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SENATE BILL 6478

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State of Washington

62nd Legislature

2012 Regular Session

By Senators Fraser, Schoesler, Prentice, Honeyford, Chase, Keiser, Roach, and Shin

Read first time 01/25/12. Referred to Committee on Human Services & Corrections.

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 arrestees is cost-effective. Early identification of offenders  
6 reduces costs by focusing investigations and eliminating suspects. It  
7 may also prevent costs associated with recidivist offenders. In a  
8 study 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 Further, DNA samples are collected, analyzed, and stored in a way  
13 that only minimally impacts privacy concerns. The sample, typically  
14 collected via oral swab, is analyzed only with regard to 13 loci, a  
15 small percentage of the arrestee's genetic code, which allows  
16 identification but does not reveal other genetic information. Arrestee  
17 samples will not be analyzed unless a probable cause determination has  
18 been made. Once analyzed, the profile is stored without any personally  
19 identifying information, only a sample number and agency identifiers.  
20 The DNA profile and sample is accessible only to qualified laboratory  
21 personnel. If a hit is made between a stored sample and the forensic  
22 profile developed from a crime scene, the laboratory will notify the  
23 Washington state patrol, who must follow certain procedures, including  
24 obtaining an additional warrant, to confirm the match. Innocent  
25 individuals are further protected through expungement procedures, which  
26 allow removal of their samples and profiles if convictions are not made  
27 or are overturned.

28 The legislature therefore finds that collecting DNA from adults  
29 arrested for a ranked felony is a necessary and minimally intrusive way  
30 to solve cold cases, prevent recidivist acts, and lower the cost of  
31 criminal investigations.

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

34 The legislature finds that recent developments in molecular biology  
35 and genetics have important applications for forensic science. It has  
36 been scientifically established that there is a unique pattern to the

1 chemical structure of the deoxyribonucleic acid (DNA) contained in each  
2 cell of the human body. The process for identifying this pattern is  
3 called "DNA identification."

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

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

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

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

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

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

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

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

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

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

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

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

1 constituting a ranked felony or gross misdemeanor violation of an  
2 order, as described in RCW 26.50.110(1)(a).

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

11 (c) The sheriff or director of public safety of every county, and  
12 the chief of police of every city or town, and every chief officer of  
13 other law enforcement agencies operating within this state, shall cause  
14 to be determined, prior to collection of a biological sample under this  
15 subsection, whether the adult lawfully arrested has been convicted of  
16 a felony subsequent to July 25, 1999. If so, no sample shall be  
17 collected.

18 (d) Biological samples collected under this subsection shall be:

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

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

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

26 (e) The forensic laboratory services bureau shall provide kits and  
27 instructions necessary for the collection of biological samples  
28 required by this section.

29 **Sec. 4.** RCW 43.43.740 and 2006 c 294 s 7 are each amended to read  
30 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 furnish within seventy-two hours from  
35 the time of arrest to the section the required sets of fingerprints  
36 together with other identifying data as may be prescribed by the chief,

1 of any person lawfully arrested, fingerprinted, and photographed  
2 pursuant to RCW 43.43.735.

3 (2) Law enforcement agencies may retain and file copies of the  
4 fingerprints, photographs, and other identifying data and information  
5 obtained pursuant to RCW 43.43.735, except biological samples. Said  
6 records shall remain in the possession of the law enforcement agency as  
7 part of the identification record and are not returnable to the  
8 subjects thereof.

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

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

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

15 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,  
16 9.94A.835)

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

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

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

20 Harassment (RCW 9A.46.020)

21 Patronizing a prostitute (RCW 9A.88.110)

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

23 Stalking (RCW 9A.46.110)

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

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

28 (c) Every adult lawfully arrested for or charged with a ranked  
29 felony or gross misdemeanor violation of an order, as described in RCW  
30 26.50.110.

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

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

35 (a) For persons convicted of any offense listed in subsection  
36 (1)(a) of this section or adjudicated guilty of an equivalent juvenile  
37 offense who do not serve a term of confinement in a department of

1 corrections facility, and do serve a term of confinement in a city or  
2 county jail facility, the city or county shall be responsible for  
3 obtaining the biological samples at the time of transfer to the  
4 facility.

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

7 (i) Persons convicted of any offense listed in subsection (1)(a) of  
8 this section or adjudicated guilty of an equivalent juvenile offense  
9 who do not serve a term of confinement in a department of corrections  
10 facility, and do not serve a term of confinement in a city or county  
11 jail facility; and

12 (ii) Persons who are required to register under RCW (~~9A.44.030~~)  
13 9A.44.132.

14 (c) For persons convicted of any offense listed in subsection  
15 (1)(a) of this section or adjudicated guilty of an equivalent juvenile  
16 offense, who are serving or who are to serve a term of confinement in  
17 a department of corrections facility or a department of social and  
18 health services facility, the facility holding the person shall be  
19 responsible for obtaining the biological samples at the time of  
20 transfer to the facility. For those persons incarcerated before June  
21 12, 2008, who have not yet had a biological sample collected, priority  
22 shall be given to those persons who will be released the soonest.

23 (d)(i) For adults lawfully arrested for a ranked felony, the city  
24 or county jail shall obtain a biological sample at the time of booking.  
25 The jail shall provide the person with a notice of the rights to  
26 expungement and destruction as required by section 7 of this act.

27 (ii) The county or city jail shall submit the biological sample to  
28 the forensic laboratory services bureau by the end of the business day  
29 of the collection. The biological sample shall be submitted in a  
30 sealed container with no identifiers indicating the source of the  
31 sample, except for a case or docket number allowing a technician to  
32 search the superior court management information system to determine if  
33 a probable cause determination has been made.

34 (iii) The sealed container shall not be opened, or the sample  
35 removed, until an employee of the forensic laboratory services bureau  
36 determines that a probable cause determination has been made. If  
37 probable cause for the arrest has been found, the sample may be removed

1 from the sealed container for analysis. If probable cause for an  
2 arrest is not found, the sealed container and sample must be destroyed.

3 (e) For adults charged with a ranked felony whose first appearance  
4 in court is caused by summons, the court shall require the person to  
5 submit to collection of a biological sample if the court makes a  
6 determination of probable cause and a sample has not already been  
7 collected. The court shall direct the sheriff or director of public  
8 safety of the county, the chief of police of the city or town, or the  
9 chief officer of another law enforcement agency duly operating within  
10 the state to collect the biological sample. If the person is released  
11 on personal recognizance or on conditions, the court shall make  
12 collection of a biological sample a condition of release. If the  
13 person is detained, a biological sample may be collected at any time  
14 during the person's detention.

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

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

29 ~~((+5))~~ (6) The forensic laboratory services bureau of the  
30 Washington state patrol is responsible for testing performed on all  
31 biological samples that are collected under subsection (1) of this  
32 section, to the extent allowed by funding available for this purpose(~~(-~~  
33 ~~The director shall give priority to testing on samples collected from~~  
34 ~~those adults or juveniles convicted of a felony or adjudicated guilty~~  
35 ~~of an equivalent juvenile offense that is defined as a sex offense or~~  
36 ~~a violent offense in RCW 9.94A.030)), except as described in subsection  
37 (3)(d)(iii) of this section. Known duplicate samples may be excluded~~

1 from testing unless testing is deemed necessary or advisable by the  
2 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))~~ 9A.44.132 on or after June 12, 2008, whether convicted  
15 before, on, or after June 12, 2008; and

16 (d) All adults lawfully arrested for or charged with a ranked  
17 felony on or after the effective date of this section.

18 ~~((+7))~~ (8)(a) Except as provided in (b) of this subsection, this  
19 section creates no rights in a third person. No cause of action may be  
20 brought based upon the noncollection or nonanalysis or the delayed  
21 collection or analysis of a biological sample authorized to be taken  
22 under RCW 43.43.735 or 43.43.752 through ~~((43.43.758))~~ 43.43.759 and  
23 section 6 of this act.

24 (b) If the forensic laboratory services bureau fails to destroy a  
25 biological sample as required by subsection (3)(d)(iii) of this  
26 section, the person from whom the jail facility obtained the sample may  
27 bring an action against the state for actual damages, punitive damages,  
28 and reasonable attorneys' fees and costs.

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

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

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

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

5 (b) The person has been found not guilty or has been acquitted of  
6 an offense requiring collection of a biological sample under RCW  
7 43.43.735; or

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

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

13 (a) A written request for expungement;

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

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

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

23 (iii) A certified copy of a final court order reversing the  
24 conviction that required collection of a biological sample under RCW  
25 43.43.754.

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

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

36 (c) The forensic laboratory services bureau may not expunge a  
37 person's sample and DNA records from the DNA identification system if

1 the person has a prior conviction or a pending charge for which  
2 collection of a sample is authorized under RCW 43.43.735 or 43.43.754.

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

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

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

14 (2) Jail staff shall provide a notice of the rights to expungement  
15 and destruction to all adults arrested for a felony offense at the time  
16 of booking into the city or county jail facility. The notice must be  
17 in substantially the following form:

18 "Washington law requires the collection of a biological sample for  
19 DNA testing from all adults arrested for a felony. If a court has made  
20 a determination of probable cause, the jail sends the sample to the  
21 Washington state patrol forensic laboratory services bureau for  
22 analysis and inclusion in the DNA database. If a court finds there is  
23 no probable cause, the jail must destroy the biological sample.

24 YOU HAVE A RIGHT TO REQUEST EXPUNGEMENT OF YOUR DNA SAMPLE AND  
25 RECORDS IF: (1) YOU ARE NOT CHARGED WITHIN ONE YEAR OF ARREST; (2) YOU  
26 ARE FOUND NOT GUILTY; OR (3) YOUR CONVICTION IS REVERSED AND THE CASE  
27 DISMISSED. YOU ALSO HAVE A RIGHT TO BRING SUIT AGAINST THE JAIL IF THE  
28 JAIL FAILS TO DESTROY YOUR BIOLOGICAL SAMPLE.

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

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

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

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

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

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

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

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

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

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

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

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

34 (d) Nothing in this section precludes a court from contracting with  
35 outside entities to administer its payment plan system. When outside  
36 entities are used for the administration of a payment plan, the court  
37 may assess the person a reasonable fee for such administrative

1 services, which fee may be calculated on a periodic, percentage, or  
2 other basis.

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

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

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

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

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

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

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

36 (b) Eight dollars and fifty cents of the additional penalty under  
37 (a) of this subsection shall be remitted to the state treasurer. The  
38 remaining revenue from the additional penalty must be remitted under

1 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted  
2 under this subsection to the state treasurer must be deposited in the  
3 state general fund. The balance of the revenue received by the county  
4 or city treasurer under this subsection must be deposited into the  
5 county or city current expense fund. Moneys retained by the city or  
6 county under this subsection shall constitute reimbursement for any  
7 liabilities under RCW 43.135.060.

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

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

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

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

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

35 (3) All crime laboratory analysis fees assessed under this section  
36 shall be collected by the clerk of the court and forwarded to the state

1 general fund, to be used only for crime laboratories. The clerk may  
2 retain five dollars to defray the costs of collecting the fees.

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

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