

SENATE BILL REPORT

SHB 2491

As Reported By Senate Committee On:
Human Services & Corrections, February 24, 2000
Ways & Means, February 28, 2000

Title: An act relating to DNA testing of evidence.

Brief Description: Providing a procedure to conduct DNA testing of evidence for persons sentenced to death or life imprisonment.

Sponsors: House Committee on Appropriations (originally sponsored by Representatives Schindler, Ballasiotes, Koster, Sullivan, Esser, Wood, Crouse, Cairnes, Rockefeller, Edmonds, Mulliken, Clements, Ruderman, McDonald and Dunn).

Brief History:

Committee Activity: Human Services & Corrections: 2/24/2000 [DPA].
Ways & Means: 2/28/2000 [DPA].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass as amended.

Signed by Senators Hargrove, Chair; Costa, Vice Chair; Franklin, Kohl-Welles, Long, Sheahan, Stevens and Zarelli.

Staff: Joan K. Mell (786-7447)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: Do pass as amended.

Signed by Senators Loveland, Chair; Bauer, Vice Chair; Brown, Vice Chair; Fairley, Fraser, Honeyford, Kline, Kohl-Welles, Long, McDonald, Rasmussen, Roach, Rossi, B. Sheldon, Snyder, Spanel, Thibaudeau, West, Winsley, Wojahn and Zarelli.

Staff: Bryon Moore (786-7726)

Background: The National Institute of Justice reported in a 1996 article titled "Convicted by Juries, Exonerated by Science: Case Studies in the Use of DNA Evidence to Establish Innocence After Trial" that the FBI Crime Laboratory had exonerated the primary suspect in sexual assault cases using DNA testing in 25 percent of the 10,000 cases referred to them during the period 1989-1996.

This article led to the Attorney General's appointment of a National Commission on the Future of DNA Evidence. The commission has just issued a report: "Postconviction DNA Testing: Recommendations for Handling Requests." To date, there have been approximately 47 individuals serving time whose innocence was proven through DNA technology; the

average time served was seven years. Attorney General Janet Reno sent a message with the report recommendations stating: "Where DNA can establish actual innocence, the recommendations encourage the pursuit of truth over the invocation of appellate time bars. In those cases in which DNA testing may be determinative of innocence, the recommendations encourage cooperation between prosecutors, defense attorneys, laboratories, and the judiciary."

Summary of Ways & Means Amended Bill: County prosecutors must consider postconviction DNA testing requests by offenders sentenced to death or life imprisonment and determine whether testing would prove innocence on a more probable than not basis. Then, if the evidence still exists, submit it to the state crime lab for preliminary testing.

If a prosecutor denies the request, the offender has 30 days to appeal to the state Attorney General.

The Office of Public Defense must provide a report of the results of the more formalized DNA testing process established by the bill. The report must also provide an estimate of the number of persons convicted of crimes where DNA evidence was not admitted because the court ruled that DNA testing did not meet acceptable scientific standards or where DNA testing technology was not sufficiently developed to test the DNA evidence in the case. The report must be prepared by December 1, 2001.

The statute of limitations is tolled in cases where a charge has been filed against a person's DNA, even though the person's name is unknown.

Ways & Means Amended Bill Compared to Human Services & Corrections Amended Bill: The more formalized DNA testing process applies to offenders sentenced to death or life imprisonment without the possibility of release or parole. The intent section is removed. The Office of Public Defense study requirements are added.

Human Services & Corrections Amended Bill Compared to Substitute Bill: The Department of Corrections is not involved. The statute of limitations tolling provision is added. The null and void clause is removed.

Appropriation: None.

Fiscal Note: Requested on February 29, 2000.

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

Testimony For (Human Services & Corrections): Justice requires an opportunity for postconviction DNA testing to be provided. A striking amendment is available that shifts the appeal provision to the Attorney General's office.

Testimony Against (Human Services & Corrections): None.

Testified (Human Services & Corrections): Russ Haley, WHPA (pro); Eldon Vail, DOC (concern).

Testimony For (Ways & Means): The changes made in the amended bill make the workload manageable.

Testimony Against (Ways & Means): None.

Testified (Ways & Means): PRO: Representative Schindler, prime sponsor; Tom McBride, WA Assn. of Prosecuting Attorneys.