

SENATE BILL REPORT

2SHB 1153

As Reported by Senate Committee On:
Judiciary, March 24, 2011

Title: An act relating to costs for the collection of DNA samples.

Brief Description: Concerning costs for the collection of DNA samples.

Sponsors: House Committee on General Government Appropriations & Oversight (originally sponsored by Representatives Ladenburg, Walsh, Hurst, Goodman, Kagi, Rodne and Jinkins).

Brief History: Passed House: 3/01/11, 96-2.

Committee Activity: Judiciary: 3/23/11, 3/24/11 [DP].

SENATE COMMITTEE ON JUDICIARY

Majority Report: Do pass.

Signed by Senators Kline, Chair; Harper, Vice Chair; Pflug, Ranking Minority Member; Baxter, Carrell, Kohl-Welles, Regala and Roach.

Staff: Kim Johnson (786-7472)

Background: The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) identification system. The purpose of the system is to aid in criminal investigations and to identify human remains or missing persons. The Forensic Laboratory Services Bureau of the WSP is responsible for testing biological samples for inclusion in the DNA database.

Biological samples must be collected from any person who has been convicted of a felony, any person who is required to register as a sex or kidnapping offender, or any person convicted of the following list of specified misdemeanors or gross misdemeanors:

- assault in the fourth degree with sexual motivation;
- communication with a minor for immoral purposes;
- custodial sexual misconduct in the second degree;
- failure to register as a sex or kidnapping offender;
- patronizing a prostitute;
- harassment;
- stalking;
- sexual misconduct with a minor in the second degree; and

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- violation of a sexual assault protection order.

An adult who is convicted of a crime under the Sentencing Reform Act (generally, a felony offense) and who is required to provide his or her DNA must be court-ordered to pay a fee of \$100 for the cost of collecting and maintaining the DNA database. The fee constitutes a legal financial obligation payable after all other legal financial obligations included in the sentence have been satisfied. A legal financial obligation is money ordered by the superior court for obligations including: victim restitution, crime victims' compensation, court costs, costs of defense, fines, and any other financial obligation assessed as a result of a felony conviction. Eighty percent of the fee is deposited in the state DNA Database Account, and 20 percent is transmitted to the agency responsible for collection of the biological sample. Jails, the Department of Corrections, and the Department of Social and Health Services collect samples from offenders incarcerated in their respective facilities. Police and sheriff departments collect samples from offenders who do not serve a term of incarceration.

The \$100 DNA collection fee is currently not collected from juveniles who are sentenced for an offense that requires the collection of a DNA sample, or from persons convicted of a misdemeanor or gross misdemeanor offense that requires the collection of a DNA sample.

Summary of Bill: Sentences imposed for any crime that by law require collection of a DNA sample must include a \$100 fee.

When the fee is imposed as a consequence of a misdemeanor or gross misdemeanor conviction, it is payable in the same manner as other assessments.

Appropriation: None.

Fiscal Note: Available.

[OFM requested ten-year cost projection pursuant to I-960.]

Committee/Commission/Task Force Created: No.

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

Staff Summary of Public Testimony: PRO: This bill is about treating people equally. Currently, the superior courts may assess this cost, but district and municipal courts cannot. This bill helps to compensate local governments for the work that they are doing to collect the sample. As a matter of fairness all people that are convicted of a crime that requires the collection of DNA should pay the collection fee.

This bill is a request bill from the District and Municipal Judges Association. I did some research and this fee was created several years ago, and it was never intended to be applied only to adult felony convictions. It seems it was just a quirk of authorship that led to this disparity.

Persons Testifying: PRO: Representative Ladenburg, prime sponsor; Judge Sam Meyer, District and Municipal Judges Association.