
**Public Safety & Emergency
Preparedness Committee**

ESSB 6488

Brief Description: Providing for broader collection of biological samples for the DNA identification of convicted sex offenders and other persons.

Sponsors: Senate Committee on Human Services & Corrections (originally sponsored by Senators Regala, Hargrove, Brandland, Stevens, Rasmussen, Delvin, Benton and Kilmer; by request of Governor Gregoire).

Brief Summary of Engrossed Substitute Bill

- Expands the deoxyribonucleic acid (DNA) identification system to include information from persons required to register as sex or kidnapping offenders.
- Expands the DNA identification system to include information from persons convicted of certain gross misdemeanors and misdemeanors.
- Changes the manner in which biological samples are collected and tested.
- Changes the manner in which fees connected with the DNA identification system are levied and disbursed.
- Removes the requirement that the Washington State Patrol consult with the University of Washington School of Medicine when providing certain DNA-related services.

Hearing Date: 2/25/08

Staff: Jim Morishima (786-7191).

Background:

The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) identification system. The purpose of the system is to help with criminal investigations and to

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identify human remains or missing persons. 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.

I. Offenders from Whom a Biological Sample Must be Collected

Biological samples must be collected from persons convicted of any felony and the following gross misdemeanors: Stalking, Harassment, and Communicating with a Minor for Immoral Purposes.

II. Testing Biological Samples

The Director of the Forensic Laboratory Services Bureau of the WSP (Director) is required to test the biological samples for inclusion in the DNA database.

III. Applicability

Whether the requirement to submit a biological sample applies to a given offender depends on whether the offender committed his or her offense on or after a certain date or was still incarcerated as of a certain date. For example, the requirement applies to all adults and juveniles convicted of a felony that is not a violent or sex offense, Stalking, Harassment, or Communication with a Minor for Immoral Purposes, committed on or after July 1, 2002, or any such adults or juveniles still incarcerated on July 1, 2002.

IV. Funding

A sentencing court must charge every offender convicted of any felony committed on or after July 1, 2002, a fee of \$100 for collection of a DNA sample unless it would result in an undue hardship on the offender. The fee must be deposited in the DNA Database Account, expenditures from which may only be used for the creation, operation, and maintenance of the DNA database.

V. Other DNA-Related Services Provided by the WSP

The WSP, in consultation with the University of Washington School of Medicine, may provide DNA analysis services to law enforcement agencies, provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court, and provide expert testimony in court on DNA evidentiary issues.

Summary of Bill:

I. Offenders from Whom a Biological Sample Must be Collected

Sex and kidnapping offenders currently required to register must have a biological sample collected for inclusion in the DNA identification system. In addition, the following misdemeanors and gross misdemeanors are added to the list of crimes for which a biological sample must be collected pursuant to conviction:

- Assault in the fourth degree with sexual motivation;
- Custodial Sexual Misconduct in the second degree;

- Failure to Register;
- Patronizing a Prostitute;
- Prostitution;
- Sexual Misconduct with a Minor in the second degree; and
- Violations of sexual assault protection orders.

If a DNA sample already exists from the offender in question, another biological sample does not have to be collected.

II. Testing Biological Samples

The Forensic Laboratory Services Bureau of the WSP itself, rather than its Director, is responsible for testing biological samples for inclusion in the DNA database. Duplicate biological samples may be excluded from testing unless the testing is deemed necessary or advisable by the Director.

III. Applicability

The existing dates of applicability are eliminated. Instead, the requirement to submit a biological sample applies to all offenders convicted on or after the effective date of the act or who are incarcerated as of the effective date of the act.

IV. Funding

A court must levy the \$100 fee upon a conviction for any crime included in the database regardless of when it was committed. The fee must be imposed regardless of whether it would be a hardship to the offender. Eighty percent of the fee must be transmitted to the DNA database account while 20 percent must be transmitted to the agency responsible for collecting the biological sample.

IV. Other DNA-Related Services Provided by the WSP

The requirement that the WSP consult with the University of Washington School of Medicine when providing various DNA-related services is eliminated.

Appropriation: None.

Fiscal Note: Preliminary fiscal note available.

Effective Date: The bill takes effect 90 days after adjournment of session in which bill is passed.