
6 hundred fifty dollars for the first violation; (b) five hundred dollars
7 for the second violation; and (c) seven hundred fifty dollars for each
8 violation thereafter.

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

11 (1) When a person has been adjudged guilty of violating any
12 criminal statute of this state and a crime laboratory analysis was
13 performed by a state crime laboratory, in addition to any other
14 disposition, penalty, or fine imposed, the court shall levy a crime
15 laboratory analysis fee of one hundred dollars for each offense for
16 which the person was convicted. (~~Upon a verified petition by the~~
17 ~~person assessed the fee, the court may suspend payment of all or part~~
18 ~~of the fee if it finds that the person does not have the ability to~~
19 ~~pay~~) The court may not suspend or defer payment of the fee.

20 (2) When a minor has been adjudicated a juvenile offender for an
21 offense which, if committed by an adult, would constitute a violation
22 of any criminal statute of this state and a crime laboratory analysis
23 was performed, in addition to any other disposition imposed, the court
24 shall assess a crime laboratory analysis fee of one hundred dollars for
25 each adjudication. Upon a verified petition by a minor assessed the
26 fee, the court may suspend payment of all or part of the fee (~~{if}~~)
27 if it finds that the minor does not have the ability to pay the fee.

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

32 NEW SECTION. **Sec. 10.** If any provision of this act or its
33 application to any person or circumstance is held invalid, the
34 remainder of the act or the application of the provision to other

1 persons or circumstances is not affected.

--- END ---