

SENATE BILL REPORT

SB 5165

As Reported By Senate Committee On:
Judiciary, February 22, 2005

Title: An act relating to expansion of the DNA identification system.

Brief Description: Expanding the DNA identification system.

Sponsors: Senators Kline, Brandland, Roach, Stevens, Regala, Shin, Keiser, McCaslin and Thibaudeau.

Brief History:

Committee Activity: Judiciary: 2/9/05, 2/22/05 [DPS-WM].

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5165 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Kline, Chair; Weinstein, Vice Chair; Johnson, Ranking Minority Member; Esser, Hargrove, McCaslin, Rasmussen and Thibaudeau.

Staff: Aldo Melchiori (786-7439)

Background: Adults and juveniles convicted or adjudicated guilty for felonies, stalking, harassment, or communicating with a minor for immoral purposes must submit a biological sample for DNA identification analysis. These samples may be retained by the forensic laboratory services bureau and the results of analysis are stored in the DNA identification system (DNA data base). The samples and analysis are used solely as needed for prosecutions for criminal offenses or identification of human remains or missing persons.

The testing of biological samples is performed to the extent allowed by available funding. Priority is given to sample obtained after conviction for a sex or violent offense. Every felony sentence, for a sex or violent offense, includes a \$100 fee that is deposited in the state DNA data base account. Money from this account is used for the operation and maintenance of the DNA data base. The fee is a legal financial obligation that may be waived by the court if it would result in undue hardship.

Summary of Substitute Bill: Adults and juveniles convicted or adjudicated guilty for (1) felonies; (2) gross misdemeanors, when the offender has a criminal history that includes a felony committed within the past ten years prior to the current conviction; or (3) assault in the fourth degree, sexual misconduct with a minor in the second degree, custodial sexual misconduct in the second degree, harassment, stalking, indecent exposure, child abuse violation, or violation of a domestic violence order, must submit a biological sample for DNA identification analysis. This rule applies to convictions and adjudications on or after the effective date of the act and to those offenders still incarcerated for these offenses on or after that date.

Money from the DNA data base account can now also be used for biological sample analysis; sample collection costs, including reimbursement to local law enforcement for sample collection; sample identification; further development of the system; and costs related to crime scene testing. Reimbursing local law enforcement for sample collection costs is a priority expenditure. Beginning 2010, account surpluses may be redistributed proportionately to local governments that contributed to the account, but they may only be used for forensic DNA related programs.

Substitute Bill Compared to Original Bill: The original bill was not considered.

Appropriation: None.

Fiscal Note: Requested on February 4, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: DNA databases are one of the most useful tools available for solving crimes. This may also help prevent crimes because criminals will be identified and caught earlier in their criminal career. This technology is being successfully used to solve property crimes.

Testimony Against: Including all gross misdemeanors casts too broad a net. There is no nexus between gross misdemeanors and future violent or sex offenses. This is a slippery slope toward DNA testing all citizens. The funding provisions will just pile more legal financial obligations on people who already cannot afford to pay them. There is no connection between preventing crimes and placing additional fees on traffic infractions.

Who Testified: PRO: Senator Kline, prime sponsor; Tim Schellberg, WASPC; Steve Wybark, Mason County Sheriff; Barry Logan, WSP. CONCERNS: Jeff Hall, Board of Judicial Administration.

CON: Mark Prothero, WACDL, WDA; Jennifer Shaw, ACLU.