
SUBSTITUTE SENATE BILL 6366

State of Washington

64th Legislature

2016 Regular Session

By Senate Law & Justice (originally sponsored by Senators Darneille, Fain, Fraser, Miloscia, Cleveland, O'Ban, Mullet, Keiser, Conway, and Chase)

READ FIRST TIME 02/02/16.

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, 43.43.690, and
4 43.43.759; adding new sections to chapter 43.43 RCW; adding a new
5 section to chapter 70.48 RCW; creating a new section; and prescribing
6 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, thirty states and the
15 federal government have already enacted such laws.

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

1 collected from crime scenes, ninety-nine of which were associated
2 with sexual assault cases.

3 The legislature further finds that collecting DNA from arrestees
4 for crimes against persons as defined in RCW 9.94A.411 or residential
5 burglary is cost-effective. Early identification of offenders reduces
6 costs by focusing investigations and eliminating suspects. It may
7 also prevent costs associated with recidivist offenders. In a study
8 sponsored by the United States department of justice, the city of
9 Denver found that DNA testing of arrestees reduced police expenses
10 and 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 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 provide for automatic destruction of the sample if
27 the individual is not charged with a qualifying offense or is found
28 not guilty or acquitted.

29 The legislature therefore finds that collecting DNA from adults
30 arrested for a crime against persons as defined in RCW 9.94A.411 or
31 residential burglary is a necessary and minimally intrusive way to
32 identify arrestees in order to solve cold cases, prevent recidivist
33 acts, and lower 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
37 biology and genetics have important applications for forensic
38 science. It has been scientifically established that there is a
39 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 specified in RCW 43.43.754)~~), as well as by adults
14 charged with a crime against persons as defined in RCW 9.94A.411 or
15 residential burglary. DNA samples necessary for the identification of
16 missing persons and unidentified human remains shall also be included
17 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
26 RCW 43.43.735 and 43.43.752 through (~~(43.43.758)~~) 43.43.759 and
27 section 6 of this act.

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

31 (1) Biological samples for DNA testing are routinely collected by
32 an oral swab as part of the legitimate police identification
33 procedure;

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
38 necessary to human identification, which are a small part of a
39 person's total 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
7 town, and of every chief officer of other law enforcement agencies
8 duly 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,
26 or 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
29 necessary for proper identification of the arrested person or the
30 investigation of the crime with which he or she is charged.

31 (4)(a) Beginning July 1, 2018, it shall be the duty of the
32 sheriff or director of public safety of every county, and the chief
33 of police of every city or town, and of every chief officer of other
34 law enforcement agencies duly operating within this state, to cause
35 the collection of biological samples for DNA identification analysis
36 from all adults lawfully arrested for the commission of a crime
37 against persons as defined in RCW 9.94A.411 or residential burglary.

38 (b) From January 1, 2018, through June 30, 2018, it shall be the
39 right, but not the duty, of the sheriff or director of public safety

1 of every county, and the chief of police of every city or town, and
2 every chief officer of other law enforcement agencies operating
3 within this state, to cause the collection of biological samples for
4 DNA identification analysis from all adults lawfully arrested for the
5 commission of a crime against persons as defined in RCW 9.94A.411 or
6 residential burglary.

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

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

10 (ii) Forwarded to the forensic laboratory services bureau of the
11 Washington state patrol following arraignment for a qualifying
12 offense.

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

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

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

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

32 **Sec. 5.** RCW 43.43.754 and 2015 c 261 s 10 are each amended to
33 read as follows:

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

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

1 Assault in the fourth degree with sexual motivation (RCW
2 9A.36.041, 9.94A.835)

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

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

5 Failure to register (RCW 9A.44.130 for persons convicted on or
6 before June 10, 2010, and RCW 9A.44.132 for persons convicted after
7 June 10, 2010)

8 Harassment (RCW 9A.46.020)

9 Patronizing a prostitute (RCW 9A.88.110)

10 Sexual misconduct with a minor in the second degree (RCW
11 9A.44.096)

12 Stalking (RCW 9A.46.110)

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

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

17 (c) Every adult lawfully arrested and booked into jail for a
18 crime against persons as defined in RCW 9.94A.411 or residential
19 burglary.

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

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

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

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

34 (i) Persons convicted of any offense listed in subsection (1)(a)
35 of this section or adjudicated guilty of an equivalent juvenile
36 offense who do not serve a term of confinement in a department of
37 corrections facility, and do not serve a term of confinement in a
38 city or county jail facility; and

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

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

11 (d)(i) For adults lawfully arrested and booked into jail for a
12 crime against persons as defined in RCW 9.94A.411 or residential
13 burglary, the city or county jail shall obtain a biological sample
14 prior to the person's release. The jail shall provide the person with
15 notice of the rights to expungement and destruction as required by
16 section 6 of this act.

17 (ii) The biological sample shall be retained by the city or
18 county jail until the arrestee is arraigned for a qualifying offense.
19 If the arrestee is not arraigned for a qualifying offense within one
20 year of arrest, the envelope and biological sample must be destroyed
21 within sixty days by the city or county jail and notice must be
22 provided to the person and defense counsel, if known. Following the
23 arraignment, the sample must be submitted to the forensic laboratory
24 services bureau in a sealed envelope.

25 (4) Any biological sample taken pursuant to RCW 43.43.735 and
26 43.43.752 through ((43.43.758)) 43.43.759 may be retained by the
27 forensic laboratory services bureau(~~,—and~~). Biological samples
28 entered and retained in the laboratory system shall be analyzed by
29 the forensic laboratory services bureau unless a complete DNA profile
30 for the person has previously been entered in the DNA database.

31 (5) Any biological sample taken pursuant to RCW 43.43.735 and
32 43.43.752 through 43.43.759 and section 6 of this act shall be used
33 solely for the purpose of providing DNA or other tests for
34 identification analysis and prosecution of a criminal offense or for
35 the identification of human remains or missing persons. Nothing in
36 this section prohibits the submission of results derived from the
37 biological samples to the federal bureau of investigation combined
38 DNA index system.

39 ~~((+5))~~ (6) The forensic laboratory services bureau of the
40 Washington state patrol is responsible for testing performed on all

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

10 ~~((+6))~~ (7) This section applies to:

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

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

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

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

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

23 (d) All adults lawfully arrested and booked into jail for a crime
24 against persons as defined in RCW 9.94A.411 or residential burglary,
25 on or after January 1, 2018.

26 ~~((+7))~~ (8)(a) Except as provided in (b) of this subsection, this
27 section creates no rights in a third person. No cause of action may
28 be brought based upon the noncollection or nonanalysis or the delayed
29 collection or analysis of a biological sample authorized to be taken
30 under RCW 43.43.735 or 43.43.752 through ~~((43.43.758))~~ 43.43.759.

31 (b)(i) If the city or county jail negligently or willfully fails
32 to destroy a biological sample as required by subsection (3)(d)(ii)
33 of this section, the person from whom the jail facility obtained the
34 sample may bring an action against the city or county for actual
35 damages and reasonable attorneys' fees and costs.

36 (ii) If the forensic laboratory services bureau negligently or
37 willfully fails to destroy a biological sample as required by section
38 6 of this act, the person from whom the jail facility obtained the
39 sample may bring an action against the state for actual damages and
40 reasonable attorneys' fees and costs.

1 (~~(8)~~) (9) The detention, arrest, or conviction of a person
2 based upon a database match or database information is not
3 invalidated if it is determined that the sample was obtained or
4 placed in the database by mistake, if the sample is subject to
5 expungement pursuant to this chapter, or if the conviction or
6 juvenile adjudication that resulted in the collection of the
7 biological sample was subsequently vacated or otherwise altered in
8 any future proceeding including but not limited to posttrial or
9 postfact-finding motions, appeals, or collateral attacks.

10 (~~(9)~~) (10) A person commits the crime of refusal to provide DNA
11 if the person has a duty to register under RCW 9A.44.130 and the
12 person willfully refuses to comply with a legal request for a DNA
13 sample as required under this section. The refusal to provide DNA is
14 a gross misdemeanor.

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

17 (1) A person's sample and DNA records from the identification
18 system must be expunged by the city or county jail automatically
19 within sixty days if the person is not charged with an offense
20 requiring collection of a biological sample under RCW 43.43.735
21 within one year of arrest.

22 (2) A person's sample and DNA records from the identification
23 system must be expunged by the forensic laboratory if the person has
24 been found not guilty, if the court dismisses the case with
25 prejudice, or the person has been acquitted of an offense requiring
26 collection of a biological sample under RCW 43.43.735.

27 NEW SECTION. **Sec. 7.** A new section is added to chapter 43.43
28 RCW to read as follows:

29 (1) A person may request expungement of the person's sample and
30 DNA records from the DNA identification system if the underlying
31 conviction or adjudication requiring collection of a biological
32 sample under RCW 43.43.754 has been reversed and the case dismissed.

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

35 (a) A written request for expungement, including the applicant's
36 written name and address; and

1 (b) A certified copy of a final court order reversing the
2 conviction that required collection of a biological sample under RCW
3 43.43.754.

4 (3)(a) Once the forensic laboratory services bureau has received
5 the documents required by subsection (2) of this section and
6 determined that the applicant qualifies for expungement, the forensic
7 laboratory services bureau shall expunge the person's sample and DNA
8 records from the DNA identification system.

9 (b) The forensic laboratory services bureau may not expunge a
10 person's sample and DNA records from the DNA identification system if
11 the person has a prior conviction or a pending charge for which
12 collection of a sample is authorized under RCW 43.43.735 or
13 43.43.754.

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

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

20 (1) The jail administrator or his or her designee or chief law
21 enforcement executive or his or her designee shall provide notice of
22 the requirements of RCW 43.43.735, 43.43.740, 43.43.754, and sections
23 6 and 7 of this act to jail staff who perform booking procedures and
24 other staff as appropriate.

25 (2) Jail staff shall provide a notice of the rights to
26 expungement and destruction to all adults arrested for a crime
27 against persons as defined in RCW 9.94A.411 or residential burglary,
28 at the time a biological sample for DNA testing is taken. The notice
29 must be in substantially the following form:

30 "Washington law requires the collection of a biological sample
31 for DNA testing from all adults arrested for a crime against persons
32 as defined in RCW 9.94A.411 or residential burglary. If you are
33 charged with and arraigned for a qualifying offense, the sample will
34 be sent to the forensic laboratory services bureau to be analyzed for
35 inclusion in the DNA database. The city or county jail will
36 automatically destroy your DNA sample if: (1) You are not charged
37 with a qualifying offense within one year of your arrest; or (2) you
38 are not arraigned.

1 YOU HAVE A RIGHT TO REQUEST EXPUNGEMENT OF YOUR DNA SAMPLE AND
2 RECORDS IF YOUR CONVICTION IS REVERSED AND THE CASE DISMISSED. YOU
3 ALSO HAVE A RIGHT TO BRING SUIT IF THE LABORATORY FAILS TO DESTROY
4 YOUR BIOLOGICAL SAMPLE, AS REQUIRED BY RCW 43.43.754.

5 For more information regarding your rights to expungement and
6 destruction, see RCW 43.43.754 and sections 6 and 7 of this act."

7 **Sec. 9.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read
8 as follows:

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

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

17 (3) The supreme court shall prescribe by rule a schedule of
18 monetary penalties for designated traffic infractions. This rule
19 shall also specify the conditions under which local courts may
20 exercise discretion in assessing fines and penalties for traffic
21 infractions. The legislature respectfully requests the supreme court
22 to adjust this schedule every two years for inflation.

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

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

38 (6) Whenever a monetary penalty, fee, cost, assessment, or other
39 monetary obligation is imposed by a court under this chapter, it is

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

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

36 (b) If a person has not entered into a payment plan with the
37 court and has not paid the monetary obligation in full on or before
38 the time established for payment, the court may refer the unpaid
39 monetary penalty, fee, cost, assessment, or other monetary obligation
40 to a collections agency until all monetary obligations have been

1 paid, including those imposed under subsections (3) and (4) of this
2 section, or until the person has entered into a payment plan under
3 this section. For those infractions subject to suspension under RCW
4 46.20.289, the court shall notify the department of the person's
5 delinquency, and the department shall suspend the person's driver's
6 license or driving privileges.

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

12 (d) Nothing in this section precludes a court from contracting
13 with outside entities to administer its payment plan system. When
14 outside entities are used for the administration of a payment plan,
15 the court may assess the person a reasonable fee for such
16 administrative services, which fee may be calculated on a periodic,
17 percentage, or other basis.

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

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

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

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

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

38 (d) A fee of fifty cents per infraction. Under no circumstances
39 shall this fee be reduced or waived. Revenues from this fee shall be

1 forwarded to the state treasurer for deposit in the state DNA
2 database account established in RCW 43.43.7532.

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

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

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

28 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
29 hundred fifty dollars for the first violation; (b) five hundred
30 dollars for the second violation; and (c) seven hundred fifty dollars
31 for each violation thereafter.

32 **Sec. 10.** RCW 43.43.690 and 2015 c 265 s 30 are each amended to
33 read as follows:

34 (1) When an adult offender has been adjudged guilty of violating
35 any criminal statute of this state and a crime laboratory analysis
36 was performed by a state crime laboratory, in addition to any other
37 disposition, penalty, or fine imposed, the court shall levy a crime
38 laboratory analysis fee of one hundred dollars for each offense for
39 which the person was convicted. (~~Upon a verified petition by the~~

1 ~~person assessed the fee, the court may suspend payment of all or part~~
2 ~~of the fee if it finds that the person does not have the ability to~~
3 ~~pay)) The court may not suspend or defer payment of the fee.~~

4 (2) All crime laboratory analysis fees assessed under this
5 section shall be collected by the clerk of the court and forwarded to
6 the state general fund, to be used only for crime laboratories. The
7 clerk may retain five dollars to defray the costs of collecting the
8 fees.

9 **Sec. 11.** RCW 43.43.759 and 2002 c 289 s 3 are each amended to
10 read as follows:

11 The Washington state patrol shall consult with the forensic
12 investigations council and adopt rules to implement RCW 43.43.752
13 through 43.43.758 and section 6 of this act. The rules shall prohibit
14 the use of DNA identification data for any research or other purpose
15 that is not related to a criminal investigation, to the
16 identification of human remains or missing persons, or to improving
17 the operation of the system authorized by RCW 43.43.752 through
18 43.43.758 and section 6 of this act. The rules must also identify
19 appropriate sources and collection methods for biological samples
20 needed for purposes of DNA identification analysis.

21 NEW SECTION. **Sec. 12.** A new section is added to chapter 43.43
22 RCW to read as follows:

23 By January 1, 2018, and annually thereafter, and in compliance
24 with RCW 43.01.036, the administrative office of the courts must
25 submit a report to the legislature and the governor on the status of
26 the statewide DNA database including:

27 (1) Statistical analysis of the racial demographics of
28 individuals arrested and those subsequently charged with crimes that
29 require DNA collection at the time of arrest;

30 (2) The number of DNA samples collected from individuals arrested
31 and the number subsequently charged with crimes that require DNA
32 collection at the time of arrest;

33 (3) The sufficiency of protocols and procedures adopted to
34 prevent the unlawful testing of DNA and ensure the expungement of DNA
35 as required; and

36 (4) A detailed analysis of the investigations aided by DNA
37 profiles that includes:

38 (a) The number of matches;

- 1 (b) The number of matches that resulted in investigation of the
2 person identified;
- 3 (c) The number of matches that resulted in formal charges;
- 4 (d) The number of matches that resulted in convictions;
- 5 (e) The number of matches that resulted in exonerations;
- 6 (f) The number of matches that resulted in convictions for
7 persons not already incarcerated; and
- 8 (g) The prior offenses for which a person has been convicted
9 where a match occurred.

10 NEW SECTION. **Sec. 13.** If any provision of this act or its
11 application to any person or circumstance is held invalid, the
12 remainder of the act or the application of the provision to other
13 persons or circumstances is not affected.

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