
**Public Safety & Emergency
Preparedness Committee**

HB 2713

Brief Description: Providing for broader collection of biological samples for the DNA identification of convicted sex offenders and other persons.

Sponsors: Representatives Seaquist, Hurst, Lantz, Pearson, Conway, Morrell, Miloscia, Priest, Kenney, Schual-Berke, Haler, McDonald, Loomis, Smith, Bailey, Kristiansen, Hudgins, McCune, Simpson, VanDeWege, Ericks, Kelley, Ormsby and Rolfes; by request of Governor Gregoire.

Brief Summary of Bill

- Expands the deoxyribonucleic acid (DNA) identification system to include information from persons required to register as sex or kidnapping offenders.
- Expands the DNA identification system to include information from persons convicted of certain gross misdemeanors and misdemeanors.
- Changes the manner in which biological samples are collected and tested.
- Change the manner in which fees connected with the DNA identification system are levied and disbursed.
- Removes the requirement that the Washington State Patrol consult with the University of Washington School of Medicine when providing certain DNA-related services.

Hearing Date: 1/23/08

Staff: Jim Morishima (786-7191).

Background:

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) identification system. The purpose of the system is to help with criminal investigations and to identify human remains or missing persons. County and city jails are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. The Department of Corrections and the Department of Social and Health Services are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. Local police and sheriff's departments are responsible for collecting biological samples for DNA analysis from offenders who do not serve any term of incarceration.

I. Offenders from Whom a Biological Sample Must be Collected

Biological samples must be collected from persons convicted of any felony and the following gross misdemeanors: Stalking, Harassment, and Communicating with a Minor for Immoral Purposes.

II. Testing Biological Samples

The Director of the Forensic Laboratory Services Bureau of the WSP (Director) is required to test the biological samples for inclusion in the DNA database. The Director must give priority to testing samples from persons convicted of sex and violent offenses.

III. Funding

A sentencing court must charge every offender convicted of any felony committed on or after July 1, 2002, a fee of \$100 for collection of a DNA sample unless it would result in an undue hardship on the offender. The fee must be deposited in the DNA Database Account, expenditures from which may only be used for the creation, operation, and maintenance of the DNA database.

IV. Other DNA-Related Services Provided by the WSP

The WSP, in consultation with the University of Washington School of Medicine, may provide DNA analysis services to law enforcement agencies, provide assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court, and provide expert testimony in court on DNA evidentiary issues.

Summary of Bill:

I. Offenders from Whom a Biological Sample Must be Collected

Sex and kidnapping offenders required to register before, on, or after the effective date of the legislation must have a biological sample collected for inclusion in the DNA identification system. In addition, the following misdemeanors and gross misdemeanors are added to the list of crimes for which a biological sample must be collected pursuant to conviction:

- Animal Cruelty in the second degree;
- Assault in the fourth degree;
- Commercial Sexual Abuse of a Minor;
- Custodial Sexual Misconduct in the second degree;
- Failure to Register;
- Indecent Exposure;
- Patronizing a Prostitute;
- Prostitution;

- Sexual Misconduct with a Minor in the second degree;
- Unlawful Harboring of a Minor; and
- Violation of certain protection orders.

If a DNA sample already exists from the offender in question, another biological sample does not have to be collected.

II. Testing Biological Samples

The Forensic Laboratory Services Bureau of the WSP itself, rather than its Director, is responsible for testing biological samples for inclusion in the DNA database. Duplicate biological samples may be excluded from testing unless the testing is deemed necessary or advisable by the Director. The requirement that priority be given to sex and violent offenses is eliminated.

III. Funding

A court must levy the \$100 fee upon a conviction for any crime included in the database regardless of when it was committed. The fee must be imposed regardless of whether it would be a hardship to the offender. Eighty percent of the fee must be transmitted to the DNA database account while 20 percent must be transmitted to the agency responsible for collecting the biological sample.

IV. Other DNA-Related Services Provided by the WSP

The requirement that the WSP consult with the University of Washington School of Medicine when providing various DNA-related services is eliminated.

Appropriation: None.

Fiscal Note: Requested on January 16, 2008.

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