

# FINAL BILL REPORT

## HB 1391

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Synopsis as Enacted

**Brief Description:** Adjusting procedures for postconviction DNA testing.

**Sponsors:** By Representatives Kagi, Delvin, O'Brien, Campbell, Sullivan, McIntire, Cooper, Moeller, Simpson, Flannigan, Wallace, Wood and Kenney.

**House Committee on Criminal Justice & Corrections**  
**Senate Committee on Children & Family Services & Corrections**

### **Background:**

Postconviction DNA Testing. Through December 31, 2004, a person sentenced to imprisonment for a felony conviction who has been denied postconviction DNA testing may request 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
- DNA testing technology was not sufficiently developed to test the DNA evidence in the case.

The request for the postconviction DNA testing is made to the prosecutor's office in the county where the conviction was obtained. The request must be granted if the prosecutor determines that:

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

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

The DNA testing, if ordered, must be conducted by the Washington State Patrol Crime Laboratory.

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

Biological material secured in connection with a criminal case prior to July 22, 2001,

may not be destroyed before January 1, 2005.

**Summary:**

Postconviction DNA Testing. Requests for postconviction DNA testing must be submitted to the Office of Public Defense (OPD). The OPD then transmits the request to the county prosecutor.

Appeals of Prosecutorial Denials. The prosecutor informs both the requestor and the OPD of the decision on testing. If the prosecutor denies the request, the prosecutor must advise the requestor of appeals rights.

**Votes on Final Passage:**

House 95 0

Senate 49 0

**Effective:** July 27, 2003