

# SENATE BILL REPORT

## SB 5934

---

---

As of January 26, 2026

**Title:** An act relating to reducing litigation costs by removing barriers to postconviction DNA testing.

**Brief Description:** Reducing litigation costs by removing barriers to postconviction DNA testing.

**Sponsors:** Senators Orwall, Bateman, Chapman, Frame, Lias, Nobles, Riccelli, Shewmake, Slatter, Trudeau, Wilson, C. and Wilson, J..

**Brief History:**

**Committee Activity:** Law & Justice: 1/26/26.

**Brief Summary of Bill**

- Creates a presumption that a motion for DNA testing must be granted unless the state can show by clear and convincing evidence that the DNA evidence could not demonstrate a likelihood of innocence.
- Provides a convicted person with a right to discovery when a motion is granted for DNA testing.
- Allows DNA testing to be contracted by the Washington State Patrol Crime Laboratory.
- Requires the Washington State Patrol Crime Laboratory to consult with the parties on the sequence for transferring and testing the evidence.

---

**SENATE COMMITTEE ON LAW & JUSTICE**

**Staff:** Tim Ford (786-7414)

**Background:** Any person sentenced to imprisonment for a felony conviction may submit a

---

*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not part of the legislation nor does it constitute a statement of legislative intent.*

written motion directly to the court of conviction requesting postconviction DNA testing. A copy of the motion must also be submitted to the Office of Public Defense. Each 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 both 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 comply with all procedural requirements established by court rule.

The court must grant the motion requesting DNA testing 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.

DNA Testing. DNA testing, if ordered, is conducted by the Washington State Patrol Crime Laboratory (WSP crime lab). Upon the motion of 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. The court must specify the samples to be maintained and the length of time the samples must be preserved.

**Summary of Bill:** The bill as referred to committee not considered.

**Summary of Bill (Proposed Substitute):** The court must grant a motion requesting DNA testing if the motion is in the proper form, unless the state shows by clear and convincing evidence that the DNA evidence could not demonstrate a likelihood of innocence. When evaluating whether the state has met its burden by clear and convincing evidence, the court shall presume the test results most favorable to the convicted person in light of all the evidence presented at trial. Within 90 days after a motion, the state may oppose DNA testing by providing an explanation as to why the DNA evidence could not demonstrate a likelihood of innocence.

A court order or request for laboratory examination authorizing DNA testing does not create or indicate any position of the court or any party regarding the legal significance of the DNA test results.

When a motion is granted or when a request for testing is agreed to by the state, the convicted person is entitled to discovery consistent with the laws and court rules that apply at trial.

DNA Testing. DNA testing may be performed by the WSP crime lab, or it may be

contracted to be performed by the WSP crime lab. Items subject to testing shall be transferred to the WSP crime lab in installments. The WSP crime lab shall consult with parties to determine:

- the order in which the evidence will be tested;
- the evidence items that will be transferred to the WSP crime lab with each installment; and
- the total number of installments necessary to complete DNA testing.

The court may consider a motion to revise the order for DNA testing if testing has begun and:

- the crime laboratory determines that an evidence item is unsuitable for DNA testing, and the crime lab submits written notice to the parties and the court explaining how the scientist reached that determination, and why the evidence is unsuitable for DNA testing; or
- the results suggest the requirements that form the basis of the motion are no longer met.

Biological material or evidence samples must be preserved in accordance with laws on DNA evidence, a sentencing court's order, and any court rule adopted for the preservation of evidence. The court no longer has to specify the samples to be maintained and the length of time the samples must be preserved.

**Appropriation:** None.

**Fiscal Note:** Requested on January 23, 2026.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

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

**Staff Summary of Public Testimony On Proposed Substitute:** PRO: DNA is a powerful tool and is a pathway to justice. Nationally 15-20 percent of the exonerees are based on DNA evidence. This bill applies only to people who have been convicted. Before a court can consider DNA testing, there are procedural hurdles. The vast majority of claims are failing for those hurdles. The current standard makes courts guess at the results of DNA testing. This extensive litigation wastes resources. Testing is the only way we will know the truth. This bill streamlines the process.

CON: This flips the burden on the state. Individuals are presumed innocent, but when found guilty at trial then they have the burden to overcome the conviction. The vast majority of requests would be granted, and this bill will increase the number of motions. This is a resource issue. A majority of these requests are frivolous. At what point do we say that they are done?

**Persons Testifying:** PRO: Senator Tina Orwall, Prime Sponsor; Lara Zarowsky, Washington Innocence Project; Lindsey Whyte, Washington Innocence Project; Ted Bradford.

CON: Russell Brown, WA Association of Prosecuting Attorneys; James McMahan, WA Assoc Sheriffs & Police Chiefs.

**Persons Signed In To Testify But Not Testifying:** No one.