

# HOUSE BILL REPORT

## HB 1153

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**As Reported by House Committee On:**  
Public Safety & Emergency Preparedness  
General Government Appropriations & Oversight

**Title:** An act relating to costs for the collection of DNA samples.

**Brief Description:** Concerning costs for the collection of DNA samples.

**Sponsors:** Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins.

**Brief History:**

**Committee Activity:**

Public Safety & Emergency Preparedness: 1/25/11, 2/4/11 [DPS];

General Government Appropriations & Oversight: 2/15/11, 2/16/11 [DP2S(w/o sub PSEP)].

**Brief Summary of Second Substitute Bill**

- Expands the fee for collection of a biological sample for deoxyribonucleic acid (DNA) identification to misdemeanors, gross misdemeanors, and juvenile offenses that require collection of a DNA sample.
- Imposes the DNA fee regardless of whether a biological sample was collected.

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**HOUSE COMMITTEE ON PUBLIC SAFETY & EMERGENCY PREPAREDNESS**

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 10 members: Representatives Hurst, Chair; Ladenburg, Vice Chair; Pearson, Ranking Minority Member; Klippert, Assistant Ranking Minority Member; Armstrong, Goodman, Hope, Kirby, Moscoso and Ross.

**Staff:** Alexa Silver (786-7190).

**Background:**

The Washington State Patrol operates and maintains a deoxyribonucleic acid (DNA) identification system. The purposes of the system are to assist with criminal investigations

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and identify human remains and missing persons. Unless a sample has already been collected, biological samples must be collected from any person (adult or juvenile) convicted of a felony, any person who is required to register as a sex or kidnapping offender, and any person convicted of the following misdemeanors and gross misdemeanors:

- Assault in the fourth degree with sexual motivation;
- Communication with a Minor for Immoral Purposes;
- Custodial Sexual Misconduct in the second degree;
- Failure to Register as a Sex or Kidnapping Offender;
- Patronizing a Prostitute;
- Harassment;
- Stalking;
- Sexual Misconduct with a Minor in the second degree; and
- Violation of a Sexual Assault Protection Order.

When a sentence is imposed under the Sentencing Reform Act for a felony offense, the court must levy a \$100 fee for any crime that requires collection of a DNA sample. The fee constitutes a legal financial obligation payable after all other legal financial obligations included in the sentence have been satisfied. A legal financial obligation is money ordered by the superior court for obligations including: victim restitution, crime victims' compensation, court costs, costs of defense, fines, and any other financial obligation assessed as a result of a felony conviction.

Eighty percent of the fee is deposited in the state DNA Database Account, and 20 percent is transmitted to the agency responsible for collection of the biological sample. Jails, the Department of Corrections, and the Department of Social and Health Services collect samples from offenders incarcerated in their respective facilities. Police and sheriff's departments collect samples from offenders who do not serve a term of incarceration.

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#### **Summary of Substitute Bill:**

Sentences imposed for crimes that by law require collection of a DNA sample must include a \$100 fee. Thus the fee must be included in sentences not only for felonies committed by adults, but also for the specified gross misdemeanors and misdemeanors and for offenses committed by juveniles. The fee must be imposed regardless of whether a biological sample was collected.

When the DNA sample collection fee is imposed as a consequence of a felony conviction, it is payable after all other legal financial obligations have been paid. When the fee is imposed as a consequence of a misdemeanor or gross misdemeanor conviction, it is payable in the same manner as other assessments.

#### **Substitute Bill Compared to Original Bill:**

The substitute bill requires that the fee be imposed regardless of whether a biological sample was collected.

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**Appropriation:** None.

**Fiscal Note:** Available.

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

**Staff Summary of Public Testimony:**

(In support) This bill gives district and municipal courts the same authority that superior courts have to impose a fee.

(Opposed) This bill contributes to the expansion of legal financial obligations, which accrue interest at a rate of 12 percent. This creates a large debt burden for offenders, which is a barrier to successful re-entry that can lead to recidivism.

**Persons Testifying:** (In support) Representative Ladenburg, prime sponsor; and Melanie Stewart and Sam Meyer, District and Municipal Court Judges Association.

(Opposed) Shankar Narayan, American Civil Liberties Union of Washington.

**Persons Signed In To Testify But Not Testifying:** None.

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**HOUSE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS & OVERSIGHT**

**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 Public Safety & Emergency Preparedness. Signed by 12 members: Representatives Hudgins, Chair; Miloscia, Vice Chair; McCune, Ranking Minority Member; Taylor, Assistant Ranking Minority Member; Ahern, Blake, Fitzgibbon, Ladenburg, Moscoso, Pedersen, Van De Wege and Wilcox.

**Staff:** Alex MacBain (786-7288).

**Summary of Recommendation of Committee On General Government Appropriations & Oversight Compared to Recommendation of Committee On Public Safety & Emergency Preparedness:**

The General Government Appropriations and Oversight Committee recommended removing the requirement that the deoxyribonucleic acid (DNA) conviction fee is imposed regardless of whether a biological sample is collected from the offender.

**Appropriation:** None.

**Fiscal Note:** Available.

**Effective Date of Second Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) The bill gives district and municipal courts the same authority to impose a DNA conviction fee that the superior courts currently have. None of the fees go to the courts; it just did not make sense that felony offenders need to pay the fee while misdemeanor offenders do not.

(Opposed) Levying additional legal financial obligations on offenders coming out of the criminal justice system is not a good use of our resources, simply because of the correlation between successful re-entry and lowered recidivism. There are over 50 kinds of legal financial obligations levied, and interest accrues at a rate of 12 percent.

**Persons Testifying:** (In support) Judge Brett Buckley, Thurston County District Court.

(Opposed) Shankar Narayan, American Civil Liberties Union of Washington.

**Persons Signed In To Testify But Not Testifying:** None.