

CERTIFICATION OF ENROLLMENT

**SUBSTITUTE HOUSE BILL 2491**

Chapter 92, Laws of 2000

56th Legislature  
2000 Regular Session

DNA--POSTCONVICTION TESTING

EFFECTIVE DATE: 6/8/00

Passed by the House March 9, 2000  
Yeas 98 Nays 0

CLYDE BALLARD  
**Speaker of the House of Representatives**

FRANK CHOPP  
**Speaker of the House of Representatives**

Passed by the Senate March 8, 2000  
Yeas 44 Nays 0

BRAD OWEN  
**President of the Senate**

Approved March 24, 2000

GARY LOCKE  
**Governor of the State of Washington**

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2491** as passed by the House of Representatives and the Senate on the dates hereon set forth.

TIMOTHY A. MARTIN  
**Chief Clerk**

CYNTHIA ZEHNDER  
**Chief Clerk**

FILED

March 24, 2000 - 2:43 p.m.

**Secretary of State  
State of Washington**

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**SUBSTITUTE HOUSE BILL 2491**

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AS AMENDED BY THE SENATE

Passed Legislature - 2000 Regular Session

**State of Washington                      56th Legislature                      2000 Regular Session**

**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)

Read first time 02/08/2000. Referred to Committee on .

1            AN ACT Relating to DNA testing of evidence; amending RCW 10.37.050;  
2 adding a new section to chapter 10.73 RCW; and creating new sections.

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

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 10.73 RCW  
5 to read as follows:

6            (1) On or before December 31, 2002, a person in this state who has  
7 been sentenced to death or life imprisonment without possibility of  
8 release or parole and who has been denied postconviction DNA testing  
9 may submit a request to the county prosecutor in the county where the  
10 conviction was obtained for postconviction DNA testing, if DNA evidence  
11 was not admitted because the court ruled DNA testing did not meet  
12 acceptable scientific standards or DNA testing technology was not  
13 sufficiently developed to test the DNA evidence in the case. On and  
14 after January 1, 2003, a person must raise the DNA issues at trial or  
15 on appeal.

16            (2) The prosecutor shall screen the request. The request shall be  
17 reviewed based upon the likelihood that the DNA evidence would  
18 demonstrate innocence on a more probable than not basis. Upon  
19 determining that testing should occur and the evidence still exists,

1 the prosecutor shall request DNA testing by the Washington state patrol  
2 crime laboratory. Contact with victims shall be handled through  
3 victim/witness divisions.

4 (3) A person denied a request made pursuant to subsections (1) and  
5 (2) of this section has a right to appeal his or her request within  
6 thirty days of denial of the request by the prosecutor. The appeal  
7 shall be to the attorney general's office. If the attorney general's  
8 office determines that it is likely that the DNA testing would  
9 demonstrate innocence on a more probable than not basis, then the  
10 attorney general's office shall request DNA testing by the Washington  
11 state patrol crime laboratory.

12 NEW SECTION. **Sec. 2.** By December 1, 2001, the office of public  
13 defense shall prepare a report detailing the following: (1) The number  
14 of postconviction DNA test requests approved by the respective  
15 prosecutor; (2) the number of postconviction DNA test requests denied  
16 by the respective prosecutor and a summary of the basis for the  
17 denials; (3) the number of appeals for postconviction DNA testing  
18 approved by the attorney general's office; (4) the number of appeals  
19 for postconviction DNA testing denied by the attorney general's office  
20 and a summary of the basis for the denials; and (5) a summary of the  
21 results of the postconviction DNA tests conducted pursuant to section  
22 1 (2) and (3) of this act. The report shall also provide an estimate  
23 of the number of persons convicted of crimes where DNA evidence was not  
24 admitted because the court ruled DNA testing did not meet acceptable  
25 scientific standards or where DNA testing technology was not  
26 sufficiently developed to test the DNA evidence in the case.

27 **Sec. 3.** RCW 10.37.050 and 1891 c 28 s 29 are each amended to read  
28 as follows:

29 The indictment or information is sufficient if it can be understood  
30 therefrom--

31 (1) That it is entitled in a court having authority to receive  
32 (~~it~~) it;

33 (2) That it was found by a grand jury or prosecuting attorney of  
34 the county in which the court was held;

35 (3) That the defendant is named, or if his name cannot be  
36 discovered, that he is described by a fictitious name or by reference

1 to a unique genetic sequence of deoxyribonucleic acid, with the  
2 statement that his real name is ((to the jury)) unknown;

3 (4) That the crime was committed within the jurisdiction of the  
4 court, except where, as provided by law, the act, though done without  
5 the county in which the court is held, is triable therein;

6 (5) That the crime was committed at some time previous to the  
7 finding of the indictment or filing of the information, and within the  
8 time limited by law for the commencement of an action therefor;

9 (6) That the act or omission charged as the crime is clearly and  
10 distinctly set forth in ordinary and concise language, without  
11 repetition, and in such a manner as to enable a person of common  
12 understanding to know what is intended;

13 (7) The act or omission charged as the crime is stated with such a  
14 degree of certainty as to enable the court to pronounce judgment upon  
15 a conviction according to the right of the case.

16 NEW SECTION. **Sec. 4.** Nothing in this act is intended to create a  
17 legal right or cause of action. Nothing in this act is intended to  
18 deny or alter any existing legal right or cause of action. Nothing in  
19 this act should be interpreted to deny postconviction DNA testing  
20 requests under existing law by convicted and incarcerated persons who  
21 were sentenced to confinement for a term less than life or the death  
22 penalty.

Passed the House March 9, 2000.

Passed the Senate March 8, 2000.

Approved by the Governor March 24, 2000.

Filed in Office of Secretary of State March 24, 2000.