
SENATE BILL 6314

State of Washington

63rd Legislature

2014 Regular Session

By Senators Darneille, Pearson, Fraser, Keiser, Angel, Eide, Cleveland, Mullet, McAuliffe, and Conway

Read first time 01/20/14. Referred to Committee on Law & Justice.

1 AN ACT Relating to submission of DNA markers to a database
2 accessible only to qualified laboratory personnel; amending RCW
3 43.43.753, 43.43.735, 43.43.740, 43.43.754, 46.63.110, and 43.43.690;
4 adding a new section to chapter 43.43 RCW; adding a new section to
5 chapter 70.48 RCW; creating a new section; and prescribing penalties.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 NEW SECTION. **Sec. 1.** The legislature finds there is a critical
8 need to provide law enforcement officers and agencies with the latest
9 scientific technology available for accurately and expeditiously
10 identifying and prosecuting adult felony offenders.

11 Although every state maintains a DNA database for felony
12 convictions, there is a growing trend toward expanding DNA databases to
13 include DNA from felony arrestees. To date, twenty-seven states and
14 the federal government have already enacted such laws.

15 Studies in other jurisdictions indicate that collection of DNA for
16 the purpose of identifying arrestees may contribute to the solution of
17 cold cases, save lives by identifying recidivist offenders, reduce
18 rates of criminality, and increase the rate of successful prosecutions.

1 For example, since 2003, the Virginia database of arrestee DNA has
2 yielded over six hundred hits to DNA collected from crime scenes,
3 ninety-nine of which were associated with sexual assault cases.

4 The legislature further finds that collecting DNA from ranked
5 felony and certain misdemeanor arrestees is cost-effective. Early
6 identification of offenders reduces costs by focusing investigations
7 and eliminating suspects. It may also prevent costs associated with
8 recidivist offenders. In a study sponsored by the United States
9 department of justice, the city of Denver found that DNA testing of
10 arrestees reduced police expenses and prevented property loss,
11 resulting in a ninety dollar return on investment for every dollar
12 spent on forensic DNA.

13 Further, DNA samples are collected, analyzed, and stored in a way
14 that only minimally impacts privacy concerns. The sample, typically
15 collected via oral swab, is analyzed only with regard to forensic loci,
16 a small percentage of an individual's genetic code, which allows
17 identification but does not reveal genetic information, other than
18 gender. Arrestee samples will not be analyzed unless a probable cause
19 determination has been made. Once analyzed, the profile is stored
20 without any personally identifying information, only a sample number
21 and agency identifiers. The DNA profile and sample is accessible only
22 to qualified laboratory personnel. If a hit is made between a stored
23 sample and the forensic profile developed from a crime scene, the
24 laboratory will notify the submitting law enforcement agency, which
25 follows certain procedures to confirm the hit. Innocent individuals
26 are further protected through expungement procedures, which allow
27 removal of their samples and profiles if convictions are not made or
28 are overturned.

29 The legislature therefore finds that collecting DNA from adults
30 arrested for a ranked felony or a gross misdemeanor violation of an
31 order, as described in RCW 26.50.110, is a necessary and minimally
32 intrusive way to identify arrestees in order to solve cold cases,
33 prevent recidivist acts, and lower the cost of criminal investigations.

34 **Sec. 2.** RCW 43.43.753 and 2008 c 97 s 1 are each amended to read
35 as follows:

36 The legislature finds that recent developments in molecular biology
37 and genetics have important applications for forensic science. It has

1 been scientifically established that there is a unique pattern to the
2 chemical structure of the deoxyribonucleic acid (DNA) contained in each
3 cell of the human body. The process for identifying this pattern is
4 called "DNA identification."

5 The legislature further finds that DNA databases are important
6 tools in criminal investigations, in the exclusion of individuals who
7 are the subject of investigations or prosecutions, and in detecting
8 recidivist acts. It is the policy of this state to assist federal,
9 state, and local criminal justice and law enforcement agencies in both
10 the identification and detection of individuals in criminal
11 investigations and the identification and location of missing and
12 unidentified persons. Therefore, it is in the best interest of the
13 state to establish a DNA database (~~(and DNA data bank)~~) containing DNA
14 samples submitted by persons convicted of felony offenses and other
15 crimes, as well as by adults arrested for or charged with ranked felony
16 offenses under RCW 9.94A.515 and other crimes, as specified in RCW
17 43.43.754. DNA samples necessary for the identification of missing
18 persons and unidentified human remains shall also be included in the
19 DNA database.

20 The legislature further finds that the DNA identification system
21 used by the federal bureau of investigation and the Washington state
22 patrol has no ability to predict genetic disease or predisposal to
23 illness. Nonetheless, the legislature intends that biological samples
24 collected under RCW 43.43.735 and 43.43.754, and DNA identification
25 data obtained from the samples, be used only for purposes related to
26 criminal investigation, identification of human remains or missing
27 persons, or improving the operation of the system authorized under RCW
28 43.43.735 and 43.43.752 through ((43.43.758)) 43.43.759 and section 6
29 of this act.

30 The legislature further finds that the DNA collection, testing, and
31 storage process is minimally invasive to privacy based on the following
32 features:

- 33 (1) Biological samples for DNA testing are routinely collected by
34 an oral swab as part of the legitimate police identification procedure;
35 (2) A DNA profile is stored in a database accessible only to
36 qualified laboratory personnel and does not appear in an individual's
37 criminal history record;

1 (3) Entries in the DNA database contain only DNA markers necessary
2 to human identification, which are a small part of a person's total
3 genetic information; and

4 (4) Personally identifying information does not appear in the DNA
5 database.

6 **Sec. 3.** RCW 43.43.735 and 2009 c 549 s 5130 are each amended to
7 read as follows:

8 (1) It shall be the duty of the sheriff or director of public
9 safety of every county, and the chief of police of every city or town,
10 and of every chief officer of other law enforcement agencies duly
11 operating within this state, to cause the photographing and
12 fingerprinting of all adults and juveniles lawfully arrested for the
13 commission of any criminal offense constituting a felony or gross
14 misdemeanor. (a) When such juveniles are brought directly to a
15 juvenile detention facility, the juvenile court administrator is also
16 authorized, but not required, to cause the photographing,
17 fingerprinting, and record transmittal to the appropriate law
18 enforcement agency; and (b) a further exception may be made when the
19 arrest is for a violation punishable as a gross misdemeanor and the
20 arrested person is not taken into custody.

21 (2) It shall be the right, but not the duty, of the sheriff or
22 director of public safety of every county, and the chief of police of
23 every city or town, and every chief officer of other law enforcement
24 agencies operating within this state to photograph and record the
25 fingerprints of all adults lawfully arrested.

26 (3) Such sheriffs, directors of public safety, chiefs of police,
27 and other chief law enforcement officers, may record, in addition to
28 photographs and fingerprints, the palmprints, soleprints, toeprints, or
29 any other identification data of all persons whose photograph and
30 fingerprints are required or allowed to be taken under this section
31 when in the discretion of such law enforcement officers it is necessary
32 for proper identification of the arrested person or the investigation
33 of the crime with which he or she is charged.

34 (4)(a) Beginning July 1, 2015, it shall be the duty of the sheriff
35 or director of public safety of every county, and the chief of police
36 of every city or town, and of every chief officer of other law
37 enforcement agencies duly operating within this state, to cause the

1 collection of biological samples for DNA identification analysis from
2 all adults lawfully arrested for the commission of any criminal offense
3 constituting a ranked felony under RCW 9.94A.515 or a gross misdemeanor
4 violation of an order, as described in RCW 26.50.110.

5 (b) From January 1, 2015, through June 30, 2015, it shall be the
6 right, but not the duty, of the sheriff or director of public safety of
7 every county, and the chief of police of every city or town, and every
8 chief officer of other law enforcement agencies operating within this
9 state, to cause the collection of biological samples for DNA
10 identification analysis from all adults lawfully arrested for the
11 commission of any criminal offense constituting a ranked felony under
12 RCW 9.94A.515 or a gross misdemeanor violation of an order, as
13 described in RCW 26.50.110.

14 (c) Biological samples collected under this subsection shall be:

15 (i) Collected using the same technique as biological samples
16 collected under RCW 43.43.754; and

17 (ii) Forwarded to the forensic laboratory services bureau of the
18 Washington state patrol.

19 (d) The forensic laboratory services bureau shall provide kits and
20 instructions necessary for the collection of biological samples
21 required by this section.

22 **Sec. 4.** RCW 43.43.740 and 2006 c 294 s 7 are each amended to read
23 as follows:

24 (1) It shall be the duty of the sheriff or director of public
25 safety of every county, and the chief of police of every city or town,
26 and of every chief officer of other law enforcement agencies duly
27 operating within this state to furnish within seventy-two hours from
28 the time of arrest to the section the required sets of fingerprints
29 together with other identifying data as may be prescribed by the chief,
30 of any person lawfully arrested, fingerprinted, and photographed
31 pursuant to RCW 43.43.735.

32 (2) Law enforcement agencies may retain and file copies of the
33 fingerprints, photographs, and other identifying data and information
34 obtained pursuant to RCW 43.43.735, except biological samples. Said
35 records shall remain in the possession of the law enforcement agency as
36 part of the identification record and are not returnable to the
37 subjects thereof.

1 **Sec. 5.** RCW 43.43.754 and 2008 c 97 s 2 are each amended to read
2 as follows:

3 (1) A biological sample must be collected for purposes of DNA
4 identification analysis from:

5 (a) Every adult or juvenile individual convicted of a felony, or
6 any of the following crimes (or equivalent juvenile offenses):

7 Assault in the fourth degree with sexual motivation (RCW 9A.36.041,
8 9.94A.835)

9 Communication with a minor for immoral purposes (RCW 9.68A.090)

10 Custodial sexual misconduct in the second degree (RCW 9A.44.170)

11 Failure to register (RCW (~~9A.44.130~~) 9A.44.132)

12 Harassment (RCW 9A.46.020)

13 Patronizing a prostitute (RCW 9A.88.110)

14 Sexual misconduct with a minor in the second degree (RCW 9A.44.096)

15 Stalking (RCW 9A.46.110)

16 Violation of a sexual assault protection order granted under
17 chapter 7.90 RCW; (~~and~~)

18 (b) Every adult or juvenile individual who is required to register
19 under RCW (~~9A.44.130~~) 9A.44.132; and

20 (c) Every adult lawfully arrested for or charged with a ranked
21 felony under RCW 9.94A.515 or a gross misdemeanor violation of an
22 order, as described in RCW 26.50.110.

23 (2) If the Washington state patrol crime laboratory already has a
24 DNA sample from an individual for a qualifying offense, a subsequent
25 submission is not required to be submitted.

26 (3) Biological samples shall be collected in the following manner:

27 (a) For persons convicted of any offense listed in subsection
28 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
29 offense who do not serve a term of confinement in a department of
30 corrections facility, and do serve a term of confinement in a city or
31 county jail facility, the city or county shall be responsible for
32 obtaining the biological samples at the time of transfer to the
33 facility.

34 (b) The local police department or sheriff's office shall be
35 responsible for obtaining the biological samples for:

36 (i) Persons convicted of any offense listed in subsection (1)(a) of
37 this section or adjudicated guilty of an equivalent juvenile offense

1 who do not serve a term of confinement in a department of corrections
2 facility, and do not serve a term of confinement in a city or county
3 jail facility; and

4 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
5 9A.44.132.

6 (c) For persons convicted of any offense listed in subsection
7 (1)(a) of this section or adjudicated guilty of an equivalent juvenile
8 offense, who are serving or who are to serve a term of confinement in
9 a department of corrections facility or a department of social and
10 health services facility, the facility holding the person shall be
11 responsible for obtaining the biological samples at the time of
12 transfer to the facility. For those persons incarcerated before June
13 12, 2008, who have not yet had a biological sample collected, priority
14 shall be given to those persons who will be released the soonest.

15 (d)(i) For adults lawfully arrested for a ranked felony under RCW
16 9.94A.515 or a gross misdemeanor violation of an order, as described in
17 RCW 26.50.110, the city or county jail shall obtain a biological sample
18 prior to the person's release. The jail shall provide the person with
19 notice of the rights to expungement and destruction as required by
20 section 7 of this act.

21 (ii) The biological sample shall be submitted in a sealed envelope.

22 (iii) The sample shall not be removed from the envelope until an
23 employee of the forensic laboratory services bureau determines that a
24 probable cause determination has been made by a court. If a court
25 finds probable cause, the sample may be removed from the envelope for
26 analysis. If a court does not find probable cause, the envelope and
27 sample must be destroyed.

28 (e) For adults charged with a ranked felony under RCW 9.94A.515 or
29 a gross misdemeanor violation of an order, as described in RCW
30 26.50.110, whose first appearance in court is caused by summons, the
31 court shall require the person to submit to collection of a biological
32 sample if the court makes a determination of probable cause and a
33 sample has not already been collected. The court shall direct the
34 sheriff or director of public safety of the county, the chief of police
35 of the city or town, or the chief officer of another law enforcement
36 agency duly operating within the state to collect the biological
37 sample. If the person is released on personal recognizance or on

1 conditions, the court shall make collection of a biological sample a
2 condition of release. If the person is detained, a biological sample
3 may be collected at any time during the person's detention.

4 (4) Any biological sample taken pursuant to RCW 43.43.735 and
5 43.43.752 through ((43.43.758)) 43.43.759 and section 6 of this act may
6 be retained by the forensic laboratory services bureau, and shall be
7 analyzed by the forensic laboratory services bureau unless a complete
8 DNA profile for the person has previously been entered in the DNA
9 database.

10 (5) Any biological sample taken pursuant to RCW 43.43.735 and
11 43.43.752 through 43.43.759 and section 6 of this act shall be used
12 solely for the purpose of providing DNA or other tests for
13 identification analysis and prosecution of a criminal offense or for
14 the identification of human remains or missing persons. Nothing in
15 this section prohibits the submission of results derived from the
16 biological samples to the federal bureau of investigation combined DNA
17 index system.

18 ((+5)) (6) The forensic laboratory services bureau of the
19 Washington state patrol is responsible for testing performed on all
20 biological samples that are collected under subsection (1) of this
21 section, to the extent allowed by funding available for this purpose((-
22 The director shall give priority to testing on samples collected from
23 those adults or juveniles convicted of a felony or adjudicated guilty
24 of an equivalent juvenile offense that is defined as a sex offense or
25 a violent offense in RCW 9.94A.030)), except as described in subsection
26 (3)(d)(iii) of this section. Known duplicate samples may be excluded
27 from testing unless testing is deemed necessary or advisable by the
28 director.

29 ((+6)) (7) This section applies to:

30 (a) All adults and juveniles to whom this section applied prior to
31 June 12, 2008;

32 (b) All adults and juveniles to whom this section did not apply
33 prior to June 12, 2008, who:

34 (i) Are convicted on or after June 12, 2008, of an offense listed
35 in subsection (1)(a) of this section; or

36 (ii) Were convicted prior to June 12, 2008, of an offense listed in
37 subsection (1)(a) of this section and are still incarcerated on or
38 after June 12, 2008; ((and))

1 (c) All adults and juveniles who are required to register under RCW
2 (~~9A.44.130~~) 9A.44.132 on or after June 12, 2008, whether convicted
3 before, on, or after June 12, 2008; and

4 (d) All adults lawfully arrested for or charged with a ranked
5 felony under RCW 9.94A.515 or a gross misdemeanor violation of an
6 order, as described in RCW 26.50.110, on or after January 1, 2015.

7 (~~(+7)~~) (8)(a) Except as provided in (b) of this subsection, this
8 section creates no rights in a third person. No cause of action may be
9 brought based upon the noncollection or nonanalysis or the delayed
10 collection or analysis of a biological sample authorized to be taken
11 under RCW 43.43.735 or 43.43.752 through (~~43.43.758~~) 43.43.759 and
12 section 6 of this act.

13 (b) If the forensic laboratory services bureau negligently or
14 willfully fails to destroy a biological sample as required by
15 subsection (3)(d)(iii) of this section, the person from whom the jail
16 facility obtained the sample may bring an action against the state for
17 actual damages and reasonable attorneys' fees and costs.

18 (~~(+8)~~) (9) The detention, arrest, or conviction of a person based
19 upon a database match or database information is not invalidated if it
20 is determined that the sample was obtained or placed in the database by
21 mistake, if the sample is subject to expungement pursuant to this
22 chapter, or if the conviction or juvenile adjudication that resulted in
23 the collection of the biological sample was subsequently vacated or
24 otherwise altered in any future proceeding including but not limited to
25 posttrial or postfact-finding motions, appeals, or collateral attacks.

26 NEW SECTION. Sec. 6. A new section is added to chapter 43.43 RCW
27 to read as follows:

28 (1) A person may request expungement of the person's sample and DNA
29 records from the DNA identification system if:

30 (a) The person is not charged with an offense requiring collection
31 of a biological sample under RCW 43.43.735 within one year of arrest;

32 (b) The person has been found not guilty or has been acquitted of
33 an offense requiring collection of a biological sample under RCW
34 43.43.735; or

35 (c) The underlying conviction or adjudication requiring collection
36 of a biological sample under RCW 43.43.754 has been reversed and the
37 case dismissed.

1 (2) To request expungement, the person must submit the following
2 documents to the forensic laboratory services bureau:

3 (a) A written request for expungement;

4 (b) Proof that the person has provided written notice of the
5 request for expungement to the prosecuting attorney of the county in
6 which he or she was arrested, convicted, or adjudicated; and

7 (c)(i) A sworn affidavit that no charges for an offense requiring
8 collection of a biological sample under RCW 43.43.735 have been filed
9 within one year of arrest;

10 (ii) A certified copy of a final court order establishing that a
11 charge for an offense requiring collection of a biological sample under
12 RCW 43.43.735 has been dismissed or has resulted in an acquittal; or

13 (iii) A certified copy of a final court order reversing the
14 conviction that required collection of a biological sample under RCW
15 43.43.754.

16 (3)(a) Upon receipt of a written request for expungement, if the
17 forensic laboratory services bureau has not previously analyzed the
18 person's sample, the Washington state patrol shall give priority to
19 analyzing the person's sample and searching the DNA identification
20 system for a match.

21 (b) Once the forensic laboratory services bureau has analyzed the
22 person's sample, searched the DNA identification system for a match,
23 and received the documents required by subsection (2) of this section,
24 the forensic laboratory services bureau shall expunge the person's
25 sample and DNA records from the DNA identification system.

26 (c) The forensic laboratory services bureau may not expunge a
27 person's sample and DNA records from the DNA identification system if
28 the person has a prior conviction or a pending charge for which
29 collection of a sample is authorized under RCW 43.43.735 or 43.43.754.

30 (4) The forensic laboratory services bureau shall provide
31 information regarding the rights to expungement and destruction on the
32 Washington state patrol's official web site. The information must
33 include procedures for requesting expungement.

34 NEW SECTION. **Sec. 7.** A new section is added to chapter 70.48 RCW
35 to read as follows:

36 (1) The jail administrator or his or her designee or chief law
37 enforcement executive or his or her designee shall provide notice of

1 the requirements of RCW 43.43.735, 43.43.740, 43.43.754, and section 6
2 of this act to jail staff who perform booking procedures and other
3 staff as appropriate.

4 (2) Jail staff shall provide a notice of the rights to expungement
5 and destruction to all adults arrested for a ranked felony offense
6 under RCW 9.94A.515 or a gross misdemeanor violation of an order, as
7 described in RCW 26.50.110, at the time a biological sample for DNA
8 testing is taken. The notice must be in substantially the following
9 form:

10 "Washington law requires the collection of a biological sample for
11 DNA testing from all adults arrested for a ranked felony and certain
12 other offenses. The sample will be sent to the forensic laboratory
13 services bureau and, if the court has made a determination of probable
14 cause, the sample will be analyzed for inclusion in the DNA database.
15 If a court finds there is no probable cause, the laboratory will
16 destroy the biological sample.

17 YOU HAVE A RIGHT TO REQUEST EXPUNGEMENT OF YOUR DNA SAMPLE AND
18 RECORDS IF: (1) YOU ARE NOT CHARGED WITHIN ONE YEAR OF ARREST; (2) YOU
19 ARE FOUND NOT GUILTY; OR (3) YOUR CONVICTION IS REVERSED AND THE CASE
20 DISMISSED. YOU ALSO HAVE A RIGHT TO BRING SUIT IF THE LABORATORY FAILS
21 TO DESTROY YOUR BIOLOGICAL SAMPLE, AS REQUIRED BY RCW 43.43.754.

22 For more information regarding your rights to expungement and
23 destruction, see RCW 43.43.754 and section 6 of this act."

24 **Sec. 8.** RCW 46.63.110 and 2012 c 82 s 1 are each amended to read
25 as follows:

26 (1) A person found to have committed a traffic infraction shall be
27 assessed a monetary penalty. No penalty may exceed two hundred and
28 fifty dollars for each offense unless authorized by this chapter or
29 title.

30 (2) The monetary penalty for a violation of (a) RCW 46.55.105(2) is
31 two hundred fifty dollars for each offense; (b) RCW 46.61.210(1) is
32 five hundred dollars for each offense. No penalty assessed under this
33 subsection (2) may be reduced.

34 (3) The supreme court shall prescribe by rule a schedule of
35 monetary penalties for designated traffic infractions. This rule shall
36 also specify the conditions under which local courts may exercise

1 discretion in assessing fines and penalties for traffic infractions.
2 The legislature respectfully requests the supreme court to adjust this
3 schedule every two years for inflation.

4 (4) There shall be a penalty of twenty-five dollars for failure to
5 respond to a notice of traffic infraction except where the infraction
6 relates to parking as defined by local law, ordinance, regulation, or
7 resolution or failure to pay a monetary penalty imposed pursuant to
8 this chapter. A local legislative body may set a monetary penalty not
9 to exceed twenty-five dollars for failure to respond to a notice of
10 traffic infraction relating to parking as defined by local law,
11 ordinance, regulation, or resolution. The local court, whether a
12 municipal, police, or district court, shall impose the monetary penalty
13 set by the local legislative body.

14 (5) Monetary penalties provided for in chapter 46.70 RCW which are
15 civil in nature and penalties which may be assessed for violations of
16 chapter 46.44 RCW relating to size, weight, and load of motor vehicles
17 are not subject to the limitation on the amount of monetary penalties
18 which may be imposed pursuant to this chapter.

19 (6) Whenever a monetary penalty, fee, cost, assessment, or other
20 monetary obligation is imposed by a court under this chapter, it is
21 immediately payable and is enforceable as a civil judgment under Title
22 6 RCW. If the court determines, in its discretion, that a person is
23 not able to pay a monetary obligation in full, and not more than one
24 year has passed since the later of July 1, 2005, or the date the
25 monetary obligation initially became due and payable, the court shall
26 enter into a payment plan with the person, unless the person has
27 previously been granted a payment plan with respect to the same
28 monetary obligation, or unless the person is in noncompliance of any
29 existing or prior payment plan, in which case the court may, at its
30 discretion, implement a payment plan. If the court has notified the
31 department that the person has failed to pay or comply and the person
32 has subsequently entered into a payment plan and made an initial
33 payment, the court shall notify the department that the infraction has
34 been adjudicated, and the department shall rescind any suspension of
35 the person's driver's license or driver's privilege based on failure to
36 respond to that infraction. "Payment plan," as used in this section,
37 means a plan that requires reasonable payments based on the financial

1 ability of the person to pay. The person may voluntarily pay an amount
2 at any time in addition to the payments required under the payment
3 plan.

4 (a) If a payment required to be made under the payment plan is
5 delinquent or the person fails to complete a community restitution
6 program on or before the time established under the payment plan,
7 unless the court determines good cause therefor and adjusts the payment
8 plan or the community restitution plan accordingly, the court may refer
9 the unpaid monetary penalty, fee, cost, assessment, or other monetary
10 obligation for civil enforcement until all monetary obligations,
11 including those imposed under subsections (3) and (4) of this section,
12 have been paid, and court authorized community restitution has been
13 completed, or until the court has entered into a new time payment or
14 community restitution agreement with the person. For those infractions
15 subject to suspension under RCW 46.20.289, the court shall notify the
16 department of the person's failure to meet the conditions of the plan,
17 and the department shall suspend the person's driver's license or
18 driving privileges.

19 (b) If a person has not entered into a payment plan with the court
20 and has not paid the monetary obligation in full on or before the time
21 established for payment, the court may refer the unpaid monetary
22 penalty, fee, cost, assessment, or other monetary obligation to a
23 collections agency until all monetary obligations have been paid,
24 including those imposed under subsections (3) and (4) of this section,
25 or until the person has entered into a payment plan under this section.
26 For those infractions subject to suspension under RCW 46.20.289, the
27 court shall notify the department of the person's delinquency, and the
28 department shall suspend the person's driver's license or driving
29 privileges.

30 (c) If the payment plan is to be administered by the court, the
31 court may assess the person a reasonable administrative fee to be
32 wholly retained by the city or county with jurisdiction. The
33 administrative fee shall not exceed ten dollars per infraction or
34 twenty-five dollars per payment plan, whichever is less.

35 (d) Nothing in this section precludes a court from contracting with
36 outside entities to administer its payment plan system. When outside
37 entities are used for the administration of a payment plan, the court

1 may assess the person a reasonable fee for such administrative
2 services, which fee may be calculated on a periodic, percentage, or
3 other basis.

4 (e) If a court authorized community restitution program for
5 offenders is available in the jurisdiction, the court may allow
6 conversion of all or part of the monetary obligations due under this
7 section to court authorized community restitution in lieu of time
8 payments if the person is unable to make reasonable time payments.

9 (7) In addition to any other penalties imposed under this section
10 and not subject to the limitation of subsection (1) of this section, a
11 person found to have committed a traffic infraction shall be assessed:

12 (a) A fee of five dollars per infraction. Under no circumstances
13 shall this fee be reduced or waived. Revenue from this fee shall be
14 forwarded to the state treasurer for deposit in the emergency medical
15 services and trauma care system trust account under RCW 70.168.040;

16 (b) A fee of (~~ten~~) nine dollars and fifty cents per infraction.
17 Under no circumstances shall this fee be reduced or waived. Revenue
18 from this fee shall be forwarded to the state treasurer for deposit in
19 the Washington auto theft prevention authority account; (~~and~~)

20 (c) A fee of two dollars per infraction. Revenue from this fee
21 shall be forwarded to the state treasurer for deposit in the traumatic
22 brain injury account established in RCW 74.31.060; and

23 (d) A fee of fifty cents per infraction. Revenues from this fee
24 shall be forwarded to the state treasurer for deposit in the state DNA
25 database account established in RCW 43.43.7532.

26 (8)(a) In addition to any other penalties imposed under this
27 section and not subject to the limitation of subsection (1) of this
28 section, a person found to have committed a traffic infraction other
29 than of RCW 46.61.527 or 46.61.212 shall be assessed an additional
30 penalty of twenty dollars. The court may not reduce, waive, or suspend
31 the additional penalty unless the court finds the offender to be
32 indigent. If a court authorized community restitution program for
33 offenders is available in the jurisdiction, the court shall allow
34 offenders to offset all or a part of the penalty due under this
35 subsection (8) by participation in the court authorized community
36 restitution program.

37 (b) Eight dollars and fifty cents of the additional penalty under
38 (a) of this subsection shall be remitted to the state treasurer. The

1 remaining revenue from the additional penalty must be remitted under
2 chapters 2.08, 3.46, 3.50, 3.62, 10.82, and 35.20 RCW. Money remitted
3 under this subsection to the state treasurer must be deposited in the
4 state general fund. The balance of the revenue received by the county
5 or city treasurer under this subsection must be deposited into the
6 county or city current expense fund. Moneys retained by the city or
7 county under this subsection shall constitute reimbursement for any
8 liabilities under RCW 43.135.060.

9 (9) If a legal proceeding, such as garnishment, has commenced to
10 collect any delinquent amount owed by the person for any penalty
11 imposed by the court under this section, the court may, at its
12 discretion, enter into a payment plan.

13 (10) The monetary penalty for violating RCW 46.37.395 is: (a) Two
14 hundred fifty dollars for the first violation; (b) five hundred dollars
15 for the second violation; and (c) seven hundred fifty dollars for each
16 violation thereafter.

17 **Sec. 9.** RCW 43.43.690 and 1992 c 129 s 2 are each amended to read
18 as follows:

19 (1) When a person has been adjudged guilty of violating any
20 criminal statute of this state and a crime laboratory analysis was
21 performed by a state crime laboratory, in addition to any other
22 disposition, penalty, or fine imposed, the court shall levy a crime
23 laboratory analysis fee of one hundred dollars for each offense for
24 which the person was convicted. (~~Upon a verified petition by the~~
25 ~~person assessed the fee, the court may suspend payment of all or part~~
26 ~~of the fee if it finds that the person does not have the ability to~~
27 ~~pay~~) The court may not suspend or defer payment of the fee.

28 (2) When a minor has been adjudicated a juvenile offender for an
29 offense which, if committed by an adult, would constitute a violation
30 of any criminal statute of this state and a crime laboratory analysis
31 was performed, in addition to any other disposition imposed, the court
32 shall assess a crime laboratory analysis fee of one hundred dollars for
33 each adjudication. Upon a verified petition by a minor assessed the
34 fee, the court may suspend payment of all or part of the fee (~~if~~)
35 if it finds that the minor does not have the ability to pay the fee.

36 (3) All crime laboratory analysis fees assessed under this section

1 shall be collected by the clerk of the court and forwarded to the state
2 general fund, to be used only for crime laboratories. The clerk may
3 retain five dollars to defray the costs of collecting the fees.

4 NEW SECTION. **Sec. 10.** If any provision of this act or its
5 application to any person or circumstance is held invalid, the
6 remainder of the act or the application of the provision to other
7 persons or circumstances is not affected.

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