

HOUSE BILL REPORT

HB 2468

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

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

Brief Description: Facilitating the convicted offender DNA data base.

Sponsors: Representatives Miloscia, O'Brien and Wood; by request of Governor Locke.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 1/25/02, 2/5/02 [DPS];
Appropriations: 2/9/02 [DPS(CJC)].

Brief Summary of Substitute Bill

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

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; Lovick, Vice Chair; Ballasiotes, Ranking Minority Member; Ahern, Kagi, Kirby and Morell.

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. The DNA identification data cannot be used for any purpose other than criminal investigation or improving the operation of the system.

Summary of Substitute Bill:

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

- Any felony;
- Stalking;
- 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.

No cause of action may be brought based on the non-collection of, non-analysis of, or delay in collecting the DNA samples. 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.

Substitute Bill Compared to Original Bill:

Instead of expanding the database to include only certain felonies, the substitute expands the data base to include all felonies and the following misdemeanors: stalking, harassment, and communicating with a minor for immoral purposes. The substitute clarifies that the testing requirements with respect to the newly added crimes apply to people convicted on or after the effective date of the act and people convicted before the effective date of the act who are still incarcerated on the effective date of the act.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: The bill takes effect July 1, 2002.

Testimony For: (Original bill) This bill will help make our communities safer. An expanded data base will increase the number of crimes that are solved in the state. The DNA evidence can help solve crimes that have been unsolved for a long period of time. This bill will prevent crime, exonerate innocent people, and make law enforcement more efficient. Having a narrow list of crimes to which the testing requirement applies is better than having a broader list, because collecting samples imposes costs on local governments and because of privacy concerns.

Testimony Against: None.

Testified: Representative Miloscia, prime sponsor; Richard Dorsett, father of a crime victim; Bob Sheehan, Tacoma Police Department; Tim Schellberg, Washington Association of Sheriffs and Police Chiefs; Dr. Barry K. Logan, Washington State Patrol; and Dick Van Wagenen, Governor's Policy Office.

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: The substitute bill by Committee on Criminal Justice & Corrections be substituted therefor and the substitute bill do pass. Signed by 25 members: Representatives Sommers, Chair; Doumit, 1st Vice Chair; Fromhold, 2nd Vice Chair; Sehlin, Ranking Minority Member; Alexander, Boldt, Buck, Clements, Cody, Cox, Dunshee, Grant, Kagi, Kenney, Kessler, Linville, Lisk, Mastin, McIntire, Pearson, Pflug, Ruderman, Schual-Berke, Talcott and Tokuda.

Staff: Heather Flodstrom (786-7391).

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

No new changes were recommended.

Appropriation: None.

Fiscal Note: Available on original bill.

Effective Date of Substitute Bill: The bill takes effect on July 1, 2002.

Testimony For: This bill solves violent crimes by using DNA technology, and it would increase the number of DNA samples in the database from 3,000 to 27,000. This bill will also generate a savings from requiring a biological swab rather than a blood test for collecting the DNA sample and from speeding up investigations at the local level. The DNA database does four things: 1) it solves crimes; 2) it prevents crimes; 3) it exonerates the innocent; and 4) it saves time in investigations. There are 36 other states with DNA databases like Washington's, and there are 14 states with all felon databases like this bill would create for Washington. There will likely be federal funding for processing DNA cases, but the funding will only cover the backlog, not future cases.

Testimony Against: None.

Testified: Dick VanWagenen, Governor's Policy Office; and Tim Schellberg, Washington Association of Sheriffs and Police Chiefs.