

SSB 5653 - S AMD 597

By Senator Darneille

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 43.43.754 and 2015 c 261 s 10 are each amended to
4 read as follows:

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

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

9 Assault in the fourth degree with sexual motivation (RCW
10 9A.36.041, 9.94A.835)

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

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

13 Failure to register (RCW 9A.44.130 for persons convicted on or
14 before June 10, 2010, and RCW 9A.44.132 for persons convicted after
15 June 10, 2010)

16 Harassment (RCW 9A.46.020)

17 Patronizing a prostitute (RCW 9A.88.110)

18 Sexual misconduct with a minor in the second degree (RCW
19 9A.44.096)

20 Stalking (RCW 9A.46.110)

21 Violation of a sexual assault protection order granted under
22 chapter 7.90 RCW; and

23 (b) Every adult or juvenile individual who is required to
24 register under RCW 9A.44.130.

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

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

30 (a) For persons convicted of any offense listed in subsection
31 (1)(a) of this section or adjudicated guilty of an equivalent
32 juvenile offense who do not serve a term of confinement in a

1 department of corrections facility, and (~~do~~) are serving a
2 term of confinement in a city or county jail facility, the city or
3 county shall be responsible for obtaining the biological samples
4 immediately after sentencing in the city or county jail facility. If
5 the person is not taken into custody, the person must be ordered by
6 the court to immediately report to the city or county jail facility
7 to provide a biological sample. The person must receive a warning
8 that the court may issue a warrant for the person's arrest if the
9 person fails to provide a biological sample as ordered by the court.

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

12 (i) Persons convicted of any offense listed in subsection (1)(a)
13 of this section or adjudicated guilty of an equivalent juvenile
14 offense who do not serve a term of confinement in a department of
15 corrections facility, and (~~do~~) are not (~~serve~~) serving a term of
16 confinement in a city or county jail facility; and

17 (ii) Persons who are required to register under RCW 9A.44.130.

18 (c) For persons convicted of any offense listed in subsection
19 (1)(a) of this section or adjudicated guilty of an equivalent
20 juvenile offense, who are serving or who are to serve a term of
21 confinement in a department of corrections facility or a department
22 of social and health services facility, the facility holding the
23 person shall be responsible for obtaining the biological samples as
24 part of the intake process. If the person has served his or her
25 entire sentence, the person must be ordered by the court to
26 immediately report to the city or county jail facility to provide a
27 biological sample. The person must receive a warning that the court
28 may issue a warrant for the person's arrest if the person fails to
29 provide a biological sample as ordered by the court. For those
30 persons incarcerated before June 12, 2008, who have not yet had a
31 biological sample collected, priority shall be given to those persons
32 who will be released the soonest.

33 (4) Any biological sample taken pursuant to RCW 43.43.752 through
34 43.43.758 may be retained by the forensic laboratory services bureau,
35 and shall be used solely for the purpose of providing DNA or other
36 tests for identification analysis and prosecution of a criminal
37 offense or for the identification of human remains or missing
38 persons. Nothing in this section prohibits the submission of results
39 derived from the biological samples to the federal bureau of
40 investigation combined DNA index system.

1 (5) The forensic laboratory services bureau of the Washington
2 state patrol is responsible for testing performed on all biological
3 samples that are collected under subsection (1) of this section, to
4 the extent allowed by funding available for this purpose. (~~The~~
5 ~~director shall give priority to testing on samples collected from~~
6 ~~those adults or juveniles convicted of a felony or adjudicated guilty~~
7 ~~of an equivalent juvenile offense that is defined as a sex offense or~~
8 ~~a violent offense in RCW 9.94A.030.~~) Known duplicate samples may be
9 excluded from testing unless testing is deemed necessary or advisable
10 by the director.

11 (6) This section applies to:

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

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

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

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

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

24 (7) This section creates no rights in a third person. No cause of
25 action may be brought based upon the noncollection or nonanalysis or
26 the delayed collection or analysis of a biological sample authorized
27 to be taken under RCW 43.43.752 through 43.43.758.

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

36 (9) A person commits the crime of refusal to provide DNA if the
37 person has a duty to register under RCW 9A.44.130 and the person
38 willfully refuses to comply with a legal request for a DNA sample as
39 required under this section. The refusal to provide DNA is a gross
40 misdemeanor."

SSB 5653 - S AMD **597**
By Senator Darneille

1 On page 1, line 2 of the title, after "facilities;" strike the
2 remainder of the title and insert "and amending RCW 43.43.754."

EFFECT: Makes technical changes to conform the statutes to changes made in 2015.

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