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**SUBSTITUTE HOUSE BILL 1069**

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**State of Washington 64th Legislature 2015 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, Appleton, Kagi, Gregerson, Reykdal, Carlyle, Stanford, Sawyer, Fitzgibbon, Jinkins, Hudgins, Goodman, Clibborn, Moeller, Moscoso, Farrell, and Fey)

AN ACT Relating to preservation of DNA work product; and adding a new chapter to Title 5 RCW.

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

NEW SECTION. **Sec.**  (1) In any felony case initially charged as a violent or sex offense, as defined in RCW 9.94A.030, a governmental entity shall preserve any DNA work product that has been secured in connection with the criminal case according to the following guidelines:

(a) Where a defendant has been charged and convicted in connection with the case, the DNA work product must be maintained throughout the length of the sentence, including any period of community custody extending through final discharge; or

(b) Where no person has been charged or where no conviction has been made in connection with the case, the DNA work product must be maintained throughout the period of the statute of limitations pursuant to RCW 9A.04.080.

(2) For purposes of this section:

(a) "Amplified DNA" means DNA generated during scientific analysis using a polymerase chain reaction.

(b) "DNA work product" means (i) product generated during the process of scientific analysis of such material, except amplified DNA, material that had been subjected to DNA extraction, and DNA extracts from reference samples; or (ii) any material catalogued on a microscope slide, swab, in a sample tube, cutting, DNA extract, or some other similar retention method used to isolate potential biological evidence that has been collected by law enforcement as part of its investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis and derived from:

(A) The contents of a sexual assault examination kit;

(B) Blood;

(C) Semen;

(D) Hair;

(E) Saliva;

(F) Skin tissue;

(G) Fingerprints;

(H) Bones;

(I) Teeth; or

(J) Any other identifiable human biological material or physical evidence.

Notwithstanding the foregoing, "DNA work product" does not include a reference sample collected unless it has been shown through DNA comparison to associate the source of the sample with the criminal case for which it was collected.

(c) "Governmental entity" means any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.

(d) "Reference sample" means a known sample collected from an individual by a governmental entity for the purpose of comparison to DNA profiles developed in the criminal case(s).

(3) If a court finds that DNA work product was destroyed intentionally to violate this section, the court may impose appropriate sanctions. The court may not order the reversal of a conviction under this section on the sole grounds that the DNA work product is no longer available.

NEW SECTION. **Sec.**  Section 1 of this act constitutes a new chapter in Title 5 RCW.

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