
Public Safety Committee

HB 1111

Brief Description: Concerning DNA biological samples.

Sponsors: Representatives Orwall, Klippert, Goodman, Hayes, Stanford, Jinkins, Fey, Muri, Gregerson and Kilduff.

Brief Summary of Bill

- Requires deoxyribonucleic acid (DNA) collection from offenders upon conviction for indecent exposure.
- Authorizes law enforcement to submit biological samples obtained from certain deceased offenders to the Washington State Patrol for purposes of a DNA identification analysis.
- Requires the court, at an arraignment or bail hearing, to order a defendant to submit a biological sample for DNA testing if that person is charged with any offense and has a prior conviction for a violent offense.
- Outlines additional processes and procedures for collection of biological samples.
- Expands the crime of Refusal to Provide a DNA sample to apply to any person lawfully required to provide a sample, rather than only persons required to register as sex or kidnapping offenders.

Hearing Date: 1/23/17

Staff: Omeara Harrington (786-7136).

Background:

The Washington State Patrol (WSP) operates and maintains a deoxyribonucleic acid (DNA) identification system. The purposes of the system are to assist with criminal investigations and identify human remains and missing persons.

Offenders from Whom a Biological Sample Must be Collected.

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.

Biological samples must be collected from any person convicted of a felony, any person who is required to register as a sex or kidnapping offender, and any person convicted of the following misdemeanors and gross misdemeanors:

- Assault in the fourth degree with Sexual Motivation;
- Communication with a Minor for Immoral Purposes;
- Custodial Sexual Misconduct in the second degree;
- Failure to Register as a sex or kidnapping offender;
- Harassment;
- Patronizing a Prostitute;
- Sexual Misconduct with a Minor in the second degree;
- Stalking; and
- Violation of a Sexual Assault protection order.

If a DNA sample already exists from the offender in question, another biological sample does not have to be collected.

Testing Biological Samples.

The Forensic Laboratory Services Bureau of the WSP is responsible for testing the biological samples that are submitted for inclusion in the DNA database. The Director of the Forensic Laboratory Services Bureau (Director) must give priority to testing samples from persons convicted of sex and violent offenses. Duplicate biological samples may be excluded from testing, unless the Director deems testing necessary or advisable.

Collection of DNA.

County and city jails are responsible for collecting biological samples for DNA analysis from offenders incarcerated in their facilities. The Department of Corrections (DOC) and the Department of Social and Health Services (DSHS) are responsible for collecting biological samples for DNA analysis from offenders incarcerated in a state facility. Local police departments and sheriff's offices are responsible for collecting biological samples for DNA analysis from registered sex and kidnapping offenders and convicted offenders who do not serve any term of incarceration.

Refusal to Provide DNA.

A person who has a duty to register as a sex or kidnapping offender who willfully refuses to comply with a legal request for a DNA sample is guilty of the crime of Refusal to Provide DNA. Refusal to Provide DNA is a gross misdemeanor.

Indecent Exposure.

A person is guilty of Indecent Exposure if he or she intentionally makes any open and obscene exposure of his or her person, or another person, knowing that such conduct is likely to cause reasonable affront or alarm. Indecent Exposure is generally a misdemeanor; however, a first offense of Indecent Exposure is a gross misdemeanor if the offender exposes himself or herself to a person under the age of 14 years, and Indecent Exposure is a class C felony upon a second or subsequent offense, or if the offender has prior sex offense conviction.

Summary of Bill:

Jennifer and Michella's Law is enacted.

The circumstances under which biological samples are collected and submitted for the purposes of DNA identification analysis are expanded:

1. Indecent Exposure is added to the list of non-felony crimes for which DNA is collected upon conviction.
2. Law enforcement agencies are authorized to submit to the WSP any lawfully obtained biological samples within their control from deceased offenders with previous felony convictions or convictions for other crimes for which biological samples are collected. A qualifying deceased offender's sample may be submitted regardless of the date of the prior offense.
3. The court must order a defendant, at an arraignment or bail hearing, to submit a biological sample if that person is charged with any offense and he or she has previously been convicted of a violent felony offense.

Additional processes regarding collection of biological samples are outlined. Correctional facilities that are responsible for collecting biological samples from convicted offenders must make the collection part of the intake process. Local jails that are responsible for obtaining biological samples from convicted offenders serving a term of incarceration in jail must collect the samples immediately following sentencing. The court must order a person who is not taken into custody immediately after sentencing, or following an arraignment or bail hearing in a qualifying case, to immediately report to the appropriate facility to provide a biological sample. The court must establish a status hearing to take place within 14 days to ensure the offender has complied with the court order. If the court receives documentation that the offender has complied with the court order by submitting a biological sample, the status hearing may be canceled.

The crime of Refusal to Provide DNA is expanded to apply to any person who willfully refuses to comply with a legal request for a DNA sample, rather than only to persons who have a duty to register as a sex or kidnapping offender.

Other technical corrections and clarifications are made, including eliminating the provision that requires the Director to give priority to testing certain samples.

Appropriation: None.

Fiscal Note: Requested on January 18, 2017.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.