

HOUSE BILL REPORT

HB 2969

As Reported by House Committee On:
Criminal Justice & Corrections
Appropriations

Title: An act relating to expanding the convicted offender DNA data base.

Brief Description: Expanding the convicted offender DNA data base.

Sponsors: Representatives O'Brien, Miloscia, Lovick, Linville, McDonald, Simpson, D. and Rockefeller.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/4/04, 2/6/04 [DPS];
Appropriations: 2/9/04 [DP2S(w/o sub CJC)].

Brief Summary of Second Substitute Bill

- Expands the deoxyribonucleic acid (DNA) identification system.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Pearson and Veloria.

Staff: Jim Morishima (786-7191).

Background:

The Washington State Patrol operates and maintains a deoxyribonucleic acid (DNA) identification system. The purpose of the system is to help with criminal investigations and to identify human remains or missing persons. The system contains DNA samples from persons convicted of any felony and the following misdemeanors: stalking, harassment, and communicating with a minor for immoral purposes.

County and city jails are responsible for collecting biological samples for DNA analysis

from offenders incarcerated in their facilities. The Department of Corrections and the Department of Social and Health Services are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. Local police and sheriff's departments are responsible for collecting biological samples for DNA analysis from offenders who do not serve any term of incarceration.

A sentencing court must impose a fee of \$100 for the collection of a DNA sample upon every offender convicted of a felony unless such a fee would result in undue hardship on the offender. The fee is a legal financial obligation and is payable only after payment of all other legal financial obligations in the sentence.

Summary of Substitute Bill:

The DNA identification system is expanded to include DNA samples from persons:

- Convicted of patronizing a prostitute;
- Who were charged with any felony or patronizing a prostitute, but pled guilty to another offense; and
- Who were found not guilty by reason of insanity of any felony, stalking, harassment, communicating with a minor for immoral purposes, and patronizing a prostitute.

For persons found not guilty by reason of insanity, the local police department or sheriff's office is responsible for obtaining the biological samples for DNA analysis before the person is civilly committed or released.

Substitute Bill Compared to Original Bill:

The substitute bill removes persons convicted of prostitution and persons who were charged with prostitution, but pled guilty to another offense, from the provisions expanding the DNA database. The substitute requires DNA testing for persons found not guilty by reason of insanity of any felony, stalking, harassment, communicating with a minor for immoral purposes, and patronizing a prostitute (instead of persons found not guilty by reason of insanity for any crime).

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2004.

Testimony For: Many serial killers frequent prostitutes and victimize prostitutes. Having data on prostitutes and people who patronize prostitutes would help the police catch these killers sooner. It will also lead to the resolution of cold cases and help to

identify human remains. The local costs in this bill may be offset by federal funding.

Testimony Against: DNA testing was originally authorized for sex and violent crimes. There has been a clear progression of expansion with regard to DNA testing. For some crimes that are now included in the database, there is no rational basis for the testing. Expanding the database to include misdemeanors makes this situation worse. This bill also treats persons charged with a felony who plead guilty to a misdemeanor differently than persons charged and convicted of that same misdemeanor. This bill may endanger the constitutionality of the DNA database.

Persons Testifying: (In support) Representative O'Brien, prime sponsor; Dr. Barry Logan, Washington State Patrol; and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.

(Opposed) Jerry Sheehan, American Civil Liberties Union.

Persons Signed In To Testify But Not Testifying: None.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The second substitute bill be substituted therefor and the second substitute bill do pass and do not pass the substitute bill by Committee on Criminal Justice & Corrections. Signed by 25 members: Representatives Sommers, Chair; Fromhold, Vice Chair; Sehlin, Ranking Minority Member; Pearson, Assistant Ranking Minority Member; Alexander, Anderson, Boldt, Buck, Chandler, Clements, Cody, Conway, Cox, Dunshee, Grant, Hunter, Kagi, Kenney, Kessler, Linville, McDonald, Miloscia, Schual-Berke, Sump and Talcott.

Minority Report: Do not pass. Signed by 1 member: Representative McIntire.

Staff: Bernard Dean (786-7130).

Summary of Recommendation of Committee On Appropriations Compared to Recommendation of Committee On Criminal Justice & Corrections:

The second substitute bill makes the measure null and void if specific funding is not appropriated in the omnibus appropriations act.

Appropriation: None.

Fiscal Note: Available on the original bill. New fiscal note requested for second substitute bill on February 8, 2004.

Effective Date of Second Substitute Bill: The bill takes effect July 1, 2004. However

the bill is null and void unless funded in the budget.

Testimony For: If we had this addition to the DNA data base in operation when Gary Ridgeway and Robert Yates were killing women, we would have been able to get them earlier and stop the killing based on their DNA evidence.

Testimony Against: None.

Persons Testifying: Representative O'Brien, prime sponsor.

Persons Signed In To Testify But Not Testifying: None.