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**Public Safety & Emergency Preparedness  
Committee**

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**HB 1369**

**Brief Description:** Addressing the submission of DNA markers to a database accessible only to qualified laboratory personnel.

**Sponsors:** Representatives Darneille, Roberts, Miloscia, Rolfes, Eddy, Klippert, Kirby and Hurst.

**Brief Summary of Bill**

- Requires law enforcement to collect biological samples for deoxyribonucleic acid (DNA) testing from adults arrested for a violent offense or a sex offense.
- Permits a person to request expungement of his or her sample from the DNA database.
- Directs a 50 cent assessment on a traffic infraction to the DNA Database Account instead of the Auto Theft Prevention Authority Account.
- Makes payment of the fees for DNA collection and crime laboratory analysis mandatory.

**Hearing Date:** 2/1/11

**Staff:** Alexa Silver (786-7190).

**Background:**

*Deoxyribonucleic Acid (DNA) Sample Collection and Testing.*

The Washington State Patrol (WSP) operates and maintains a DNA identification system. The purposes of the system are to assist with criminal investigations and identify human remains and missing persons.

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*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.*

Unless a sample has already been collected, biological samples must be collected from any person (adult or juvenile): (1) convicted of a felony; (2) required to register as a sex or kidnapping offender; or (3) convicted of certain specified misdemeanors and gross misdemeanors. Police and sheriff's departments collect samples from offenders who do not serve a term of incarceration. Jails, the Department of Corrections, and the Department of Social and Health Services collect samples from offenders incarcerated in their respective facilities.

The Forensic Laboratory Services Bureau (Laboratory) of the WSP is responsible for testing biological samples for inclusion in the DNA database. The Laboratory must give priority to testing samples from persons convicted of sex and violent offenses. Duplicate biological samples may be excluded from testing.

#### *Assessments and Fees.*

Penalties for traffic infractions are set in statute and court rule and range from \$20 to \$750. In addition to the penalty, an assessment is added for: emergency medical services (\$5); auto theft prevention (\$10); traumatic brain injury (\$2); the General Fund (\$8.50); and other purposes (\$11.50).

When a sentence is imposed under the Sentencing Reform Act for a felony offense, a court must levy a \$100 fee for any crime that requires collection of a DNA sample. Eighty percent of this fee is deposited in the state DNA Database Account, and 20 percent is transmitted to the agency responsible for collection of the biological sample from the offender.

When a person is convicted of an offense for which a crime laboratory analysis was performed, the court must levy a \$100 fee. The court may suspend payment of the fee if it finds the person does not have the ability to pay.

#### **Summary of Bill:**

##### *Findings.*

The Legislature finds there is a critical need to provide law enforcement with the latest scientific technology available for accurately and expeditiously identifying and prosecuting adult violent offenders and sex offenders. The Legislature also finds that DNA collection and testing is minimally invasive to privacy.

##### *Biological Sample Collection and Testing.*

If an adult is arrested for a violent offense or a sex offense, the sheriff or police chief is responsible for collecting a biological sample for DNA testing. Beginning January 1, 2013, law enforcement must collect samples, but prior to that date, law enforcement may collect the samples. If an adult is charged with a qualifying offense without being arrested, the court must order a law enforcement agency to collect a sample, and submission of a sample must be a condition of pretrial release.

Where a prison is required to collect DNA from a convict, the prison must collect the sample at the time of transfer to the facility.

The WSP must provide law enforcement agencies with the collection kits. Law enforcement must send samples to the Laboratory for the DNA database, and the collecting agency may not

retain a sample. The Laboratory must analyze the biological sample unless a complete profile is already in the system. The Laboratory need not prioritize testing samples from people convicted of sex or violent offenses.

*Expungement.*

A person may request that his or her sample be expunged from the DNA database if: (1) he or she is not charged within one year of arrest; (2) he or she is found not guilty or is acquitted; or (3) the conviction is reversed and the case dismissed. To request expungement, the person must send a written request to the Laboratory along with supporting documentation. In addition, the person must provide written notice of the request for expungement to the county prosecutor.

When the Laboratory receives a request for expungement, it must give priority to analyzing the person's sample if the sample has not already been analyzed. Once it has analyzed the sample and received all the necessary documents, it must expunge the person's sample unless the person has a prior conviction or a qualifying pending charge.

*Assessments and Fees.*

A person who has committed a traffic infraction is assessed 50 cents per infraction, which is deposited in the DNA Database Account. The assessment sent to the Auto Theft Prevention Authority Account is reduced from \$10 to \$9.50.

Payment of the \$100 crime laboratory analysis fee is mandatory. The \$100 DNA conviction fee is also mandatory, regardless of whether a sample is collected.

**Appropriation:** None.

**Fiscal Note:** Preliminary fiscal note available.

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