
SUBSTITUTE SENATE BILL 6314

State of Washington

63rd Legislature

2014 Regular Session

By Senate Law & Justice (originally sponsored by Senators Darneille, Pearson, Fraser, Keiser, Angel, Eide, Cleveland, Mullet, McAuliffe, and Conway)

READ FIRST TIME 02/07/14.

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 a new section 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 to
14 include DNA from felony arrestees. To date, twenty-seven states and
15 the federal government have already enacted such laws.

16 Studies in other jurisdictions indicate that collection of DNA for
17 the purpose of identifying arrestees may contribute to the solution of
18 cold cases, save lives by identifying recidivist offenders, reduce
19 rates of criminality, and increase the rate of successful prosecutions.

1 For example, since 2003, the Virginia database of arrestee DNA has
2 yielded over six hundred hits to DNA collected from crime scenes,
3 ninety-nine of which were associated with sexual assault cases.

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

28 The legislature therefore finds that collecting DNA from adults
29 arrested for a sex or violent offense is a necessary and minimally
30 intrusive way to identify arrestees in order to solve cold cases,
31 prevent recidivist acts, and lower the cost of criminal investigations.

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

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

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

4 The legislature further finds that DNA databases are important
5 tools in criminal investigations, in the exclusion of individuals who
6 are the subject of investigations or prosecutions, and in detecting
7 recidivist acts. It is the policy of this state to assist federal,
8 state, and local criminal justice and law enforcement agencies in both
9 the identification and detection of individuals in criminal
10 investigations and the identification and location of missing and
11 unidentified persons. Therefore, it is in the best interest of the
12 state to establish a DNA database (~~(and DNA data bank)~~) containing DNA
13 samples submitted by persons convicted of felony offenses and other
14 crimes (~~(as specified in RCW 43.43.754)~~), as well as by adults arrested
15 for or charged with a sex or violent offense under RCW 9.94A.030. DNA
16 samples necessary for the identification of missing persons and
17 unidentified human remains shall also be included 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 RCW
26 43.43.735 and 43.43.752 through ((43.43.758)) 43.43.759 and section 6
27 of this act.

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

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

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

36 (3) Entries in the DNA database contain only DNA markers necessary
37 to human identification, which are a small part of a person's total
38 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 town,
7 and of every chief officer of other law enforcement agencies duly
8 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, or
26 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 necessary
29 for proper identification of the arrested person or the investigation
30 of the crime with which he or she is charged.

31 (4)(a) Beginning July 1, 2015, it shall be the duty of the sheriff
32 or director of public safety of every county, and the chief of police
33 of every city or town, and of every chief officer of other law
34 enforcement agencies duly operating within this state, to cause the
35 collection of biological samples for DNA identification analysis from
36 all adults lawfully arrested for the commission of a sex or violent
37 offense as defined in RCW 9.94A.030.

1 (b) From January 1, 2015, through June 30, 2015, it shall be the
2 right, but not the duty, of the sheriff or director of public safety of
3 every county, and the chief of police of every city or town, and every
4 chief officer of other law enforcement agencies operating within this
5 state, to cause the collection of biological samples for DNA
6 identification analysis from all adults lawfully arrested for the
7 commission of a sex or violent offense as defined in RCW 9.94A.030.

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

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

11 (ii) Forwarded to the forensic laboratory services bureau of the
12 Washington state patrol.

13 (d) The forensic laboratory services bureau shall provide kits and
14 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 read
17 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 town,
20 and of every chief officer of other law enforcement agencies duly
21 operating within this state to furnish within seventy-two hours from
22 the time of arrest to the section the required sets of fingerprints
23 together with other identifying data as may be prescribed by the chief,
24 of any person lawfully arrested, fingerprinted, and photographed
25 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 as
30 part of the identification record and are not returnable to the
31 subjects thereof.

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

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

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

3 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,
4 9.94A.835)

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

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

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

10 Harassment (RCW 9A.46.020)

11 Patronizing a prostitute (RCW 9A.88.110)

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

13 Stalking (RCW 9A.46.110)

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

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

18 (c) Every adult lawfully arrested for or charged with a sex or
19 violent offense as defined in RCW 9.94A.030.

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 manner:

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

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

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

1 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
2 9A.44.130.

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

12 (d)(i) For adults lawfully arrested for a sex or violent offense as
13 defined in RCW 9.94A.030, the city or county jail shall obtain a
14 biological sample prior to the person's release. The jail shall
15 provide the person with notice of the rights to expungement and
16 destruction as required by section 7 of this act.

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

18 (iii) The biological sample shall not be removed from the envelope
19 for the purposes of forensic analysis until an employee of the forensic
20 laboratory services bureau determines that a probable cause
21 determination has been made by a court. If a court finds probable
22 cause, the sample may be removed from the envelope for analysis. If a
23 court does not find probable cause, the envelope and sample must be
24 destroyed. Notwithstanding this subsection, an employee of the
25 forensic laboratory services bureau may review the contents of the
26 envelope to locate the arrestee's name, date of birth, and state
27 identification number for the purposes of determining whether a court
28 has found probable cause.

29 (e) For adults charged with a sex or violent offense as defined in
30 RCW 9.94A.030, whose first appearance in court is caused by summons,
31 the court shall require the person to submit to collection of a
32 biological sample if the court makes a determination of probable cause
33 and a sample has not already been collected. The court shall direct
34 the sheriff or director of public safety of the county, the chief of
35 police of the city or town, or the chief officer of another law
36 enforcement agency duly operating within the state to collect the
37 biological sample. If the person is released on personal recognizance

1 or on conditions, the court shall make collection of a biological
2 sample a condition of release. If the person is detained, a biological
3 sample may be collected at any time during the person's detention.

4 (4) Any biological sample taken pursuant to RCW 43.43.735 and
5 43.43.752 through ((43.43.758)) 43.43.759 and section 6 of this act may
6 be retained by the forensic laboratory services bureau, and shall be
7 analyzed by the forensic laboratory services bureau unless a complete
8 DNA profile for the person has previously been entered in the DNA
9 database.

10 (5) Any biological sample taken pursuant to RCW 43.43.735 and
11 43.43.752 through 43.43.759 and section 6 of this act shall be used
12 solely for the purpose of providing DNA or other tests for
13 identification analysis and prosecution of a criminal offense or for
14 the identification of human remains or missing persons. Nothing in
15 this section prohibits the submission of results derived from the
16 biological samples to the federal bureau of investigation combined DNA
17 index system.

18 ~~((+5))~~ (6) The forensic laboratory services bureau of the
19 Washington state patrol is responsible for testing performed on all
20 biological samples that are collected under subsection (1) of this
21 section, to the extent allowed by funding available for this purpose~~((-~~
22 ~~The director shall give priority to testing on samples collected from~~
23 ~~those adults or juveniles convicted of a felony or adjudicated guilty~~
24 ~~of an equivalent juvenile offense that is defined as a sex offense or~~
25 ~~a violent offense in RCW 9.94A.030)), except as described in subsection
26 (3)(d)(iii) of this section. Known duplicate samples may be excluded
27 from testing unless testing is deemed necessary or advisable by the
28 director.~~

29 ~~((+6))~~ (7) This section applies to:

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

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

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

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

1 (c) All adults and juveniles who are required to register under RCW
2 (~~9A.44.130~~) 9A.44.132 on or after June 12, 2008, whether convicted
3 before, on, or after June 12, 2008; and

4 (d) All adults lawfully arrested for or charged with a sex or
5 violent offense as defined in RCW 9.94A.030, on or after January 1,
6 2015.

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

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

18 (~~(+8)~~) (9) The detention, arrest, or conviction of a person based
19 upon a database match or database information is not invalidated if it
20 is determined that the sample was obtained or placed in the database by
21 mistake, if the sample is subject to expungement pursuant to this
22 chapter, or if the conviction or juvenile adjudication that resulted in
23 the collection of the biological sample was subsequently vacated or
24 otherwise altered in any future proceeding including but not limited to
25 posttrial or postfact-finding motions, appeals, or collateral attacks.

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

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

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

32 (b) The person has been found not guilty or has been acquitted of
33 an offense requiring collection of a biological sample under RCW
34 43.43.735; or

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

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

3 (a) A written request for expungement;

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

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

10 (ii) A certified copy of a final court order establishing that a
11 charge for an offense requiring collection of a biological sample under
12 RCW 43.43.735 has been dismissed or has resulted in an acquittal; or

13 (iii) A certified copy of a final court order reversing the
14 conviction that required collection of a biological sample under RCW
15 43.43.754.

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

21 (b) Once the forensic laboratory services bureau has analyzed the
22 person's sample, searched the DNA identification system for a match,
23 and received the documents required by subsection (2) of this section,
24 the forensic laboratory services bureau shall expunge the person's
25 sample and DNA records from the DNA identification system.

26 (c) The forensic laboratory services bureau may not expunge a
27 person's sample and DNA records from the DNA identification system if:

28 (i) The person has a prior conviction or a pending charge for which
29 collection of a sample is authorized under RCW 43.43.735 or 43.43.754;

30 (ii) The search of the DNA identification system results in a match
31 of the sample submitted under RCW 43.43.754(1)(c) to an unknown sample
32 submitted to the DNA identification system from an open criminal
33 investigation.

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

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

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

8 (2) Jail staff shall provide a notice of the rights to expungement
9 and destruction to all adults arrested for a sex or violent offense as
10 defined in RCW 9.94A.030, at the time a biological sample for DNA
11 testing is taken. The notice must be in substantially the following
12 form:

13 "Washington law requires the collection of a biological sample for
14 DNA testing from all adults arrested for a ranked felony and certain
15 other offenses. The sample will be sent to the forensic laboratory
16 services bureau and, if the court has made a determination of probable
17 cause, the sample will be analyzed for inclusion in the DNA database.
18 If a court finds there is no probable cause, the laboratory will
19 destroy the biological sample.

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

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

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

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

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

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

7 (4) There shall be a penalty of twenty-five dollars for failure to
8 respond to a notice of traffic infraction except where the infraction
9 relates to parking as defined by local law, ordinance, regulation, or
10 resolution or failure to pay a monetary penalty imposed pursuant to
11 this chapter. A local legislative body may set a monetary penalty not
12 to exceed twenty-five dollars for failure to respond to a notice of
13 traffic infraction relating to parking as defined by local law,
14 ordinance, regulation, or resolution. The local court, whether a
15 municipal, police, or district court, shall impose the monetary penalty
16 set by the local legislative body.

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

22 (6) Whenever a monetary penalty, fee, cost, assessment, or other
23 monetary obligation is imposed by a court under this chapter, it is
24 immediately payable and is enforceable as a civil judgment under Title
25 6 RCW. If the court determines, in its discretion, that a person is
26 not able to pay a monetary obligation in full, and not more than one
27 year has passed since the later of July 1, 2005, or the date the
28 monetary obligation initially became due and payable, the court shall
29 enter into a payment plan with the person, unless the person has
30 previously been granted a payment plan with respect to the same
31 monetary obligation, or unless the person is in noncompliance of any
32 existing or prior payment plan, in which case the court may, at its
33 discretion, implement a payment plan. If the court has notified the
34 department that the person has failed to pay or comply and the person
35 has subsequently entered into a payment plan and made an initial
36 payment, the court shall notify the department that the infraction has
37 been adjudicated, and the department shall rescind any suspension of
38 the person's driver's license or driver's privilege based on failure to

1 respond to that infraction. "Payment plan," as used in this section,
2 means a plan that requires reasonable payments based on the financial
3 ability of the person to pay. The person may voluntarily pay an amount
4 at any time in addition to the payments required under the payment
5 plan.

6 (a) If a payment required to be made under the payment plan is
7 delinquent or the person fails to complete a community restitution
8 program on or before the time established under the payment plan,
9 unless the court determines good cause therefor and adjusts the payment
10 plan or the community restitution plan accordingly, the court may refer
11 the unpaid monetary penalty, fee, cost, assessment, or other monetary
12 obligation for civil enforcement until all monetary obligations,
13 including those imposed under subsections (3) and (4) of this section,
14 have been paid, and court authorized community restitution has been
15 completed, or until the court has entered into a new time payment or
16 community restitution agreement with the person. For those infractions
17 subject to suspension under RCW 46.20.289, the court shall notify the
18 department of the person's failure to meet the conditions of the plan,
19 and the department shall suspend the person's driver's license or
20 driving privileges.

21 (b) If a person has not entered into a payment plan with the court
22 and has not paid the monetary obligation in full on or before the time
23 established for payment, the court may refer the unpaid monetary
24 penalty, fee, cost, assessment, or other monetary obligation to a
25 collections agency until all monetary obligations have been paid,
26 including those imposed under subsections (3) and (4) of this section,
27 or until the person has entered into a payment plan under this section.
28 For those infractions subject to suspension under RCW 46.20.289, the
29 court shall notify the department of the person's delinquency, and the
30 department shall suspend the person's driver's license or driving
31 privileges.

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

37 (d) Nothing in this section precludes a court from contracting with
38 outside entities to administer its payment plan system. When outside

1 entities are used for the administration of a payment plan, the court
2 may assess the person a reasonable fee for such administrative
3 services, which fee may be calculated on a periodic, percentage, or
4 other basis.

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

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

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

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

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

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

27 (8)(a) In addition to any other penalties imposed under this
28 section and not subject to the limitation of subsection (1) of this
29 section, a person found to have committed a traffic infraction other
30 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
31 penalty of twenty dollars. The court may not reduce, waive, or suspend
32 the additional penalty unless the court finds the offender to be
33 indigent. If a court authorized community restitution program for
34 offenders is available in the jurisdiction, the court shall allow
35 offenders to offset all or a part of the penalty due under this
36 subsection (8) by participation in the court authorized community
37 restitution program.

1 (b) Eight dollars and fifty cents of the additional penalty under
2 (a) of this subsection shall be remitted to the state treasurer. The
3 remaining revenue from the additional penalty must be remitted under
4 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
5 under this subsection to the state treasurer must be deposited in the
6 state general fund. The balance of the revenue received by the county
7 or city treasurer under this subsection must be deposited into the
8 county or city current expense fund. Moneys retained by the city or
9 county under this subsection shall constitute reimbursement for any
10 liabilities under RCW 43.135.060.

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

15 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
16 hundred fifty dollars for the first violation; (b) five hundred dollars
17 for the second violation; and (c) seven hundred fifty dollars for each
18 violation thereafter.

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

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

30 (2) When a minor has been adjudicated a juvenile offender for an
31 offense which, if committed by an adult, would constitute a violation
32 of any criminal statute of this state and a crime laboratory analysis
33 was performed, in addition to any other disposition imposed, the court
34 shall assess a crime laboratory analysis fee of one hundred dollars for
35 each adjudication. Upon a verified petition by a minor assessed the
36 fee, the court may suspend payment of all or part of the fee (~~if~~)
37 if it finds that the minor does not have the ability to pay the fee.

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

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

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

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

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