

2 SHB 2491 - S COMM AMD

3 By Committee on Human Services & Corrections

4 RULED OUT OF ORDER 3/2/00

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

7 NEW SECTION. **Sec. 1.** It has been found that a number of
8 convicted and incarcerated people have been proven innocent by DNA
9 evidence unavailable at the time of conviction. It is the intent of
10 the legislature to maximize the use of advances in DNA technology for
11 the purposes of exonerating convicted offenders and prosecuting
12 offenders. Use of DNA technology requires a deliberated balance
13 between the pursuit of truth and finality in the criminal justice
14 system. The national institute of justice has published a report from
15 the national commission on the future of DNA evidence. The report
16 entitled "Postconviction DNA: Recommendations for Handling Requests,
17 September 1999 NCJ 177626," makes recommendations to prosecutors,
18 defense counsel, law enforcement personnel, the court, victims'
19 advocates, and laboratory personnel. The legislature finds it in the
20 best interests of the public health, safety, and welfare to implement
21 the recommendations of the report state-wide.

22 NEW SECTION. **Sec. 2.** A new section is added to chapter 10.73 RCW
23 to read as follows:

24 (1) On or before December 31, 2002, a person convicted in this
25 state may submit a request to the county prosecutor in the county where
26 the conviction was obtained for postconviction DNA testing, if DNA
27 evidence was not admitted because the court ruled DNA testing did not
28 meet acceptable scientific standards or DNA testing technology was not
29 sufficiently developed to test the DNA evidence in the case. On and
30 after January 1, 2003, a person must raise the DNA issues at trial or
31 on appeal.

32 (2) The prosecutor shall screen the request. The request should be
33 reviewed based upon the likelihood that the DNA evidence would
34 demonstrate innocence on a more probable than not basis. Upon
35 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 **Sec. 3.** RCW 10.37.050 and 1891 c 28 s 29 are each amended to read
13 as follows:

14 The indictment or information is sufficient and will toll any
15 statute of limitations if it can be understood therefrom--

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

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

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

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

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

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

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

1 NEW SECTION. **Sec. 4.** Nothing in this act is intended to create a
2 legal right or cause of action. Nothing in this act is intended to
3 deny or alter any existing legal right or cause of action."

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7 On page 1, line 1 of the title, after "evidence;" strike the
8 remainder of the title and insert "amending RCW 10.37.050; adding a new
9 section to chapter 10.73 RCW; and creating new sections."

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