
HOUSE BILL 2164

State of Washington

69th Legislature

2026 Regular Session

By Representatives Farivar, Peterson, Ryu, Parshley, Kloba, Doglio, Simmons, Reed, Zahn, Street, Taylor, Ormsby, Scott, Thai, Fosse, Salahuddin, Hill, and Pollet

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1 AN ACT Relating to reducing litigation costs by removing barriers
2 to postconviction DNA testing; amending RCW 10.73.170; and creating a
3 new section.

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

5 NEW SECTION. **Sec. 1.** INTENT. (1) The legislature finds that:

6 (a) Postconviction DNA testing of crime scene evidence has led to
7 the exoneration of hundreds of innocent people who were wrongly
8 convicted in the United States since 1989, including in Washington
9 state;

10 (b) In about half of these cases, the evidence that exonerated
11 the innocent person also identified and supported the conviction of
12 the actual perpetrator of that crime;

13 (c) Opposition to postconviction DNA testing causes an
14 unnecessary expenditure of time and resources from the courts,
15 defense, prosecutors, and crime lab personnel; and

16 (d) Public safety, government transparency, and the public's
17 interest in responsible use of taxpayer funds are all best served
18 when criminal cases are evaluated with a full understanding of the
19 evidence, including results obtained from testing evidence collected
20 in connection with the case.

1 (2) The legislature therefore intends to expand access to DNA
2 testing by establishing a presumption that postconviction DNA testing
3 will be conducted when it is requested by a convicted person and the
4 test results could support that person's claim that they are innocent
5 of the crime.

6 **Sec. 2.** RCW 10.73.170 and 2005 c 5 s 1 are each amended to read
7 as follows:

8 (1) A person convicted of a felony in a Washington state court
9 who currently is serving a term of imprisonment may submit to the
10 court that entered the judgment of conviction a verified written
11 motion requesting DNA testing, with a copy of the motion provided to
12 the state office of public defense.

13 (2) The motion shall:

14 (a) State that:

15 (i) The court ruled that DNA testing did not meet acceptable
16 scientific standards; or

17 (ii) DNA testing technology was not sufficiently developed to
18 test the DNA evidence in the case; or

19 (iii) The DNA testing now requested would be significantly more
20 accurate than prior DNA testing or would provide significant new
21 information;

22 (b) Explain why DNA evidence is material to the identity of the
23 perpetrator of, or accomplice to, the crime, or to sentence
24 enhancement; and

25 (c) Comply with all other procedural requirements established by
26 court rule.

27 (3) (a) The court shall grant a motion requesting DNA testing
28 under this section if such motion is in the form required by
29 subsection (2) of this section, ~~((and)) unless the ~~((convicted~~~~
30 ~~person)) state has shown ~~((the likelihood)) by clear and convincing~~~~
31 evidence that the DNA evidence ~~((would)) could not demonstrate a~~
32 likelihood of innocence ~~((on a more probable than not basis))~~. In
33 evaluating whether the state has met its burden by clear and
34 convincing evidence, the court shall presume the test results most
35 favorable to the convicted person in light of the evidence presented
36 at trial.

37 (b) The court shall grant a motion requesting DNA testing under
38 this section if the state does not oppose the motion within 30 days.

1 (c) A court order or request for laboratory examination
2 authorizing DNA testing does not indicate any position of the court
3 or any party regarding the legal significance of the DNA test
4 results.

5 (4) Upon written request to the court that entered a judgment of
6 conviction, a convicted person who demonstrates that he or she is
7 indigent under RCW 10.101.010 may request appointment of counsel
8 solely to prepare and present a motion under this section, and the
9 court, in its discretion, may grant the request. Such motion for
10 appointment of counsel shall comply with all procedural requirements
11 established by court rule.

12 (5) When a motion is granted under this section or pursuant to a
13 request for laboratory examination, the convicted person is entitled
14 to discovery consistent with the laws and court rules that apply at
15 trial.

16 (6) DNA testing ordered under this section shall be performed or
17 contracted to be performed by the Washington state patrol crime
18 laboratory. Contact with victims shall be handled through victim/
19 witness divisions.

20 ~~((6) Notwithstanding any other provision of law, upon motion of~~
21 ~~defense counsel or the court's own motion, a sentencing court in a~~
22 ~~felony case may order the preservation of any biological)) (7)~~
23 Biological material that has been secured in connection with a
24 criminal case, or evidence samples taken from that biological
25 material sufficient for testing, must be preserved in accordance with
26 chapter 5.70 RCW, a sentencing court's order, and in accordance with
27 any court rule adopted for the preservation of evidence. ~~((The court~~
28 ~~must specify the samples to be maintained and the length of time the~~
29 ~~samples must be preserved.))~~

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