
HOUSE BILL 2969

State of Washington 58th Legislature 2004 Regular Session

By Representatives O'Brien, Miloscia, Lovick, Linville, McDonald, Simpson, D. and Rockefeller

Read first time 01/26/2004. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to expanding the convicted offender DNA data base;
2 amending RCW 43.43.754; and providing an effective date.

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

4 **Sec. 1.** RCW 43.43.754 and 2002 c 289 s 2 are each amended to read
5 as follows:

6 (1) Every adult or juvenile individual (~~convicted of a felony,~~
7 ~~stalking under RCW 9A.46.110, harassment under RCW 9A.46.020,~~
8 ~~communicating with a minor for immoral purposes under RCW 9.68A.090, or~~
9 ~~adjudicated guilty of an equivalent juvenile offense)) must have a
10 biological sample collected for purposes of DNA identification analysis
11 if he or she:~~

12 (a) Has been convicted, or adjudicated guilty of an equivalent
13 juvenile offense, of any of the following crimes:

14 (i) Any felony;

15 (ii) Stalking under RCW 9A.46.110;

16 (iii) Harassment under RCW 9A.46.020;

17 (iv) Communicating with a minor for immoral purposes under RCW
18 9.68A.090;

19 (v) Prostitution under RCW 9A.88.030; or

1 (vi) Patronizing a prostitute under RCW 9A.88.110;

2 (b) Has been charged with any of the following crimes or equivalent
3 juvenile offenses, but pled guilty to another offense:

4 (i) Any felony;

5 (ii) Prostitution under RCW 9A.88.030;

6 (iii) Patronizing a prostitute under RCW 9A.88.110; or

7 (c) Has been found not guilty by reason of insanity for any crime.

8 (2) The biological sample shall be collected in the following
9 manner:

10 (a) For persons convicted of such offenses or adjudicated guilty of
11 an equivalent juvenile offense who do not serve a term of confinement
12 in a department of corrections facility, and do serve a term of
13 confinement in a city or county jail facility, the city or county shall
14 be responsible for obtaining the biological samples either as part of
15 the intake process into the city or county jail or detention facility
16 for those persons convicted on or after July 1, 2002, or within a
17 reasonable time after July 1, 2002, for those persons incarcerated
18 before July 1, 2002, who have not yet had a biological sample
19 collected, beginning with those persons who will be released the
20 soonest.

21 (b) For persons convicted of such offenses or adjudicated guilty of
22 an equivalent juvenile offense who do not serve a term of confinement
23 in a department of corrections facility, and do not serve a term of
24 confinement in a city or county jail facility, the local police
25 department or sheriff's office is responsible for obtaining the
26 biological samples after sentencing on or after July 1, 2002.

27 (c) For persons convicted of such offenses or adjudicated guilty of
28 an equivalent juvenile offense, who are serving or who are to serve a
29 term of confinement in a department of corrections facility or a
30 department of social and health services facility, the facility holding
31 the person shall be responsible for obtaining the biological samples
32 either as part of the intake process into such facility for those
33 persons convicted on or after July 1, 2002, or within a reasonable time
34 after July 1, 2002, for those persons incarcerated before July 1, 2002,
35 who have not yet had a biological sample collected, beginning with
36 those persons who will be released the soonest.

37 (d) For persons found not guilty by reason of insanity for any

1 crime, the local police department or sheriff's office is responsible
2 for obtaining the biological samples before the person is civilly
3 committed or released on or after July 1, 2004.

4 ((+2)) (3) Any biological sample taken pursuant to RCW 43.43.752
5 through 43.43.758 may be retained by the forensic laboratory services
6 bureau, and shall be used solely for the purpose of providing DNA or
7 other tests for identification analysis and prosecution of a criminal
8 offense or for the identification of human remains or missing persons.
9 Nothing in this section prohibits the submission of results derived
10 from the biological samples to the federal bureau of investigation
11 combined DNA index system.

12 ((+3)) (4) The director of the forensic laboratory services bureau
13 of the Washington state patrol shall perform testing on all biological
14 samples collected under subsection (1) of this section, to the extent
15 allowed by funding available for this purpose. The director shall give
16 priority to testing on samples collected from those adults or juveniles
17 convicted of a felony or adjudicated guilty of an equivalent juvenile
18 offense that is defined as a sex offense or a violent offense in RCW
19 9.94A.030.

20 ((+4)) (5) This section applies to all adults who are convicted of
21 a sex or violent offense after July 1, 1990; and to all adults who were
22 convicted of a sex or violent offense on or prior to July 1, 1990, and
23 who are still incarcerated on or after July 25, 1999. This section
24 applies to all juveniles who are adjudicated guilty of a sex or violent
25 offense after July 1, 1994; and to all juveniles who were adjudicated
26 guilty of a sex or violent offense on or prior to July 1, 1994, and who
27 are still incarcerated on or after July 25, 1999. This section applies
28 to all adults and juveniles who are convicted of a felony other than a
29 sex or violent offense, stalking under RCW 9A.46.110, harassment under
30 RCW 9A.46.020, or communicating with a minor for immoral purposes under
31 RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense,
32 on or after July 1, 2002; and to all adults and juveniles who were
33 convicted or adjudicated guilty of such an offense before July 1, 2002,
34 and are still incarcerated on or after July 1, 2002. This section
35 applies to all adults and juveniles who are convicted of prostitution
36 under RCW 9A.88.030 or patronizing a prostitute under RCW 9A.88.110, or
37 adjudicated guilty of an equivalent juvenile offense, on or after July
38 1, 2004; to all adults and juveniles who were charged with any felony,

1 prostitution under RCW 9A.88.030, or patronizing a prostitute under RCW
2 9A.88.110, or an equivalent juvenile offense, but pled guilty to
3 another offense on or after July 1, 2004; to all adults and juveniles
4 who were found not guilty by reason of insanity for any crime on or
5 after July 1, 2004; and to all such adults and juveniles who were
6 convicted, adjudicated guilty, pled guilty, or found not guilty by
7 reason of insanity before July 1, 2004, and are still incarcerated or
8 held on or after July 1, 2004.

9 ((+5)) (6) This section creates no rights in a third person. No
10 cause of action may be brought based upon the noncollection or
11 nonanalysis or the delayed collection or analysis of a biological
12 sample authorized to be taken under RCW 43.43.752 through 43.43.758.

13 ((+6)) (7) The detention, arrest, or conviction of a person based
14 upon a data base match or data base information is not invalidated if
15 it is determined that the sample was obtained or placed in the data
16 base by mistake, or if the conviction or juvenile adjudication that
17 resulted in the collection of the biological sample was subsequently
18 vacated or otherwise altered in any future proceeding including but not
19 limited to posttrial or postfact-finding motions, appeals, or
20 collateral attacks.

21 NEW SECTION. Sec. 2. If any provision of this act or its
22 application to any person or circumstance is held invalid, the
23 remainder of the act or the application of the provision to other
24 persons or circumstances is not affected.

25 NEW SECTION. Sec. 3. This act takes effect July 1, 2004.

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