
HOUSE BILL 2318

State of Washington

66th Legislature

2020 Regular Session

By Representatives Orwall, Lovick, Slatter, Morgan, Wylie, Mosbrucker, and Pollet

Prefiled 01/08/20. Read first time 01/13/20. Referred to Committee on Public Safety.

1 AN ACT Relating to advancing criminal investigatory practices;
2 amending RCW 5.70.010, 70.125.090, 70.125.100, 43.43.545, and
3 43.43.754; adding a new section to chapter 43.101 RCW; adding new
4 sections to chapter 5.70 RCW; recodifying RCW 70.125.090 and
5 70.125.100; providing an effective date; and providing an expiration
6 date.

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

8 **Sec. 1.** RCW 5.70.010 and 2015 c 221 s 1 are each amended to read
9 as follows:

10 (1) In any felony case initially charged as a violent or sex
11 offense, as defined in RCW 9.94A.030, a governmental entity shall
12 preserve any DNA work product that has been secured in connection
13 with the criminal case, including related investigatory reports and
14 records, according to the following guidelines:

15 (a) Except as provided in (b) of this subsection, where a
16 defendant has been charged and convicted in connection with the case,
17 the DNA work product and investigatory reports and records must be
18 maintained throughout the length of the sentence, including any
19 period of community custody extending through final discharge;

20 (b) Where a defendant has been convicted and sentenced under RCW
21 9.94A.507 in connection with the case, the DNA work product and

1 investigatory reports and records must be maintained for ninety-nine
2 years or until the death of the defendant, whichever is sooner; and

3 (c) Where no conviction has been made in connection with the
4 case, the DNA work product and investigatory reports and records must
5 be maintained for ninety-nine years or throughout the period of the
6 statute of limitations pursuant to RCW 9A.04.080, whichever is
7 sooner.

8 (2) Notwithstanding subsection (1) of this section, in any felony
9 case regardless of whether the identity of the offender is known and
10 law enforcement has probable cause sufficient to believe the elements
11 of a violent or sex offense as defined in RCW 9.94A.030 have been
12 committed, a governmental entity shall preserve any DNA work
13 product (~~(, including a sexual assault examination kit,)~~) secured in
14 connection with the criminal case and investigatory reports and
15 records for ninety-nine years or throughout the period of the statute
16 of limitations pursuant to RCW 9A.04.080, whichever is sooner.

17 (3) (~~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~~
22 ~~DNA, material that had been subjected to DNA extraction, and DNA~~
23 ~~extracts from reference samples; or (ii) any material contained on a~~
24 ~~microscope slide, swab, in a sample tube, cutting, DNA extract, or~~
25 ~~some other similar retention method used to isolate potential~~
26 ~~biological evidence that has been collected by law enforcement as~~
27 ~~part of its investigation and prepared for scientific analysis,~~
28 ~~whether or not it is submitted for scientific analysis and derived~~
29 ~~from:~~

30 ~~(A) The contents of a sexual assault examination kit;~~

31 ~~(B) Blood;~~

32 ~~(C) Semen;~~

33 ~~(D) Hair;~~

34 ~~(E) Saliva;~~

35 ~~(F) Skin tissue;~~

36 ~~(G) Fingerprints;~~

37 ~~(H) Bones;~~

38 ~~(I) Teeth; or~~

39 ~~(J) Any other identifiable human biological material or physical~~
40 ~~evidence.~~

1 ~~Notwithstanding the foregoing, "DNA work product" does not~~
2 ~~include a reference sample collected unless it has been shown through~~
3 ~~DNA comparison to associate the source of the sample with the~~
4 ~~criminal case for which it was collected.~~

5 ~~(c) "Governmental entity" means any general law enforcement~~
6 ~~agency or any person or organization officially acting on behalf of~~
7 ~~the state or any political subdivision of the state involved in the~~
8 ~~collection, examination, tracking, packaging, storing, or disposition~~
9 ~~of biological material collected in connection with a criminal~~
10 ~~investigation relating to a felony offense.~~

11 ~~(d) "Reference sample" means a known sample collected from an~~
12 ~~individual by a governmental entity for the purpose of comparison to~~
13 ~~DNA profiles developed in a criminal case.~~

14 (4)) The failure of a law enforcement agency to preserve DNA
15 work product does not constitute grounds in any criminal proceeding
16 for challenging the admissibility of other DNA work product that was
17 preserved in a case, and any evidence offered may not be excluded by
18 a court on those grounds. The court may not set aside the conviction
19 or sentence or order the reversal of a conviction under this section
20 on the grounds that the DNA work product is no longer available.
21 Unless the court finds that DNA work product was destroyed with
22 malicious intent to violate this section, a person accused of
23 committing a crime against a person has no cause of action against a
24 law enforcement agency for failure to comply with the requirements of
25 this section. If the court finds that DNA work product was destroyed
26 with malicious intent to violate this section, the court may impose
27 appropriate sanctions. Nothing in this section may be construed to
28 create a private right of action on the part of any individual or
29 entity against any law enforcement agency or any contractor of a law
30 enforcement agency.

31 NEW SECTION. **Sec. 2.** A new section is added to chapter 5.70 RCW
32 to read as follows:

33 The definitions in this section apply throughout this chapter
34 unless the context clearly requires otherwise.

35 (1) "Amplified DNA" means DNA generated during scientific
36 analysis using a polymerase chain reaction.

37 (2) "DNA work product" means (a) product generated during the
38 process of scientific analysis of such material, except amplified
39 DNA, material that had been subjected to DNA extraction, and DNA

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

8 (i) The contents of a sexual assault examination kit;

9 (ii) Blood;

10 (iii) Semen;

11 (iv) Hair;

12 (v) Saliva;

13 (vi) Skin tissue;

14 (vii) Fingerprints;

15 (viii) Bones;

16 (ix) Teeth; or

17 (x) Any other identifiable human biological material or physical
18 evidence.

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

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

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

32 (5) "Sexual assault kit" includes all evidence collected during a
33 sexual assault medical forensic examination.

34 (6) "Unreported sexual assault kit" means a sexual assault kit
35 collected from an adult or emancipated minor victim who has not
36 consented to forensic analysis of the sexual assault kit or where the
37 law enforcement agency has not received a related report or complaint
38 alleging a sexual assault or other crime has occurred.

1 NEW SECTION. **Sec. 3.** A new section is added to chapter 5.70 RCW
2 to read as follows:

3 (1) By January 1, 2021, unreported sexual assault kits collected
4 prior to the effective date of this section and stored according to
5 the requirements of RCW 70.125.101 must be transported to the
6 respective local law enforcement agency which the collecting entity
7 or Washington state patrol reasonably believes would have
8 jurisdiction to investigate any related criminal allegations if they
9 were to be reported to law enforcement.

10 (2) Unreported sexual assault kits collected on or after the
11 effective date of this section must be transported from the
12 collecting entity to the respective local law enforcement agency
13 which the collecting entity reasonably believes would have
14 jurisdiction to investigate any related criminal allegations if they
15 were to be reported to law enforcement.

16 (3) Law enforcement agencies shall store and preserve any
17 unreported sexual assault kit for twenty years from the date of
18 collection.

19 **Sec. 4.** RCW 70.125.090 and 2019 c 93 s 6 are each amended to
20 read as follows:

21 (1) When a law enforcement agency receives a sexual assault kit,
22 the law enforcement agency must, within thirty days of its receipt,
23 submit a request for laboratory examination to the Washington state
24 patrol crime laboratory for prioritization for testing by it or
25 another accredited laboratory that holds an outsourcing agreement
26 with the Washington state patrol if:

27 (a) The law enforcement agency has received a related report or
28 complaint alleging a sexual assault or other crime has occurred; and

29 (b) (i) Consent for laboratory examination has been given by the
30 victim; or

31 (ii) The victim is a person under the age of eighteen who is not
32 emancipated pursuant to chapter 13.64 RCW.

33 (2) Beginning May 1, 2022, when the Washington state patrol
34 receives a request for laboratory examination of a sexual assault kit
35 from a law enforcement agency, the Washington state patrol shall
36 conduct the laboratory examination of the sexual assault kit, and
37 when appropriate, enter relevant information into the combined DNA
38 index system, within forty-five days of receipt of the request. The
39 Washington state patrol crime laboratory must give priority to the

1 laboratory examination of sexual assault kits at the request of a
2 local law enforcement agency for:

3 (a) Active investigations and cases with impending court dates;

4 (b) Active investigations where public safety is an immediate
5 concern;

6 (c) Violent crimes investigations, including active sexual
7 assault investigations;

8 (d) Postconviction cases; and

9 (e) Other crimes' investigations and nonactive investigations,
10 such as previously unsubmitted older sexual assault kits or recently
11 collected sexual assault kits that the submitting agency has
12 determined to be lower priority based on their initial investigation.

13 (3) The requirements to request and complete laboratory
14 examination of sexual assault kits under subsections (1) and (2) of
15 this section do not include forensic toxicological analysis. However,
16 nothing in this section limits or modifies the authority of a law
17 enforcement agency to request toxicological analysis of evidence
18 collected in a sexual assault kit.

19 (4) The failure of a law enforcement agency to submit a request
20 for laboratory examination, or the failure of the Washington state
21 patrol to facilitate laboratory examination, within the time periods
22 prescribed under this section does not constitute grounds in any
23 criminal proceeding for challenging the validity of a DNA evidence
24 association, and any evidence obtained from the sexual assault kit
25 may not be excluded by a court on those grounds.

26 ~~((4))~~ (5) A person accused or convicted of committing a crime
27 against a victim has no standing to object to any failure to comply
28 with the requirements of this section, and the failure to comply with
29 the requirements of this section is not grounds for setting aside the
30 conviction or sentence.

31 ~~((5))~~ (6) Nothing in this section may be construed to create a
32 private right of action or claim on the part of any individual,
33 entity, or agency against any law enforcement agency or any
34 contractor of any law enforcement agency.

35 ~~((6))~~ (7) This section applies ~~((prospectively only and not~~
36 ~~retroactively. It only applies))~~ to sexual assault examinations
37 performed on or after July 24, 2015.

38 ~~((7))~~ (8)(a) Until June 30, 2023, the Washington state patrol
39 shall compile the following information related to the sexual assault

1 kits identified in this section and RCW 70.125.100 (as recodified by
2 this act):

3 (i) The number of requests for laboratory examination made for
4 sexual assault kits and the law enforcement agencies that submitted
5 the requests; and

6 (ii) The progress made towards testing the sexual assault kits,
7 including the status of requests for laboratory examination made by
8 each law enforcement agency.

9 (b) The Washington state patrol shall make recommendations for
10 increasing the progress on testing any untested sexual assault kits.

11 (c) Beginning in 2015, the Washington state patrol shall report
12 its findings and recommendations annually to the appropriate
13 committees of the legislature and the governor by December 1st of
14 each year.

15 **Sec. 5.** RCW 70.125.100 and 2019 c 93 s 7 are each amended to
16 read as follows:

17 (1) Law enforcement agencies shall submit requests for forensic
18 analysis of all sexual assault kits collected prior to July 24, 2015,
19 and in the possession of the agencies to the Washington state patrol
20 crime laboratory by October 1, 2019, except submission for forensic
21 analysis is not required when: (a) Forensic analysis has previously
22 been conducted; (b) there is documentation of an adult victim or
23 emancipated minor victim expressing that he or she does not want his
24 or her sexual assault kit submitted for forensic analysis; or (c) a
25 sexual assault kit is noninvestigatory and held by a law enforcement
26 agency pursuant to an agreement with a hospital or other medical
27 provider. The requirements of this subsection apply regardless of the
28 statute of limitations or the status of any related investigation.

29 (2) The Washington state patrol crime laboratory may consult with
30 local law enforcement agencies to coordinate the efficient submission
31 of requests for forensic analysis under this section in conjunction
32 with the implementation of the statewide tracking system under RCW
33 43.43.545, provided that all requests are submitted and all required
34 information is entered into the statewide sexual assault tracking
35 system by October 1, 2019. The Washington state patrol crime
36 laboratory shall facilitate the forensic analysis of all sexual
37 assault kits submitted under this section by December 1, 2021. The
38 analysis may be conducted by the Washington state patrol laboratory
39 or an accredited laboratory holding a contract or agreement with the

1 Washington state patrol. The Washington state patrol shall process
2 the forensic analysis of sexual assault kits in accordance with the
3 priorities in RCW 70.125.090(2) (as recodified by this act).

4 (3) The requirements to request and complete laboratory
5 examination of sexual assault kits under this section do not include
6 forensic toxicological analysis. However, nothing in this section
7 limits or modifies the authority of a law enforcement agency to
8 request toxicological analysis of evidence collected in a sexual
9 assault kit.

10 (4) The failure of a law enforcement agency to submit a request
11 for laboratory examination within the time prescribed under this
12 section does not constitute grounds in any criminal proceeding for
13 challenging the validity of a DNA evidence association, and any
14 evidence obtained from the sexual assault kit may not be excluded by
15 a court on those grounds.

16 ~~((4))~~ (5) A person accused or convicted of committing a crime
17 against a victim has no standing to object to any failure to comply
18 with the requirements of this section, and the failure to comply with
19 the requirements of this section is not grounds for setting aside the
20 conviction or sentence.

21 ~~((5))~~ (6) Nothing in this section may be construed to create a
22 private right of action or claim on the part of any individual,
23 entity, or agency against any law enforcement agency or any
24 contractor of any law enforcement agency.

25 **Sec. 6.** RCW 43.43.545 and 2019 c 93 s 4 are each amended to read
26 as follows:

27 (1) The Washington state patrol shall create and operate a
28 statewide sexual assault kit tracking system. The Washington state
29 patrol may contract with state or nonstate entities including, but
30 not limited to, private software and technology providers, for the
31 creation, operation, and maintenance of the system.

32 (2) The statewide sexual assault kit tracking system must:

33 (a) Track the location and status of sexual assault kits
34 throughout the criminal justice process, including the initial
35 collection in examinations performed at medical facilities, receipt
36 and storage at law enforcement agencies, receipt and analysis at
37 forensic laboratories, and storage and any destruction after
38 completion of analysis;

39 (b) Designate sexual assault kits as unreported or reported;

1 (c) Indicate whether a sexual assault kit contains biological
2 materials collected for the purpose of forensic toxicological
3 analysis;

4 (d) Allow medical facilities performing sexual assault forensic
5 examinations, law enforcement agencies, prosecutors, the Washington
6 state patrol bureau of forensic laboratory services, and other
7 entities having custody of sexual assault kits to update and track
8 the status and location of sexual assault kits;

9 ~~((d))~~ (e) Allow victims of sexual assault to anonymously track
10 or receive updates regarding the status of their sexual assault kits;
11 and

12 ~~((e))~~ (f) Use electronic technology or technologies allowing
13 continuous access.

14 (3) The Washington state patrol may use a phased implementation
15 process in order to launch the system and facilitate entry and use of
16 the system for required participants. The Washington state patrol may
17 phase initial participation according to region, volume, or other
18 appropriate classifications. All entities having custody of sexual
19 assault kits shall fully participate in the system no later than June
20 1, 2018. The Washington state patrol shall submit a report on the
21 current status and plan for launching the system, including the plan
22 for phased implementation, to the joint legislative task force on
23 sexual assault forensic examination best practices, the appropriate
24 committees of the legislature, and the governor no later than January
25 1, 2017.

26 (4) The Washington state patrol shall submit a semiannual report
27 on the statewide sexual assault kit tracking system to the joint
28 legislative task force on sexual assault forensic examination best
29 practices, the appropriate committees of the legislature, and the
30 governor. The Washington state patrol may publish the current report
31 on its web site. The first report is due July 31, 2018, and
32 subsequent reports are due January 31st and July 31st of each year.
33 The report must include the following:

34 (a) The total number of sexual assault kits in the system
35 statewide and by jurisdiction;

36 (b) The total and semiannual number of sexual assault kits where
37 forensic analysis has been completed statewide and by jurisdiction;

38 (c) The number of sexual assault kits added to the system in the
39 reporting period statewide and by jurisdiction;

1 (d) The total and semiannual number of sexual assault kits where
2 forensic analysis has been requested but not completed statewide and
3 by jurisdiction;

4 (e) The average and median length of time for sexual assault kits
5 to be submitted for forensic analysis after being added to the
6 system, including separate sets of data for all sexual assault kits
7 in the system statewide and by jurisdiction and for sexual assault
8 kits added to the system in the reporting period statewide and by
9 jurisdiction;

10 (f) The average and median length of time for forensic analysis
11 to be completed on sexual assault kits after being submitted for
12 analysis, including separate sets of data for all sexual assault kits
13 in the system statewide and by jurisdiction and for sexual assault
14 kits added to the system in the reporting period statewide and by
15 jurisdiction;

16 (g) The total and semiannual number of sexual assault kits
17 destroyed or removed from the system statewide and by jurisdiction;

18 (h) The total number of sexual assault kits, statewide and by
19 jurisdiction, where forensic analysis has not been completed and six
20 months or more have passed since those sexual assault kits were added
21 to the system; and

22 (i) The total number of sexual assault kits, statewide and by
23 jurisdiction, where forensic analysis has not been completed and one
24 year or more has passed since those sexual assault kits were added to
25 the system.

26 (5) For the purpose of reports under subsection (4) of this
27 section, a sexual assault kit must be assigned to the jurisdiction
28 associated with the law enforcement agency anticipated to receive the
29 sexual assault kit or otherwise having custody of the sexual assault
30 kit.

31 (6) Any public agency or entity, including its officials and
32 employees, and any hospital and its employees providing services to
33 victims of sexual assault may not be held civilly liable for damages
34 arising from any release of information or the failure to release
35 information related to the statewide sexual assault kit tracking
36 system, so long as the release was without gross negligence.

37 (7) The Washington state patrol shall adopt rules as necessary to
38 implement this section.

39 (8) For the purposes of this section (~~an "unreported sexual~~
40 ~~assault kit" refers to a sexual assault kit collected from a victim~~

1 ~~who has consented to the collection of the sexual assault kit but who~~
2 ~~has not reported the alleged crime to law enforcement)~~);

3 (a) "Reported sexual assault kit" means a sexual assault kit
4 where forensic analysis is required under RCW 70.125.090 or
5 70.125.100 (as recodified by this act);

6 (b) "Sexual assault kit" includes all evidence collected during a
7 sexual assault medical forensic examination; and

8 (c) "Unreported sexual assault kit" means a sexual assault kit
9 collected from an adult or emancipated minor victim who has not
10 consented to laboratory examination of the sexual assault kit or
11 where the law enforcement agency has not received a related report or
12 complaint alleging a sexual assault or other crime has occurred.

13 **Sec. 7.** RCW 43.43.754 and 2019 c 443 s 3 are each amended to
14 read as follows:

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

17 (a) Every adult or juvenile individual convicted of a felony, or
18 any of the following crimes (or equivalent juvenile offenses):

19 (i) Assault in the fourth degree where domestic violence as
20 defined in RCW 9.94A.030 was pleaded and proven (RCW 9A.36.041,
21 9.94A.030);

22 (ii) Assault in the fourth degree with sexual motivation (RCW
23 9A.36.041, 9.94A.835);

24 (iii) Communication with a minor for immoral purposes (RCW
25 9.68A.090);

26 (iv) Custodial sexual misconduct in the second degree (RCW
27 9A.44.170);

28 (v) Failure to register (chapter 9A.44 RCW);

29 (vi) Harassment (RCW 9A.46.020);

30 (vii) Patronizing a prostitute (RCW 9A.88.110);

31 (viii) Sexual misconduct with a minor in the second degree (RCW
32 9A.44.096);

33 (ix) Stalking (RCW 9A.46.110);

34 (x) Indecent exposure (RCW 9A.88.010);

35 (xi) Violation of a sexual assault protection order granted under
36 chapter 7.90 RCW; and

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

1 (2) (a) A municipal jurisdiction may also submit any biological
2 sample to the laboratory services bureau of the Washington state
3 patrol for purposes of DNA identification analysis when:

4 (i) The sample was collected from a defendant upon conviction for
5 a municipal offense where the underlying ordinance does not adopt the
6 relevant state statute by reference but the offense is otherwise
7 equivalent to an offense in subsection (1)(a) of this section;

8 (ii) The equivalent offense in subsection (1)(a) of this section
9 was an offense for which collection of a biological sample was
10 required under this section at the time of the conviction; and

11 (iii) The sample was collected on or after June 12, 2008, and
12 before January 1, 2020.

13 (b) When submitting a biological sample under this subsection,
14 the municipal jurisdiction must include a signed affidavit from the
15 municipal prosecuting authority of the jurisdiction in which the
16 conviction occurred specifying the state crime to which the municipal
17 offense is equivalent.

18 (3) Law enforcement may submit to the forensic laboratory
19 services bureau of the Washington state patrol, for purposes of DNA
20 identification analysis, any lawfully obtained biological sample
21 within its control from a deceased offender who was previously
22 convicted of an offense under subsection (1)(a) of this section,
23 regardless of the date of conviction.

24 (4) If the Washington state patrol crime laboratory already has a
25 DNA sample from an individual for a qualifying offense, a subsequent
26 submission is not required to be submitted.

27 (5) Biological samples shall be collected in the following
28 manner:

29 (a) For persons convicted of any offense listed in subsection
30 (1)(a) of this section or adjudicated guilty of an equivalent
31 juvenile offense, who do not serve a term of confinement in a
32 department of corrections facility or a department of children,
33 youth, and families facility, and are serving a term of confinement
34 in a city or county jail facility, the city or county jail facility
35 shall be responsible for obtaining the biological samples.

36 (b) The local police department or sheriff's office shall be
37 responsible for obtaining the biological samples for(÷

38 ~~(i) Persons convicted of any offense listed in subsection (1)(a)~~
39 ~~of this section or adjudicated guilty of an equivalent juvenile~~
40 ~~offense, who do not serve a term of confinement in a department of~~

1 ~~corrections facility, department of children, youth, and families~~
2 ~~facility, or a city or county jail facility; and~~

3 ~~(ii) Persons))~~ persons who are required to register under RCW
4 9A.44.130.

5 (c) For persons convicted of any offense listed in subsection
6 (1)(a) of this section or adjudicated guilty of an equivalent
7 juvenile offense, who are serving or who are to serve a term of
8 confinement in a department of corrections facility or a department
9 of children, youth, and families facility, the facility holding the
10 person shall be responsible for obtaining the biological samples as
11 part of the intake process. If the facility did not collect the
12 biological sample during the intake process, then the facility shall
13 collect the biological sample as soon as is practicable. For those
14 persons incarcerated before June 12, 2008, who have not yet had a
15 biological sample collected, priority shall be given to those persons
16 who will be released the soonest.

17 ~~((6))~~ (d) For persons convicted of any offense listed in
18 subsection (1)(a) of this section or adjudicated guilty of an
19 equivalent juvenile offense, who ~~((will not serve a term of~~
20 ~~confinement, the court shall order the person to report to the local~~
21 ~~police department or sheriff's office as provided under subsection~~
22 ~~(5)(b)(i) of this section within a reasonable period of time~~
23 ~~established by the court in order to provide a biological sample. The~~
24 ~~court must further inform the person that refusal to provide a~~
25 ~~biological sample is a gross misdemeanor under this section))~~ are not
26 immediately taken into the custody of a department of corrections
27 facility, department of children, youth, and families facility, or a
28 city or county jail facility, or who will not otherwise serve a term
29 of confinement, the court shall order the person to immediately
30 provide a biological sample. The biological sample must be taken
31 prior to the person leaving the presence of the court by the local
32 police department, sheriff's office, or other entity designated by
33 the court.

34 ~~((7))~~ (6) Any biological sample taken pursuant to RCW 43.43.752
35 through 43.43.758 may be retained by the forensic laboratory services
36 bureau, and shall be used solely for the purpose of providing DNA or
37 other tests for identification analysis and prosecution of a criminal
38 offense or for the identification of human remains or missing
39 persons. Nothing in this section prohibits the submission of results

1 derived from the biological samples to the federal bureau of
2 investigation combined DNA index system.

3 ~~((+8))~~ (7) The forensic laboratory services bureau of the
4 Washington state patrol is responsible for testing performed on all
5 biological samples that are collected under this section, to the
6 extent allowed by funding available for this purpose. Known duplicate
7 samples may be excluded from testing unless testing is deemed
8 necessary or advisable by the director.

9 ~~((+9))~~ (8) This section applies to:

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

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

14 (i) Are convicted on or after June 12, 2008, of an offense listed
15 in subsection (1)(a) of this section on the date of conviction; or

16 (ii) Were convicted prior to June 12, 2008, of an offense listed
17 in subsection (1)(a) of this section and are still incarcerated on or
18 after June 12, 2008;

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

22 (d) All samples submitted under subsections (2) and (3) of this
23 section.

24 ~~((+10))~~ (9) This section creates no rights in a third person. No
25 cause of action may be brought based upon the noncollection or
26 nonanalysis or the delayed collection or analysis of a biological
27 sample authorized to be taken under RCW 43.43.752 through 43.43.758.

28 ~~((+11))~~ (10) The detention, arrest, or conviction of a person
29 based upon a database match or database information is not
30 invalidated if it is determined that the sample was obtained or
31 placed in the database by mistake, or if the conviction or juvenile
32 adjudication that resulted in the collection of the biological sample
33 was subsequently vacated or otherwise altered in any future
34 proceeding including but not limited to posttrial or postfact-finding
35 motions, appeals, or collateral attacks. No cause of action may be
36 brought against the state based upon the analysis of a biological
37 sample authorized to be taken pursuant to a municipal ordinance if
38 the conviction or adjudication that resulted in the collection of the
39 biological sample was subsequently vacated or otherwise altered in

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

3 ~~((12))~~ (11) A person commits the crime of refusal to provide
4 DNA if the person willfully refuses to comply with a legal request
5 for a DNA sample as required under this section. The refusal to
6 provide DNA is a gross misdemeanor.

7 NEW SECTION. **Sec. 8.** A new section is added to chapter 43.101
8 RCW to read as follows:

9 (1) Subject to the availability of amounts appropriated for this
10 specific purpose, the commission shall develop a proposal for a case
11 review program. The commission shall research, design, and develop
12 case review strategies designed to optimize outcomes in sexual
13 assault investigations through improved training and investigatory
14 practices. The proposed program must evaluate whether current
15 training and practices foster a trauma-informed, victim-centered
16 approach to witness and victim interviews and other investigatory
17 practices, including identifying gaps in training and assessing
18 whether the integration of the community resilience model results in
19 improved case outcomes and prolonged victim engagement in the
20 criminal justice system.

21 (2) In designing the program, the commission shall consult and
22 collaborate with experts in trauma-informed and victim-centered
23 training, experts in sexual assault investigations and prosecutions,
24 victim advocates, and other stakeholders identified by the
25 commission. The commission may form a multidisciplinary working group
26 for the purpose of carrying out the requirements of this section.

27 (3) The commission shall submit a report with a summary of its
28 proposal to the governor and the appropriate committees of the
29 legislature by December 1, 2020.

30 (4) This section expires July 1, 2021.

31 NEW SECTION. **Sec. 9.** RCW 70.125.090 and 70.125.100 are each
32 recodified as sections in chapter 5.70 RCW.

33 NEW SECTION. **Sec. 10.** Section 3 of this act takes effect June
34 30, 2020.

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