FINAL BILL REPORT
SHB 2491

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Synopsis as Enacted

Brief Description: Providing a procedure to conduct DNA testing of evidence for persons sentenced to death or life imprisonment.

Sponsors: By House Committee on Appropriations (originally sponsored by Representatives Schindler, Ballasiotes, Koster, Sullivan, Esser, Wood, Crouse, Cairnes, Rockefeller, Edmonds, Mulliken, Clements, Ruderman, McDonald and Dunn).

House Committee on Criminal Justice & Corrections
House Committee on Appropriations
Senate Committee on Human Services & Corrections
Senate Committee on Ways & Means

Background:

DNA evidence was first introduced into evidence in a United States court in 1986 and, after numerous court challenges, is now admitted in all United States jurisdictions. It has rapidly become an important forensic technique both for identifying perpetrators and for eliminating suspects when biological tissues such as saliva, skin, blood, hair, or semen are left at a crime scene. Two states, New York and Illinois, specifically authorize postconviction DNA testing. These states permit an indigent inmate to obtain postconviction DNA testing at state expense when certain evidentiary thresholds are met.

In Washington, a convicted defendant who has exhausted the appeals process may challenge a conviction by collateral attack. One mechanism of collateral attack is the writ of habeas corpus which a defendant may pursue in court by filing a personal restraint petition (PRP). Court rules establish the grounds for filing a PRP, including the following: (1) the convicting court lacked jurisdiction; (2) the conviction was obtained in violation of state law or the state or federal constitution; (3) material facts, not disclosed at trial, exist that in the interest of justice require the petitioner's release; (4) sufficient reasons exist to retroactively apply a post-conviction change in the law; (5) there are "other grounds" for a collateral attack on the conviction; (6) the conditions or manner of the petitioner's restraint violates the state or federal constitution; or (7) "other grounds" exist to challenge the legality of the confinement.

A prisoner under sentence of death who files a PRP is not entitled to discovery or investigative, expert, or other services as a matter of course, but must show good

cause to believe that it will produce information that would support granting a PRP. Further, according to court rule, the Supreme Court may only grant a motion for investigative, expert, or other services if the Legislature has authorized and approved funding for such services.

Criminal charges are brought against a person by indictment or by the filing of an information. To be legally sufficient, an indictment or information must name the defendant or, if his or her name is unknown, describe the defendant by a fictitious name.

Summary of Bill:

A person sentenced to death or to life without the possibility of release may, on or before December 31, 2002, submit a request for postconviction DNA testing to the prosecutor of the county where the conviction was obtained. The request may only be made if the DNA evidence was not admitted in court because it did not meet acceptable scientific standards or the testing technology was not sufficiently developed to test the DNA evidence in the case. After January 1, 2003, DNA issues must be raised at trial or on appeal. The prosecutor must review requests for DNA testing based on the likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis. If it is determined that testing should occur, and the evidence still exists, the prosecutor must request testing by the Washington State Patrol crime lab. A person denied a request for DNA testing may appeal the denial to the Office of the Attorney General.

The Office of Public Defense is required to prepare a report on the postconviction DNA testing process established under the act. The report must be completed by December 1, 2001, and must include a description of the number of requests approved, the number of requests denied and the basis for the denials, the number of appeals approved, the number of appeals denied and the basis for the denials, and a summary of the results of the tests conducted.

An indictment or information may describe the defendant by reference to the defendant's DNA if his or her name is unknown.

The act does not create a legal right or cause of action, nor does it deny or alter any existing legal right. The act may not be interpreted to deny requests made under existing law by persons who have been sentenced to terms less than death or life imprisonment without the possibility of release.

Votes on Final Passage:

House 96 0
Senate 47 0 (Senate amended)

House (House refused to concur)
Senate 44 0 (Senate amended)
House 98 0 (House concurred)

Effective: June 8, 2000