
HOUSE BILL 1128

State of Washington

64th Legislature

2015 Regular Session

By Representative Hurst

Read first time 01/14/15. Referred to Committee on Public Safety.

1 AN ACT Relating to collecting DNA from adults arrested for a
2 ranked felony or a gross misdemeanor violation of certain orders;
3 amending RCW 43.43.753, 43.43.735, 43.43.740, 43.43.754, 46.63.110,
4 and 43.43.690; adding a new section to chapter 43.43 RCW; adding a
5 new section to chapter 70.48 RCW; creating a new section; and
6 prescribing penalties.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** The legislature finds there is a critical
9 need to provide law enforcement officers and agencies with the latest
10 scientific technology available for accurately and expeditiously
11 identifying and prosecuting adult felony offenders.

12 Although every state maintains a DNA database for felony
13 convictions, there is a growing trend toward expanding DNA databases
14 to include DNA from felony arrestees. To date, twenty-seven states
15 and the federal government have already enacted such laws.

16 Studies in other jurisdictions indicate that collection of DNA
17 from arrestees may contribute to the solution of cold cases, save
18 lives by identifying recidivist offenders, reduce rates of
19 criminality, and increase the rate of successful prosecutions. For
20 example, since 2003, the Virginia database of arrestee DNA has

1 yielded over six hundred hits to DNA collected from crime scenes,
2 ninety-nine of which were associated with sexual assault cases.

3 The legislature further finds that collecting DNA from ranked
4 felony and certain misdemeanor arrestees is cost-effective. Early
5 identification of offenders reduces costs by focusing investigations
6 and eliminating suspects. It may also prevent costs associated with
7 recidivist offenders. In a study sponsored by the United States
8 department of justice, the city of Denver found that DNA testing of
9 arrestees reduced police expenses and prevented property loss,
10 resulting in a ninety dollar return on investment for every dollar
11 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 forensic
15 loci, a small percentage of an individual's genetic code, which
16 allows identification but does not reveal genetic information, other
17 than gender. Arrestee samples will not be analyzed unless a probable
18 cause determination has been made. Once analyzed, the profile is
19 stored without any personally identifying information, only a sample
20 number and agency identifiers. The DNA profile and sample is
21 accessible only to qualified laboratory personnel. If a hit is made
22 between a stored sample and the forensic profile developed from a
23 crime scene, the laboratory will notify the submitting law
24 enforcement agency, which follows certain procedures to confirm the
25 hit. Innocent individuals are further protected through expungement
26 procedures, which allow removal of their samples and profiles if
27 convictions are not made or are overturned.

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

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

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

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

3 The legislature further finds that DNA databases are important
4 tools in criminal investigations, in the exclusion of individuals who
5 are the subject of investigations or prosecutions, and in detecting
6 recidivist acts. It is the policy of this state to assist federal,
7 state, and local criminal justice and law enforcement agencies in
8 both the identification and detection of individuals in criminal
9 investigations and the identification and location of missing and
10 unidentified persons. Therefore, it is in the best interest of the
11 state to establish a DNA database (~~and DNA data bank~~) containing
12 DNA samples submitted by persons convicted of felony offenses and
13 other crimes, as well as by adults arrested for or charged with
14 ranked felony offenses and other crimes, as specified in RCW
15 43.43.754. DNA samples necessary for the identification of missing
16 persons and unidentified human remains shall also be included in the
17 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
26 RCW 43.43.735, 43.43.752 through (~~43.43.758~~) 43.43.759, and section
27 6 of this act. The legislature further finds that the DNA collection,
28 testing, and storage process is minimally invasive to privacy based
29 on the following features:

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

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

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

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

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

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

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

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

29 (4)(a) Beginning July 1, 2016, it shall be the duty of the
30 sheriff or director of public safety of every county, and the chief
31 of police of every city or town, and of every chief officer of other
32 law enforcement agencies duly operating within this state, to cause
33 the collection of biological samples for DNA identification analysis
34 from all adults lawfully arrested for the commission of any criminal
35 offense constituting a ranked felony or a gross misdemeanor violation
36 of an order, as described in RCW 26.50.110(1)(a).

37 (b) From January 1, 2016, through June 30, 2016, it shall be the
38 right, but not the duty, of the sheriff or director of public safety
39 of every county, and the chief of police of every city or town, and
40 every chief officer of other law enforcement agencies operating

1 within this state, to cause the collection of biological samples for
2 DNA identification analysis from all adults lawfully arrested for the
3 commission of any criminal offense constituting a ranked felony or a
4 gross misdemeanor violation of an order, as described in RCW
5 26.50.110(1)(a).

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

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

9 (ii) Forwarded to the forensic laboratory services bureau of the
10 Washington state patrol.

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

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

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

24 (2) Law enforcement agencies may retain and file copies of the
25 fingerprints, photographs, and other identifying data and information
26 obtained pursuant to RCW 43.43.735, except biological samples. Said
27 records shall remain in the possession of the law enforcement agency
28 as part of the identification record and are not returnable to the
29 subjects thereof.

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

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

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

36 Assault in the fourth degree with sexual motivation (RCW
37 9A.36.041, 9.94A.835)

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

1 Custodial sexual misconduct in the second degree (RCW 9A.44.170)
2 Failure to register (RCW ((~~9A.44.130~~)) 9A.44.132)
3 Harassment (RCW 9A.46.020)
4 Patronizing a prostitute (RCW 9A.88.110)
5 Sexual misconduct with a minor in the second degree (RCW
6 9A.44.096)
7 Stalking (RCW 9A.46.110)
8 Violation of a sexual assault protection order granted under
9 chapter 7.90 RCW; ((~~and~~))

10 (b) Every adult or juvenile individual who is required to
11 register under RCW 9A.44.130; and

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

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

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

20 (a) For persons convicted of any offense listed in subsection
21 (1)(a) of this section or adjudicated guilty of an equivalent
22 juvenile offense who do not serve a term of confinement in a
23 department of corrections facility, and do serve a term of
24 confinement in a city or county jail facility, the city or county
25 shall be responsible for obtaining the biological samples at the time
26 of transfer to the facility.

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

29 (i) Persons convicted of any offense listed in subsection (1)(a)
30 of this section or adjudicated guilty of an equivalent juvenile
31 offense who do not serve a term of confinement in a department of
32 corrections facility, and do not serve a term of confinement in a
33 city or county jail facility; and

34 (ii) Persons who are required to register under RCW ((~~9A.44.030~~))
35 9A.44.130.

36 (c) For persons convicted of any offense listed in subsection
37 (1)(a) of this section or adjudicated guilty of an equivalent
38 juvenile offense, who are serving or who are to serve a term of
39 confinement in a department of corrections facility or a department
40 of social and health services facility, the facility holding the

1 person shall be responsible for obtaining the biological samples at
2 the time of transfer to the facility. For those persons incarcerated
3 before June 12, 2008, who have not yet had a biological sample
4 collected, priority shall be given to those persons who will be
5 released the soonest.

6 (d)(i) For adults lawfully arrested for a ranked felony or a
7 gross misdemeanor violation of an order, as described in RCW
8 26.50.110, the city or county jail shall obtain a biological sample
9 prior to the person's release. The jail shall provide the person with
10 notice of the rights to expungement and destruction as required by
11 section 7 of this act.

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

14 (iii) The sample shall not be removed from the envelope until an
15 employee of the forensic laboratory services bureau determines that a
16 probable cause determination has been made by a court. If a court
17 finds probable cause, the sample may be removed from the envelope for
18 analysis. If a court does not find probable cause, the envelope and
19 sample must be destroyed.

20 (e) For adults charged with a ranked felony or a gross
21 misdemeanor violation of an order, as described in RCW 26.50.110,
22 whose first appearance in court is caused by summons, the court shall
23 require the person to submit to collection of a biological sample if
24 the court makes a determination of probable cause and a sample has
25 not already been collected. The court shall direct the sheriff or
26 director of public safety of the county, the chief of police of the
27 city or town, or the chief officer of another law enforcement agency
28 duly operating within the state to collect the biological sample. If
29 the person is released on personal recognizance or on conditions, the
30 court shall make collection of a biological sample a condition of
31 release. If the person is detained, a biological sample may be
32 collected at any time during the person's detention.

33 (4) Any biological sample taken pursuant to RCW 43.43.735,
34 43.43.752 through ((43.43.758)) 43.43.759, and section 6 of this act
35 may be retained by the forensic laboratory services bureau, and shall
36 be analyzed by the forensic laboratory services bureau unless a
37 complete DNA profile for the person has previously been entered in
38 the DNA database.

39 (5) Any biological sample taken pursuant to RCW 43.43.735,
40 43.43.752 through 43.43.759, and section 6 of this act shall be used

1 solely for the purpose of providing DNA or other tests for
2 identification analysis and prosecution of a criminal offense or for
3 the identification of human remains or missing persons. Nothing in
4 this section prohibits the submission of results derived from the
5 biological samples to the federal bureau of investigation combined
6 DNA index system.

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

18 ~~((+6))~~ (7) This section applies to:

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

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

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

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

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

31 (d) All adults lawfully arrested for or charged with a ranked
32 felony or a gross misdemeanor violation of an order, as described in
33 RCW 26.50.110, on or after January 1, 2016.

34 ~~((+7))~~ (8)(a) Except as provided in (b) of this subsection, this
35 section creates no rights in a third person. No cause of action may
36 be brought based upon the noncollection or nonanalysis or the delayed
37 collection or analysis of a biological sample authorized to be taken
38 under RCW 43.43.735, 43.43.752 through ~~((43.43.758))~~ 43.43.759, and
39 section 6 of this act.

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

6 ~~((+8+))~~ (9) The detention, arrest, or conviction of a person
7 based upon a database match or database information is not
8 invalidated if it is determined that the sample was obtained or
9 placed in the database by mistake, if the sample is subject to
10 expungement pursuant to this chapter, or if the conviction or
11 juvenile adjudication that resulted in the collection of the
12 biological sample was subsequently vacated or otherwise altered in
13 any future proceeding including but not limited to posttrial or
14 postfact-finding motions, appeals, or collateral attacks.

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

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

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

22 (b) The person has been found not guilty or has been acquitted of
23 an offense requiring collection of a biological sample under RCW
24 43.43.735; or

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

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

30 (a) A written request for expungement;

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

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

37 (ii) A certified copy of a final court order establishing that a
38 charge for an offense requiring collection of a biological sample

1 under RCW 43.43.735 has been dismissed or has resulted in an
2 acquittal; or

3 (iii) A certified copy of a final court order reversing the
4 conviction that required collection of a biological sample under RCW
5 43.43.754.

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

11 (b) Once the forensic laboratory services bureau has analyzed the
12 person's sample, searched the DNA identification system for a match,
13 and received the documents required by subsection (2) of this
14 section, the forensic laboratory services bureau shall expunge the
15 person's sample and DNA records from the DNA identification system.

16 (c) The forensic laboratory services bureau may not expunge a
17 person's sample and DNA records from the DNA identification system if
18 the person has a prior conviction or a pending charge for which
19 collection of a sample is authorized under RCW 43.43.735 or
20 43.43.754.

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

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

27 (1) The jail administrator or his or her designee or chief law
28 enforcement executive or his or her designee shall provide notice of
29 the requirements of RCW 43.43.735, 43.43.740, 43.43.754, and section
30 6 of this act to jail staff who perform booking procedures and other
31 staff as appropriate.

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

38 "Washington law requires the collection of a biological sample
39 for DNA testing from all adults arrested for a ranked felony and

1 certain other offenses. The sample will be sent to the forensic
2 laboratory services bureau and, if the court has made a determination
3 of probable cause, the sample will be analyzed for inclusion in the
4 DNA database. If a court finds there is no probable cause, the
5 laboratory will destroy the biological sample.

6 YOU HAVE A RIGHT TO REQUEST EXPUNGEMENT OF YOUR DNA SAMPLE AND
7 RECORDS IF: (1) YOU ARE NOT CHARGED WITHIN ONE YEAR OF ARREST; (2)
8 YOU ARE FOUND NOT GUILTY; OR (3) YOUR CONVICTION IS REVERSED AND THE
9 CASE DISMISSED. YOU ALSO HAVE A RIGHT TO BRING SUIT IF THE LABORATORY
10 FAILS TO DESTROY YOUR BIOLOGICAL SAMPLE, AS REQUIRED BY RCW
11 43.43.754.

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

14 **Sec. 8.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read
15 as follows:

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

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

24 (3) The supreme court shall prescribe by rule a schedule of
25 monetary penalties for designated traffic infractions. This rule
26 shall also specify the conditions under which local courts may
27 exercise discretion in assessing fines and penalties for traffic
28 infractions. The legislature respectfully requests the supreme court
29 to adjust this schedule every two years for inflation.

30 (4) There shall be a penalty of twenty-five dollars for failure
31 to respond to a notice of traffic infraction except where the
32 infraction relates to parking as defined by local law, ordinance,
33 regulation, or resolution or failure to pay a monetary penalty
34 imposed pursuant to this chapter. A local legislative body may set a
35 monetary penalty not to exceed twenty-five dollars for failure to
36 respond to a notice of traffic infraction relating to parking as
37 defined by local law, ordinance, regulation, or resolution. The local
38 court, whether a municipal, police, or district court, shall impose
39 the monetary penalty set by the local legislative body.

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

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

28 (a) If a payment required to be made under the payment plan is
29 delinquent or the person fails to complete a community restitution
30 program on or before the time established under the payment plan,
31 unless the court determines good cause therefor and adjusts the
32 payment plan or the community restitution plan accordingly, the court
33 may refer the unpaid monetary penalty, fee, cost, assessment, or
34 other monetary obligation for civil enforcement until all monetary
35 obligations, including those imposed under subsections (3) and (4) of
36 this section, have been paid, and court authorized community
37 restitution has been completed, or until the court has entered into a
38 new time payment or community restitution agreement with the person.
39 For those infractions subject to suspension under RCW 46.20.289, the
40 court shall notify the department of the person's failure to meet the

1 conditions of the plan, and the department shall suspend the person's
2 driver's license or driving privileges.

3 (b) If a person has not entered into a payment plan with the
4 court and has not paid the monetary obligation in full on or before
5 the time established for payment, the court may refer the unpaid
6 monetary penalty, fee, cost, assessment, or other monetary obligation
7 to a collections agency until all monetary obligations have been
8 paid, including those imposed under subsections (3) and (4) of this
9 section, or until the person has entered into a payment plan under
10 this section. For those infractions subject to suspension under RCW
11 46.20.289, the court shall notify the department of the person's
12 delinquency, and the department shall suspend the person's driver's
13 license or driving privileges.

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

19 (d) Nothing in this section precludes a court from contracting
20 with outside entities to administer its payment plan system. When
21 outside entities are used for the administration of a payment plan,
22 the court may assess the person a reasonable fee for such
23 administrative services, which fee may be calculated on a periodic,
24 percentage, or other basis.

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

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

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

38 (b) A fee of (~~ten~~) nine dollars and fifty cents per infraction.
39 Under no circumstances shall this fee be reduced or waived. Revenue

1 from this fee shall be forwarded to the state treasurer for deposit
2 in the Washington auto theft prevention authority account; (~~and~~)

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

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

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

20 (b) Eight dollars and fifty cents of the additional penalty under
21 (a) of this subsection shall be remitted to the state treasurer. The
22 remaining revenue from the additional penalty must be remitted under
23 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
24 under this subsection to the state treasurer must be deposited in the
25 state general fund. The balance of the revenue received by the county
26 or city treasurer under this subsection must be deposited into the
27 county or city current expense fund. Moneys retained by the city or
28 county under this subsection shall constitute reimbursement for any
29 liabilities under RCW 43.135.060.

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

34 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
35 hundred fifty dollars for the first violation; (b) five hundred
36 dollars for the second violation; and (c) seven hundred fifty dollars
37 for each violation thereafter.

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

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

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

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

24 NEW SECTION. **Sec. 10.** If any provision of this act or its
25 application to any person or circumstance is held invalid, the
26 remainder of the act or the application of the provision to other
27 persons or circumstances is not affected.

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