
**Criminal Justice & Corrections
Committee**

HB 2405

Brief Description: Facilitating the convicted offender DNA data base.

Sponsors: Representatives Miloscia, O'Brien, Ballasiotes, Lantz, Delvin, Lovick, Hurst, Woods and Esser.

Brief Summary of Bill

- Expands the deoxyribonucleic acid (DNA) identification system to include persons convicted of any felony and certain misdemeanor offenses.

Hearing Date: 1/25/02

Staff: Jim Morishima (786-7191).

Background:

The Washington State Patrol operates and maintains a DNA identification system. The system contains DNA information on: 1) All adults convicted of felony sex offenses and felony violent offenses after July 1, 1990; 2) all juveniles convicted of such offenses after July 1, 1994; and 3) all persons incarcerated for such offenses as of July 25, 1999.

The county is responsible for collecting blood samples from offenders who serve their terms of confinement in a county facility. The Department of Corrections and the Department of Social and Health Services (Juvenile Rehabilitation Administration) are responsible for collecting blood samples from offenders who serve their terms of confinement in their respective facilities.

Blood samples must be used only for providing DNA or other blood grouping tests for identification analysis and prosecuting sex or violent offenses. DNA identification data cannot be used for any purpose other than criminal investigation or improving the operation of the system.

Summary of Bill:

The class of persons from whom DNA samples are taken is expanded to include persons convicted of:

- Any felony;
- Stalking,
- Assault in the fourth degree;
- Harassment; and
- Communicating with a minor for immoral purposes.

Samples must also be taken from persons convicted before the effective date of the act who are still incarcerated as of the effective date of the act. The method of collecting the samples is no longer limited to drawing blood only.

A county or city is responsible for collecting samples from offenders who serve their terms of confinement in a county or city facility. A city or county is also responsible for collecting samples from individuals who do not serve any term of confinement.

The director of the Forensic Laboratory Services Bureau of the state patrol must perform the testing of the samples within available funding. Samples from persons convicted of felony sex offenses or felony violent offenses must be given priority. The samples may be retained by the bureau and may be submitted to the Federal Bureau of Investigation's combined DNA index system. The list of purposes for which the DNA information may be used is expanded to include the identification of human remains or missing persons.

The state patrol must consult with the Forensic Investigations Council when adopting rules to implement the DNA identification system. The rules must identify appropriate sources and collection methods for biological samples needed for purposes of DNA identification analysis.

It is clarified that no cause of action may be brought based on the non-collection of, non-analysis of, or delay in collecting DNA samples. It is also clarified that the detention, arrest, or conviction of a person based on the DNA identification system is not invalidated because the DNA sample was in the system by mistake, or the conviction pursuant to which the sample was collected was overturned or altered.

An offender convicted of a felony must be assessed a fee of \$100 for the collection of a DNA sample, unless the court finds that the 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.

The DNA Data Base Account is created in the custody of the State Treasurer. The fees collected from convicted felons for the collection of DNA samples are to be deposited in the account. Expenditures from the account may only be used for the creation, operation, and maintenance of the DNA data base. Only the chief of the Washington State Patrol may authorize expenditures from the account.

Appropriation: None.

Fiscal Note: Requested on January 16, 2002.

Effective Date: This act takes effect on July 1, 2002.