

SENATE BILL REPORT

SB 6498

As Reported By Senate Committee On:
Human Services & Corrections, February 1, 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: Senators McCaslin, Franklin and Costa.

Brief History:

Committee Activity: Human Services & Corrections: 1/25/2000, 2/1/2000 [DPS].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: That Substitute Senate Bill No. 6498 be substituted therefor, and the substitute bill do pass.

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

Staff: Joan K. Mell (786-7447)

Background: The National Institute of Justice (NIJ) 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.—

DNA evidence has also been used to obtain convictions on offenders who otherwise would have avoided prosecution.

Summary of Substitute Bill: Any person convicted of a crime may ask the prosecutor of the county of the conviction to pursue an order for DNA testing of available evidence if

DNA testing was not available or the evidence was not allowed in court when the conviction occurred because it did not meet scientific standards.

The prosecutor must screen the request eliminating frivolous requests and proceed to court on meritorious claims to obtain a court order to initiate testing. A National Institute of Justice published report makes recommendations to prosecutors, defense counsel, victims' advocates and the courts relative to handling these requests. It is the intent of the Legislature to implement these recommendations statewide.

Substitute Bill Compared to Original Bill: All convicted persons may have their DNA tested if the threshold criteria are met, not just persons sentenced to life imprisonment or death.

The prosecutor's office must make the initial threshold determination instead of the Department of Corrections. Indigent persons may have their costs paid.

Appropriation: None.

Fiscal Note: Requested on January 20, 2000.

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

Testimony For: Establishing the innocence of people whose lives are at risk should be a priority.

Testimony Against: Convicted people in this state can have their DNA tested in their case at their own expense, and there is no problem in this state. Victims' interests must be protected.

Testified: Kevin Glackin-Coley, WSCC (pro); Tom McBride, WAPA (con); Dr. Barry Logan, WSP (concerns); Suzanne Brown, WA Coalition of Sexual Assault Programs (concerns).