

FINAL BILL REPORT

SHB 1014

C 5 L 05

Synopsis as Enacted

Brief Description: Revising DNA testing provision.

Sponsors: By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Darneille, O'Brien, Cody, Morrell, Chase and Schual-Berke).

House Committee on Criminal Justice & Corrections
Senate Committee on Human Services & Corrections

Background:

Postconviction Deoxyribonucleic Acid (DNA) Testing. Until December 31, 2004, any person sentenced to imprisonment for a felony conviction who was denied DNA testing in the past could have requested postconviction DNA testing, if the DNA testing was not admitted at his or her trial because:

- The court ruled that DNA testing did not meet acceptable scientific standards; or
- The DNA testing technology was not sufficiently developed to test the DNA evidence in the case.

Beginning on January 1, 2005, a person must raise the DNA issues at trial or on appeal.

A request for postconviction DNA testing must be submitted to the Office of Public Defense (OPD). The OPD must transmit the request to the county prosecutor's office in the county where the conviction was obtained. The prosecutor screens the request and determines whether:

- the evidence still exists; and
- there is a likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis.

The prosecutor must inform both the requestor and the OPD of the decision on testing. If the prosecutor denies the request, the prosecutor must advise the requestor of his or her rights to appeal.

Appeals of Prosecutorial Denials. Upon the denial of a request for postconviction DNA testing, the decision may be appealed to the Office of the Attorney General (AG). The request must be granted if the AG determines that it is likely that the DNA testing would demonstrate innocence on a more probable than not basis.

DNA Testing. If DNA testing is ordered, it must be conducted by the Washington State Patrol Crime Laboratory.

Biological material secured in connection with a criminal case prior to July 22, 2001, may not be destroyed before January 1, 2005.

Summary:

All sunset provisions originally established for convicted persons to request postconviction DNA testing are eliminated.

Any person sentenced to imprisonment for a felony conviction may submit a written motion directly to the court of conviction requesting postconviction DNA testing. A copy of the motion must also be submitted to the OPD.

A motion requesting DNA testing must state the following:

- the court ruled that DNA testing did not meet acceptable scientific standards;
- that the DNA testing technology was not sufficiently developed to test the DNA evidence in the case; or
- the DNA testing currently being requested would be significantly more accurate than prior DNA testing or would provide significant new information.

In addition, the motion must: (1) explain why the DNA evidence is material to the identity of the perpetrator or accomplice involved in the crime or to the sentence enhancement; and (2) comply with all procedural requirements established by court rule.

If the motion submitted to the court meets the appropriate standards and the person sentenced to imprisonment has shown the likelihood that the DNA evidence would demonstrate innocence on a more probable than not basis, the court (instead of the prosecutor) must grant the motion to request DNA testing.

Upon a written request to the court, the court may in its discretion appoint legal counsel solely to prepare and present a motion for postconviction DNA testing for an indigent person serving a term of imprisonment. A motion for appointment of counsel must comply with all procedural requirements established by court rule.

Appeals of Prosecutorial Denials. The appeals process previously handled by the AG is eliminated.

DNA Testing. All DNA testing, if ordered, will continue to be conducted by the Washington State Patrol Crime Laboratory.

Upon the motion of the defense counsel or at the court's own motion, all biological material or evidence samples that have been secured in connection with a criminal case must be preserved in accordance with any court rule adopted for the preservation of evidence. The court must specify the samples to be maintained and the length of time the samples must be preserved.

Votes on Final Passage:

House	96	0	
Senate	47	0	(Senate amended)
House	95	0	(House concurred)

Effective: March 9, 2005