

# SENATE BILL REPORT

## SB 5653

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As of February 10, 2015

**Title:** An act relating to the collection of DNA at jail and corrections facilities.

**Brief Description:** Collecting DNA at jail and corrections facilities as part of the intake process.

**Sponsors:** Senators Darneille, Padden, Kohl-Welles, O'Ban, Fraser and Pearson.

**Brief History:**

**Committee Activity:** Law & Justice: 2/10/15.

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### SENATE COMMITTEE ON LAW & JUSTICE

**Staff:** Aldo Melchiori (786-7439)

**Background:** The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) identification system. The purpose of the system is to help with criminal investigations and to identify human remains or missing persons. County and city jails are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. The Department of Corrections (DOC) and the Department of Social and Health Services (DSHS) are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. Local police and sheriffs' departments are responsible for collecting biological samples for DNA analysis from offenders who do not serve any term of incarceration.

Offenders from Whom a Biological Sample Must be Collected. Biological samples must be collected from persons convicted of any felony or the following gross misdemeanors: (1) assault in the fourth degree with sexual motivation; (2) communication with a minor for immoral purposes; (3) custodial sexual misconduct in the second degree; (4) failure to register; (5) harassment; (6) patronizing a prostitute; (7) sexual misconduct with a minor in the second degree; (8) stalking; and (9) violation of a sexual assault protection order. Additionally, a sample must be collected from any person required to register as a sex offender.

Testing Biological Samples. The Forensic Laboratory Services Bureau of WSP must test the biological samples for inclusion in the DNA database. The director must give priority to testing samples from persons convicted of sex and violent offenses.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Funding.** A sentencing court charges every offender convicted of an offense included in the database a fee of \$100 for collection of a DNA sample unless it would result in an undue hardship on the offender. Eighty percent of the fee is deposited in the DNA Database Account, expenditures from which may only be used for the creation, operation, and maintenance of the DNA database, and 20 percent is remitted to the agency responsible for collecting the sample.

**Summary of Bill:** For offenders who do not serve a term of confinement in a DOC facility and are serving a term of confinement in a city or county jail, the DNA sample is taken immediately after sentencing in the city or county jail facility. If the offender is not taken into custody, they must be ordered by the court to report to the jail facility to provide the DNA sample. The offender must be warned that the court may issue a warrant for their arrest if they fail to provide the DNA sample.

For offenders who are serving or who are to serve a term of confinement in a DOC or DSHS facility, that facility must take the DNA sample as part of the intake process. If the person has served their entire sentence, they must be ordered by the court to report to the jail facility to provide the DNA sample. The offender must be warned that the court may issue a warrant for their arrest if they fail to provide the DNA sample.

The priority for testing samples from persons convicted of sex and violent offenses is eliminated.

**Appropriation:** None.

**Fiscal Note:** Available.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony:** PRO: We need a consistent protocol for the collection of DNA samples. The bill does not expand the pool of offenders who must provide DNA samples. Once these offenders are released, it is very difficult to find them to obtain a sample. This is a group of people who are currently supposed to be providing the samples. DNA will solve more crimes than any police officer will. This will help exonerate the innocent and convict the guilty. This is needed to fully implement existing law.

**Persons Testifying:** PRO: Seantor Darneille, prime sponsor; Mitch Barker, WA Assn. of Sheriffs and Police Chiefs.