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**SUBSTITUTE HOUSE BILL 1069**

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**State of Washington                      64th Legislature                      2015 Regular Session**

**By** House Public Safety (originally sponsored by Representatives Orwall, Appleton, Kagi, Gregerson, Reykdal, Carlyle, Stanford, Sawyer, Fitzgibbon, Jinkins, Hudgins, Goodman, Clibborn, Moeller, Moscoso, Farrell, and Fey)

READ FIRST TIME 01/23/15.

1            AN ACT Relating to preservation of DNA work product; and adding a  
2 new chapter to Title 5 RCW.

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

4            NEW SECTION.    **Sec. 1.**    (1) In any felony case initially charged  
5 as a violent or sex offense, as defined in RCW 9.94A.030, a  
6 governmental entity shall preserve any DNA work product that has been  
7 secured in connection with the criminal case according to the  
8 following guidelines:

9            (a) Where a defendant has been charged and convicted in  
10 connection with the case, the DNA work product must be maintained  
11 throughout the length of the sentence, including any period of  
12 community custody extending through final discharge; or

13            (b) Where no person has been charged or where no conviction has  
14 been made in connection with the case, the DNA work product must be  
15 maintained throughout the period of the statute of limitations  
16 pursuant to RCW 9A.04.080.

17            (2) For purposes of this section:

18            (a) "Amplified DNA" means DNA generated during scientific  
19 analysis using a polymerase chain reaction.

20            (b) "DNA work product" means (i) product generated during the  
21 process of scientific analysis of such material, except amplified

1 DNA, material that had been subjected to DNA extraction, and DNA  
2 extracts from reference samples; or (ii) any material catalogued on a  
3 microscope slide, swab, in a sample tube, cutting, DNA extract, or  
4 some other similar retention method used to isolate potential  
5 biological evidence that has been collected by law enforcement as  
6 part of its investigation and prepared for scientific analysis,  
7 whether or not it is submitted for scientific analysis and derived  
8 from:

- 9 (A) The contents of a sexual assault examination kit;
- 10 (B) Blood;
- 11 (C) Semen;
- 12 (D) Hair;
- 13 (E) Saliva;
- 14 (F) Skin tissue;
- 15 (G) Fingerprints;
- 16 (H) Bones;
- 17 (I) Teeth; or
- 18 (J) Any other identifiable human biological material or physical  
19 evidence.

20 Notwithstanding the foregoing, "DNA work product" does not  
21 include a reference sample collected unless it has been shown through  
22 DNA comparison to associate the source of the sample with the  
23 criminal case for which it was collected.

24 (c) "Governmental entity" means any general law enforcement  
25 agency or any person or organization officially acting on behalf of  
26 the state or any political subdivision of the state involved in the  
27 collection, examination, tracking, packaging, storing, or disposition  
28 of biological material collected in connection with a criminal  
29 investigation relating to a felony offense.

30 (d) "Reference sample" means a known sample collected from an  
31 individual by a governmental entity for the purpose of comparison to  
32 DNA profiles developed in the criminal case(s).

33 (3) If a court finds that DNA work product was destroyed  
34 intentionally to violate this section, the court may impose  
35 appropriate sanctions. The court may not order the reversal of a  
36 conviction under this section on the sole grounds that the DNA work  
37 product is no longer available.

1        NEW SECTION.    **Sec. 2.**    Section 1 of this act constitutes a new  
2 chapter in Title 5 RCW.

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