

2 **SHB 2491** - S AMD - 281

3 By Senators Costa, Long and Hargrove

4 ADOPTED 3/8/00

5 Strike everything after the enacting clause and insert the
6 following:

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

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

19 (2) The prosecutor shall screen the request. The request shall be
20 reviewed based upon the likelihood that the DNA evidence would
21 demonstrate innocence on a more probable than not basis. Upon
22 determining that testing should occur and the evidence still exists,
23 the prosecutor shall request DNA testing by the Washington state patrol
24 crime laboratory. Contact with victims shall be handled through
25 victim/witness divisions.

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

34 NEW SECTION. **Sec. 2.** By December 1, 2001, the office of public
35 defense shall prepare a report detailing the following: (1) The number

1 of postconviction DNA test requests approved by the respective
2 prosecutor; (2) the number of postconviction DNA test requests denied
3 by the respective prosecutor and a summary of the basis for the
4 denials; (3) the number of appeals for postconviction DNA testing
5 approved by the attorney general's office; (4) the number of appeals
6 for postconviction DNA testing denied by the attorney general's office
7 and a summary of the basis for the denials; and (5) a summary of the
8 results of the postconviction DNA tests conducted pursuant to section
9 1 (2) and (3) of this act. The report shall also provide an estimate
10 of the number of persons convicted of crimes where DNA evidence was not
11 admitted because the court ruled DNA testing did not meet acceptable
12 scientific standards or where DNA testing technology was not
13 sufficiently developed to test the DNA evidence in the case.

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

16 The indictment or information is sufficient if it can be understood
17 therefrom--

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

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

22 (3) That the defendant is named, or if his name cannot be
23 discovered, that he is described by a fictitious name or by reference
24 to a unique genetic sequence of deoxyribonucleic acid, with the
25 statement that his real name is (~~to the jury~~) unknown;

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

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

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

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

