

HOUSE BILL REPORT

HB 1757

As Amended by the Senate

Title: An act relating to DNA identification.

Brief Description: Expanding the number of inmates subject to mandatory DNA testing.

Sponsors: Representatives Miloscia, O'Brien, Koster, Lovick, Haigh, Hurst and Radcliff.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/16/99, 2/24/99 [DP].

Floor Activity:

Passed House: 3/9/99, 83-10.

Senate Amended.

Passed Senate: 4/16/99, 46-1.

Brief Summary of Bill

- Expands the number of adult and juvenile felony sex and violent offenders subject to mandatory blood sampling for DNA identification analysis and data banking.
- Requires either that a blood sample be taken as part of the intake process, or within a reasonable time after the effective date of this act, depending upon the offender's date of conviction and if the offender is still incarcerated.
- Creates the Child Identification Program which requires hospitals and birthing centers to notify potential parents that they can receive a sample of their child's DNA at birth for safekeeping and encourages physicians, as well as the Department of Health, to participate.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Dianne Ramerman (786-7172).

Background:

The DNA Identification System. In 1990, the Legislature provided that any adult convicted after July 1, 1990, of a felony sex or violent offense must have a blood sample drawn for purposes of deoxyribonucleic acid (DNA) identification analysis. In 1994, the Legislature extended the provision to juveniles adjudicated guilty of equivalent offenses after July 1, 1994. Thus, under current law, neither adults convicted on or prior to July 1, 1990, nor juveniles adjudicated guilty on or prior to July 1, 1994, are required to have blood samples drawn.

Blood samples taken from a convicted felon for the DNA Identification System must be used solely for the purposes of providing DNA or other blood grouping tests for identification analysis and prosecuting sex or violent offenses. DNA identification analysis results are kept in a convicted felon identification data bank maintained by the Washington State Patrol. Any data obtained from DNA identification procedures cannot be used for any research or other purpose that is not related to criminal investigation or to improving the operation of the system.

Under current law, samples must be drawn prior to release by the county jail or detention facility, or a Department of Corrections facility or a Juvenile Rehabilitation Administration facility.

The Child Identification Program. Currently, no statewide child identification program is available in Washington. However, the Florida House of Representatives is considering a similar bill during its 1999 session.

Summary of Bill:

The DNA Identification System. The following three changes are made to current law:

First, the statute is expanded to require that all adults convicted prior to, on, or after July 1, 1990, and all juveniles adjudicated guilty prior to, on, or after July 1, 1994, of an equivalent juvenile sex or violent offense have blood drawn for purposes of DNA identification analysis, if they are still incarcerated on or after the effective date of this act.

Second, adults and juveniles convicted of a felony sex or violent offense on or after the effective date of this act are required to have blood samples drawn as part of the intake process, rather than prior to release.

Third, adults and juveniles convicted of a felony sex or violent offense who are incarcerated prior to the effective date of this act and who have not yet had a blood sample drawn, are required to have blood samples drawn within a reasonable time after the effective date of this act, beginning with those individuals who will be released the soonest.

The Child Identification Program. A Child Identification Program is created. The program requires hospitals and birthing centers to notify potential parents that the hospital or birthing center is a participant in the program and, if requested, to provide a DNA sample for identification purposes to the parent for safekeeping. Parents are required to pay a fee that is to be determined by the hospital or birthing center. However, the fee cannot exceed the reasonable cost of obtaining the samples and necessary materials and is not subject to medicaid co-payment limitations. Finally, nothing in this program can be considered as a health service under the medicaid program.

Copies or records of DNA samples provided to the parent may not be maintained or created by any entity participating in the program.

All physicians who provide primary care to children born before the implementation of this act are encouraged to voluntarily participate and offer the child identification program to their patients. The Department of Health is encouraged to assist licensed physicians in learning about and participating in the program.

EFFECT OF SENATE AMENDMENT(S): The Child Identification Program is stricken from the legislation.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: DNA is becoming more useful in society. A great deal of DNA evidence is left at both violent and non-violent crime scenes. Washington is known as a technological state, yet Washington is a little bit behind other states in the use of DNA technology to solve crimes. If implemented, this bill would help law enforcement solve more crimes, act as a deterrent to prevent crimes from occurring, help decrease the

number of unsolved crimes, and increase the public's confidence in law enforcement's ability to solve crimes.

Including offenders who were incarcerated and convicted of a felony sex or violent offense prior to when the Washington State Patrol (WSP) convicted felon data bank system began, is a good thing since those individuals who will also be included were convicted of serious crimes. The "rational relationship to the public's interests" language means this bill would act like sex offender registration in that the purpose of the bill is not to punish, but rather to protect society in the future. If there are constitutional concerns, the Office of the Attorney General could be consulted, as that office would be responsible for defending the statute. If the Child Identification Program requires children's DNA to be inputted into the WSP data bank, this could create problems in that it would add to the current backlog, taking an even longer time before felony sex and violent offenders DNA samples are inputted.

Testimony Against: None.

Testified: (In support) Representative Miloscia, prime sponsor; and Tom McBride, Washington Association of Prosecuting Attorneys.