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HOUSE BILL 2508

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State of Washington                      60th Legislature                      2008 Regular Session

By Representatives O'Brien, Pearson, Moeller, Williams, Blake, Ormsby, Hinkle, Haler, Rodne, Priest, Hurst, Ahern, Hudgins, Bailey, Schindler, Morrell, Smith, Walsh, Newhouse, Campbell, Roach, Darneille, Barlow, Herrera, Kristiansen, Kelley, McDonald, Warnick, and Simpson

Prefiled 01/04/08. Read first time 01/14/08. Referred to Committee on Public Safety & Emergency Preparedness.

1            AN ACT Relating to expanding the DNA database to include samples  
2 from all registered sex offenders; and amending RCW 43.43.754.

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, and every adult  
10 or juvenile individual subject to sex offender registration under RCW  
11 9A.44.130 on or after the effective date of this act, must have a  
12 biological sample collected for purposes of DNA identification  
13 analysis. If the Washington state patrol crime laboratory already has  
14 a DNA sample from an individual, a subsequent biological sample is not  
15 required to be collected or submitted. The biological sample shall be  
16 collected in the following manner:

17            (a) For persons convicted of such offenses or adjudicated guilty of  
18 an equivalent juvenile offense who do not serve a term of confinement  
19 in a department of corrections facility, and do serve a term of

1 confinement in a city or county jail facility, the city or county shall  
2 be responsible for obtaining the biological samples either as part of  
3 the intake process into the city or county jail or detention facility  
4 for those persons convicted on or after July 1, 2002, or within a  
5 reasonable time after July 1, 2002, for those persons incarcerated  
6 before July 1, 2002, who have not yet had a biological sample  
7 collected, beginning with those persons who will be released the  
8 soonest.

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

15 (c) For persons convicted of such offenses or adjudicated guilty of  
16 an equivalent juvenile offense, who are serving or who are to serve a  
17 term of confinement in a department of corrections facility or a  
18 department of social and health services facility, the facility holding  
19 the person shall be responsible for obtaining the biological samples  
20 either as part of the intake process into such facility for those  
21 persons convicted on or after July 1, 2002, or within a reasonable time  
22 after July 1, 2002, for those persons incarcerated before July 1, 2002,  
23 who have not yet had a biological sample collected, beginning with  
24 those persons who will be released the soonest.

25 (d) For persons subject to sex offender registration under RCW  
26 9A.44.130 who do not have a biological sample collected under (a)  
27 through (c) of this subsection, the county sheriff is responsible for  
28 collecting the sample.

29 (2) Any biological sample taken pursuant to RCW 43.43.752 through  
30 43.43.758 may be retained by the forensic laboratory services bureau,  
31 and shall be used solely for the purpose of providing DNA or other  
32 tests for identification analysis and prosecution of a criminal offense  
33 or for the identification of human remains or missing persons. Nothing  
34 in this section prohibits the submission of results derived from the  
35 biological samples to the federal bureau of investigation combined DNA  
36 index system.

37 (3) The director of the forensic laboratory services bureau of the  
38 Washington state patrol shall perform testing on all biological samples

1 collected under subsection (1) of this section, to the extent allowed  
2 by funding available for this purpose. The director shall give  
3 priority to testing on samples collected from those adults or juveniles  
4 convicted of a felony or adjudicated guilty of an equivalent juvenile  
5 offense that is defined as a sex offense or a violent offense in RCW  
6 9.94A.030.

7 (4) This section applies to all adults who are convicted of a sex  
8 or violent offense after July 1, 1990; and to all adults who were  
9 convicted of a sex or violent offense on or prior to July 1, 1990, and  
10 who are still incarcerated on or after July 25, 1999. This section  
11 applies to all juveniles who are adjudicated guilty of a sex or violent  
12 offense after July 1, 1994; and to all juveniles who were adjudicated  
13 guilty of a sex or violent offense on or prior to July 1, 1994, and who  
14 are still incarcerated on or after July 25, 1999. This section applies  
15 to all adults and juveniles who are convicted of a felony other than a  
16 sex or violent offense, stalking under RCW 9A.46.110, harassment under  
17 RCW 9A.46.020, or communicating with a minor for immoral purposes under  
18 RCW 9.68A.090, or adjudicated guilty of an equivalent juvenile offense,  
19 on or after July 1, 2002; and to all adults and juveniles who were  
20 convicted or adjudicated guilty of such an offense before July 1, 2002,  
21 and are still incarcerated on or after July 1, 2002.

22 (5) This section creates no rights in a third person. No cause of  
23 action may be brought based upon the noncollection or nonanalysis or  
24 the delayed collection or analysis of a biological sample authorized to  
25 be taken under RCW 43.43.752 through 43.43.758.

26 (6) The detention, arrest, or conviction of a person based upon a  
27 database match or database information is not invalidated if it is  
28 determined that the sample was obtained or placed in the database by  
29 mistake, or if the conviction or juvenile adjudication that resulted in  
30 the collection of the biological sample was subsequently vacated or  
31 otherwise altered in any future proceeding including but not limited to  
32 posttrial or postfact-finding motions, appeals, or collateral attacks.

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