
SENATE BILL 5240

State of Washington 64th Legislature 2015 Regular Session

By Senators Darneille, O'Ban, Mullet, Pearson, and Fraser

Read first time 01/16/15. Referred to Committee on Law & Justice.

1 AN ACT Relating to collection of DNA samples from persons
2 acquitted by reason of insanity; and amending RCW 43.43.754.

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

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

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

8 (a) Every adult or juvenile individual convicted or acquitted by
9 reason of insanity of a felony, or any of the following crimes (or
10 equivalent juvenile offenses):

11 Assault in the fourth degree with sexual motivation (RCW
12 9A.36.041, 9.94A.835)

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

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

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

16 Harassment (RCW 9A.46.020)

17 Patronizing a prostitute (RCW 9A.88.110)

18 Sexual misconduct with a minor in the second degree (RCW
19 9A.44.096)

20 Stalking (RCW 9A.46.110)

1 Violation of a sexual assault protection order granted under
2 chapter 7.90 RCW; and

3 (b) Every adult or juvenile individual who is required to
4 register under RCW 9A.44.130.

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

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

10 (a) For persons convicted or acquitted by reason of insanity of
11 any offense listed in subsection (1)(a) of this section or
12 adjudicated guilty or acquitted by reason of insanity of an
13 equivalent juvenile offense who do not serve a term of confinement in
14 a department of corrections facility, and do serve a term of
15 confinement in a city or county jail facility, the city or county
16 shall be responsible for obtaining the biological samples.

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

19 (i) Persons convicted or acquitted by reason of insanity of any
20 offense listed in subsection (1)(a) of this section or adjudicated
21 guilty or acquitted by reason of insanity of an equivalent juvenile
22 offense who do not serve a term of confinement in a department of
23 corrections facility, and do not serve a term of confinement in a
24 city or county jail facility; and

25 (ii) Persons who are required to register under RCW (~~9A.44.030~~)
26 9A.44.130.

27 (c) For persons convicted or acquitted by reason of insanity of
28 any offense listed in subsection (1)(a) of this section or
29 adjudicated guilty or acquitted by reason of insanity of an
30 equivalent juvenile offense, who are serving or who are to serve a
31 term of confinement in a department of corrections facility or a
32 department of social and health services facility, the facility
33 holding the person shall be responsible for obtaining the biological
34 samples. For those persons incarcerated before June 12, 2008, who
35 have not yet had a biological sample collected, priority shall be
36 given to those persons who will be released the soonest.

37 (4) Any biological sample taken pursuant to RCW 43.43.752 through
38 43.43.758 may be retained by the forensic laboratory services bureau,
39 and shall be used solely for the purpose of providing DNA or other
40 tests for identification analysis and prosecution of a criminal

1 offense or for the identification of human remains or missing
2 persons. Nothing in this section prohibits the submission of results
3 derived from the biological samples to the federal bureau of
4 investigation combined DNA index system.

5 (5) The forensic laboratory services bureau of the Washington
6 state patrol is responsible for testing performed on all biological
7 samples that are collected under subsection (1) of this section, to
8 the extent allowed by funding available for this purpose. The
9 director shall give priority to testing on samples collected from
10 those adults or juveniles convicted or acquitted by reason of
11 insanity of a felony or adjudicated guilty or acquitted by reason of
12 insanity of an equivalent juvenile offense that is defined as a sex
13 offense or a violent offense in RCW 9.94A.030. Known duplicate
14 samples may be excluded from testing unless testing is deemed
15 necessary or advisable by the director.

16 (6) This section applies to:

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

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

21 (i) Are convicted or acquitted by reason of insanity on or after
22 June 12, 2008, of an offense listed in subsection (1)(a) of this
23 section; or

24 (ii) Were convicted or acquitted by reason of insanity prior to
25 June 12, 2008, of an offense listed in subsection (1)(a) of this
26 section and are still incarcerated or committed to a facility
27 operated by the department of social and health services on or after
28 June 12, 2008; and

29 (c) All adults and juveniles who are required to register under
30 RCW 9A.44.130 on or after June 12, 2008, whether convicted before,
31 on, or after June 12, 2008.

32 (7) This section creates no rights in a third person. No cause of
33 action may be brought based upon the noncollection or nonanalysis or
34 the delayed collection or analysis of a biological sample authorized
35 to be taken under RCW 43.43.752 through 43.43.758.

36 (8) The detention, arrest, or conviction of a person based upon a
37 database match or database information is not invalidated if it is
38 determined that the sample was obtained or placed in the database by
39 mistake, or if the conviction or juvenile adjudication that resulted
40 in the collection of the biological sample was subsequently vacated

1 or otherwise altered in any future proceeding including but not
2 limited to posttrial or postfact-finding motions, appeals, or
3 collateral attacks.

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