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SENATE BILL 5082

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State of Washington

54th Legislature

1995 Regular Session

By Senators Haugen, Owen and Loveland

Read first time 01/10/95. Referred to Committee on Law & Justice.

1 AN ACT Relating to death investigations systems; amending RCW  
2 43.43.680, 46.61.5054, 43.103.030, 43.103.090, 66.08.180, 68.50.107,  
3 and 70.58.107; and repealing 1994 c 275 s 44 (uncodified).

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

5 **Sec. 1.** RCW 43.43.680 and 1994 c 271 s 501 are each amended to  
6 read as follows:

7 (1) In all prosecutions involving the analysis of a controlled  
8 substance or a sample of a controlled substance by the crime laboratory  
9 system of the state patrol, a certified copy of the analytical report  
10 signed by the supervisor of the state patrol's crime laboratory or the  
11 forensic scientist conducting the analysis is prima facie evidence of  
12 the results of the analytical findings.

13 (2) The defendant or a prosecutor may subpoena the forensic  
14 scientist who conducted the analysis of the substance to testify at the  
15 preliminary hearing and trial of the issue at no cost to the defendant,  
16 if the subpoena is issued at least ten days prior to the trial date.

17 (3) In all prosecutions involving the analysis of a certified  
18 simulator solution by the Washington state toxicology laboratory (~~of~~  
19 ~~the University of Washington~~)), a certified copy of the analytical

1 report signed by the state toxicologist or the toxicologist conducting  
2 the analysis is prima facie evidence of the results of the analytical  
3 findings, and of certification of the simulator solution used in the  
4 BAC verifier datamaster or any other alcohol/breath-testing equipment  
5 subsequently adopted by rule.

6 (4) The defendant of a prosecution may subpoena the toxicologist  
7 who conducted the analysis of the simulator solution to testify at the  
8 preliminary hearing and trial of the issue at no cost to the defendant,  
9 if thirty days prior to issuing the subpoena the defendant gives the  
10 state toxicologist notice of the defendant's intention to require the  
11 toxicologist's appearance.

12 **Sec. 2.** RCW 46.61.5054 and 1994 c 275 s 7 are each amended to read  
13 as follows:

14 (1)(a) In addition to penalties set forth in RCW 46.61.5051 through  
15 46.61.5053, a one hundred twenty-five dollar fee shall be assessed to  
16 a person who is either convicted, sentenced to a lesser charge, or  
17 given deferred prosecution, as a result of an arrest for violating RCW  
18 46.61.502, 46.61.504, 46.61.520, or 46.61.522. This fee is for the  
19 purpose of funding the Washington state toxicology laboratory and the  
20 Washington state patrol breath test program.

21 (b) Upon a verified petition by the person assessed the fee, the  
22 court may suspend payment of all or part of the fee if it finds that  
23 the person does not have the ability to pay.

24 (c) When a minor has been adjudicated a juvenile offender for an  
25 offense which, if committed by an adult, would constitute a violation  
26 of RCW 46.61.502, 46.61.504, 46.61.520, or 46.61.522, the court shall  
27 assess the one hundred twenty-five dollar fee under (a) of this  
28 subsection. Upon a verified petition by a minor assessed the fee, the  
29 court may suspend payment of all or part of the fee if it finds that  
30 the minor does not have the ability to pay the fee.

31 (2) The fee assessed under subsection (1) of this section shall be  
32 collected by the clerk of the court and distributed as follows:

33 (a) Forty percent shall be subject to distribution under RCW  
34 3.46.120, 3.50.100, 35.20.220, 3.62.020, 3.62.040, or 10.82.070.

35 (b) (~~If the case involves a blood test by the state toxicology~~  
36 ~~laboratory,~~) The remainder of the fee shall be forwarded to the state  
37 treasurer (~~for~~) who shall deposit: Fifteen percent in the death

1 investigations account to be used solely for funding the state  
2 toxicology laboratory blood or breath testing programs(~~(-~~  
3 ~~(c) Otherwise, the remainder of the fee shall be forwarded to the~~  
4 ~~state treasurer for deposit~~)); and eighty-five percent in the state  
5 patrol highway account to be used solely for funding the Washington  
6 state patrol breath test program.

7 **Sec. 3.** RCW 43.103.030 and 1991 c 176 s 2 are each amended to read  
8 as follows:

9 There is created the Washington state death investigations council.  
10 The council shall (~~oversee the~~) provide a state toxicology laboratory  
11 ~~and(, together with the president of the University of Washington,)~~  
12 control the laboratory's operation. The council may also study and  
13 recommend cost-efficient improvements to the death investigation system  
14 in Washington and report its findings to the legislature.

15 Further, the council shall, jointly with the chairperson of the  
16 pathology department of the University of Washington's School of  
17 Medicine, or the chairperson's designee, oversee the state forensic  
18 pathology fellowship program, determine the budget for the program and  
19 set the fellow's annual salary, and take those steps necessary to  
20 administer the program.

21 **Sec. 4.** RCW 43.103.090 and 1983 1st ex.s. c 16 s 9 are each  
22 amended to read as follows:

23 The council has the following powers:

24 (1) To meet at such times and places as may be designated by a  
25 majority vote of the council members or, if a majority cannot agree, by  
26 the chairman;

27 (2) To adopt rules governing the council and the conduct of its  
28 meetings;

29 (3) To require reports from the state toxicologist on matters  
30 pertaining to the toxicology laboratory;

31 (4) To review and, if necessary, require changes in the budget  
32 request of the toxicology laboratory; (~~and~~)

33 (5) To do anything, necessary or convenient, which enables the  
34 council to perform its duties and to exercise its powers;

35 (6) To appoint a toxicologist as state toxicologist to serve at the  
36 pleasure of the council; and

37 (7) To set the salary for the state toxicologist.

1       **Sec. 5.** RCW 66.08.180 and 1987 c 458 s 10 are each amended to read  
2 as follows:

3       Moneys in the liquor revolving fund shall be distributed by the  
4 board at least once every three months in accordance with RCW  
5 66.08.190, 66.08.200 and 66.08.210: PROVIDED, That the board shall  
6 reserve from distribution such amount not exceeding five hundred  
7 thousand dollars as may be necessary for the proper administration of  
8 this title: AND PROVIDED FURTHER, That all license fees, penalties and  
9 forfeitures derived under this act from class H licenses or class H  
10 licensees shall every three months be disbursed by the board as  
11 follows:

12       (1) 5.95 percent to the University of Washington and 3.97 percent  
13 to Washington State University for alcoholism and drug abuse research  
14 and for the dissemination of such research;

15       (2) 1.75 percent, but in no event less than ~~((one))~~ three hundred  
16 ~~((fifty))~~ thousand dollars per biennium, to the ~~((University of~~  
17 ~~Washington))~~ death investigations account for the death investigations  
18 council to conduct the state toxicological laboratory pursuant to RCW  
19 ~~((68.08.107))~~ 68.50.107;

20       (3) 88.33 percent to the general fund to be used by the department  
21 of social and health services solely to carry out the purposes of RCW  
22 ~~((70.96.085, as now or hereafter amended))~~ 70.96A.050;

23       (4) The first fifty-five dollars per license fee provided in RCW  
24 66.24.320 and 66.24.330 up to a maximum of one hundred fifty thousand  
25 dollars annually shall be disbursed every three months by the board to  
26 the general fund to be used for juvenile alcohol and drug prevention  
27 programs for kindergarten through third grade to be administered by the  
28 superintendent of public instruction;

29       (5) Twenty percent of the remaining total amount derived from  
30 license fees pursuant to RCW 66.24.320, 66.24.330, 66.24.340,  
31 66.24.350, 66.24.360, and 66.24.370, shall be transferred to the  
32 general fund to be used by the department of social and health services  
33 solely to carry out the purposes of RCW ~~((70.96.085))~~ 70.96A.050; and

34       (6) One-fourth cent per liter of the tax imposed by RCW 66.24.210  
35 shall every three months be disbursed by the board to Washington State  
36 University solely for wine and wine grape research, extension programs  
37 related to wine and wine grape research, and resident instruction in  
38 both wine grape production and the processing aspects of the wine  
39 industry in accordance with RCW 28B.30.068. The director of financial

1 management shall prescribe suitable accounting procedures to ensure  
2 that the funds transferred to the general fund to be used by the  
3 department of social and health services and appropriated are  
4 separately accounted for.

5 **Sec. 6.** RCW 68.50.107 and 1986 c 87 s 2 are each amended to read  
6 as follows:

7 There shall be established ~~((at the University of Washington~~  
8 ~~Medical School))~~ under the authority of the state death investigations  
9 council a state toxicological laboratory under the direction of the  
10 state toxicologist whose duty it will be to perform all necessary  
11 toxicologic procedures requested by all coroners, medical examiners,  
12 and prosecuting attorneys. ~~((Annually the president of the University~~  
13 ~~of Washington, with the consent of the state death investigations~~  
14 ~~council,))~~ The state death investigations council shall appoint a  
15 ~~((competent))~~ toxicologist as state toxicologist ~~((who shall serve a~~  
16 ~~one year term. The state toxicologist may be reappointed to as many~~  
17 ~~additional one year terms as the president of the university and the~~  
18 ~~death investigations council deem proper. The facilities of the police~~  
19 ~~school of the Washington State University and the services of its~~  
20 ~~professional staff shall be made available to coroners, medical~~  
21 ~~examiners, and prosecuting attorneys in their investigations under this~~  
22 ~~chapter. This)).~~ The laboratory shall be funded by disbursement from  
23 the class H license fees as provided in RCW 66.08.180 and by  
24 appropriation from the death investigations account as provided in RCW  
25 43.79.445.

26 **Sec. 7.** RCW 70.58.107 and 1991 c 3 s 343 are each amended to read  
27 as follows:

28 The department of health shall charge a fee of ~~((eleven))~~ thirteen  
29 dollars for certified copies of records and for copies or information  
30 provided for research, statistical, or administrative purposes, and  
31 eight dollars for a search of the files or records when no copy is  
32 made. The department shall prescribe by regulation fees to be paid for  
33 preparing sealed files and for opening sealed files.

34 No fee may be demanded or required for furnishing certified copies  
35 of a birth, death, fetal death, marriage, divorce, annulment, or legal  
36 separation record for use in connection with a claim for compensation  
37 or pension pending before the veterans administration.

1 The department shall keep a true and correct account of all fees  
2 received and turn the fees over to the state treasurer on a weekly  
3 basis.

4 Local registrars shall charge the same fees as the state as  
5 hereinabove provided and as prescribed by department regulation, except  
6 that local registrars shall charge ((eleven)) thirteen dollars for the  
7 first copy of a death certificate and ((six)) eight dollars for each  
8 additional copy of the same death certificate when the additional  
9 copies are ordered at the same time as the first copy. All such fees  
10 collected, except for ((three)) five dollars of each fee for the  
11 issuance of a certified copy, shall be paid to the jurisdictional  
12 health department.

13 All local registrars in cities and counties shall keep a true and  
14 correct account of all fees received under this section for the  
15 issuance of certified copies and shall turn ((three)) five dollars of  
16 the fee over to the state treasurer on or before the first day of  
17 January, April, July, and October.

18 ((Three)) Five dollars of each fee imposed for the issuance of  
19 certified copies, except for copies suitable for display issued under  
20 RCW 70.58.085, at both the state and local levels shall be held by the  
21 state treasurer in the death investigations account established by RCW  
22 43.79.445.

23 NEW SECTION. **Sec. 8.** 1994 c 275 s 44 (uncodified) is repealed.

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