

---

## Public Safety Committee

---

### HB 2331

**Brief Description:** Addressing collection of DNA biological samples.

**Sponsors:** Representatives Orwall, Griffey, Goodman, Jinkins, Muri, Kilduff and Klippert.

<p style="text-align: center;"><b>Brief Summary of Bill</b></p> <ul style="list-style-type: none"><li>• Applies the DNA collection and analysis law to persons convicted under a municipal ordinance that is equivalent to a state criminal statute for which DNA is collected upon conviction.</li></ul>
---



**Hearing Date:** 1/9/18

**Staff:** Omeara Harrington (786-7136).

**Background:**

DNA Identification System.

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. The Forensic Laboratory Services Bureau of the WSP is responsible for testing the biological samples that are submitted for inclusion in the DNA database.

Biological samples for DNA identification analysis 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;
- Assault in the fourth degree when Domestic Violence was pleaded and proven;
- Communication with a Minor for Immoral Purposes;
- Custodial Sexual Misconduct in the second degree;
- Failure to Register as a sex or kidnapping offender;
- Harassment;

---

*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.*

- 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.

#### Municipal Ordinance Violations.

Misdemeanor and gross misdemeanor criminal convictions may be based either on a violation of a state criminal statute or a local criminal ordinance. Offenses based on municipal ordinance are tried in municipal courts. Some municipalities incorporate the state law criminal provisions into local code by reference to the applicable state code provisions. Others adopt their own local criminal code provisions.

#### **Summary of Bill:**

Samples for DNA analysis must be collected from persons convicted under a municipal ordinance when the prosecutor certifies at sentencing that the municipal ordinance is equivalent to a state criminal offense statute for which DNA is collected upon conviction. The current law provision applying the DNA collection and analysis law to all convictions on or after June 12, 2008, is expanded to include convictions under an equivalent municipal ordinance.

No cause of action may be brought against the state based on an analysis of a sample taken pursuant to a municipal ordinance that is obtained or placed in the database by mistake, or if the conviction is overturned.

**Appropriation:** None.

**Fiscal Note:** Requested on January 3, 2018.

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