

SENATE BILL REPORT

SB 5240

As of February 1, 2011

Title: An act relating to submission of DNA markers to a database accessible only to qualified laboratory personnel.

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

Sponsors: Senators Fraser, Roach, Delvin, Rockefeller, Ranker, Chase, Prentice, Keiser, Shin, King, Schoesler and Honeyford.

Brief History:

Committee Activity: Judiciary: 2/01/11.

SENATE COMMITTEE ON JUDICIARY

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. Priority must be given to testing of samples from persons convicted of sex and violent offenses.

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 a list of specified misdemeanors or gross misdemeanors.

In addition to the base penalties for traffic infractions, there are several statutory assessments collected which include emergency medical services (\$4); auto theft prevention (\$10); and other various assessments. A person 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. Additionally, persons convicted of an offense requiring crime laboratory analysis may be assessed a \$100 fee, which may be suspended by the court if the person does not have the ability to pay.

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.

According to the DNA Laws Database of the National Conference of State Legislatures, the federal government and 24 other states conduct DNA collection upon arrest.

Summary of Bill: The Legislature finds that DNA collection, testing, and storage is minimally invasive to privacy. The Legislature also finds that collecting DNA from adults arrested for a violent offense or sex offense is necessary to solve cold cases, prevent recidivist acts, and lower the cost of criminal investigations.

Collection and Testing. Prior to January 1, 2013, local and state law enforcement agencies may collect biological samples from persons arrested for any criminal offense constituting a violent offense or a sex offense. Beginning January 1, 2013, local and state law enforcement agencies must collect biological samples from persons arrested for any criminal offense constituting a violent offense or a sex offense. A court must order a law enforcement agency to collect a sample from adults charged with a qualifying offense but who were not arrested, and submission of the sample must be a condition of pretrial release. The samples must be forwarded to the WSP for analysis and inclusion in the DNA identification system.

Priority status for testing samples related to violent offenses or sex offenses is removed.

Expungement. A person may request that his or her sample and DNA record be expunged if (1) the person is not charged within one year of arrest; (2) the person is found not guilty or is acquitted; or (3) the conviction is reversed and the case dismissed. In addition to the request to expunge and supporting documentation, the person must provide a written notice of the request to the county prosecutor.

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

Payment of the \$100 crime laboratory analysis fee may not be suspended or deferred. The \$100 DNA conviction fee must be assessed, regardless of whether a sample is collected.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains several effective dates. Please refer to the bill.