
Public Safety Committee

HB 1069

Brief Description: Concerning preservation of DNA work product.

Sponsors: Representatives Orwall, Appleton, Kagi, Gregerson, Reykdal, Carlyle, Stanford, Sawyer, Fitzgibbon, Jinkins, Hudgins, Goodman, Clibborn, Moeller, Moscoso, Farrell and Fey.

Brief Summary of Bill

- Requires the preservation of DNA work product secured in connection with a felony level violent or sex offense to be preserved throughout the length of the sentence or throughout the period of the statute of limitations for the crime, whichever comes later.

Hearing Date: 1/14/15

Staff: Yvonne Walker (786-7841).

Background:

Chain of custody for evidence at a crime scene usually starts with the collection of evidence done by an investigator or technician. When collecting evidence from a crime scene for deoxyribonucleic acid (DNA) analysis, there are several main goals: to reconstruct the crime; to identify the perpetrator; to preserve the evidence for analysis; and to collect the evidence in a way that will make it admissible in court.

The Washington State Patrol (WSP) operates and maintains a DNA identification system to help with criminal investigations and to identify human remains or missing persons. The WSP also provides DNA analysis services to local law enforcement agencies, provides assistance to law enforcement officials and prosecutors in the preparation and utilization of DNA evidence for presentation in court, and provides expert testimony in court on DNA evidentiary issues. Most DNA testing is conducted by the Forensic Laboratory Services Bureau of the WSP.

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.

There is currently no uniform state law specifically addressing the length of time biological material collected for DNA testing must be preserved in connection with a criminal investigation case. Under the Criminal Appeals statute, in a felony case, upon a motion of the defense counsel or the court, a sentencing court may order that biological material or evidence samples secured in connection with a particular criminal case be preserved in accordance with any court rule adopted for the preservation of evidence. In those cases, the court must specify the samples to be maintained and the length of time the samples must be preserved.

In all other felony cases, the length of time that biological material is maintained varies. Some local law enforcement agencies maintain and preserve evidence relating to a criminal case indefinitely while other local agencies preserved evidence up to the statute of limitations for the crime.

Summary of Bill:

A government entity must preserve any DNA work product collected in a felony violent or sex case. The DNA work product must be maintained throughout the length of the defendant's sentence, including any period of community custody served, or throughout the period of the statute of limitations for the crime, whichever comes later.

The court may impose sanctions if it finds that DNA work product was intentionally destroyed. The court may not order the reversal of a conviction based solely on the grounds that the DNA product is no longer available.

The "DNA work product" is defined as: (1) any material catalogued on a microscope slide, swab, in a test tube, cutting, DNA extract, or another, similar retention method used to isolate potential biological evidence that has been collected by law enforcement as part of an investigation and prepared for scientific analysis, whether or not it is submitted for scientific analysis, including any product generated during the process of scientific analysis of such material, and derived from: the contents of a sexual assault examination kit; blood, semen, hair, saliva, skin tissue; finger prints, bones, test or any other identifiable human biological material or physical evidence; and (2) it only includes products submitted by the investigating general law enforcement agency and does not include any products generated by a crime laboratory during the process of scientific analysis of such material.

A "governmental entity" includes any general law enforcement agency or any person or organization officially acting on behalf of the state or any political subdivision of the state involved in the collection, examination, tracking, packaging, storing, or disposition of biological material collected in connection with a criminal investigation relating to a felony offense.

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.