
SUBSTITUTE HOUSE BILL 2491

State of Washington

56th Legislature

2000 Regular Session

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

Read first time 02/08/2000. Referred to Committee on .

1 AN ACT Relating to DNA testing of evidence; adding new sections to
2 chapter 72.09 RCW; creating a new section; and providing an effective
3 date.

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

5 NEW SECTION. **Sec. 1.** A new section is added to chapter 72.09 RCW
6 to read as follows:

7 (1) Any person sentenced to death or to life imprisonment without
8 possibility of release or parole may request the department to issue an
9 order for DNA testing of any appropriate evidence available for testing
10 which may be a reasonable basis for proving the person's innocence, if
11 DNA test results were not available at the time of conviction or were
12 not allowed in the court in which the conviction occurred.

13 (2) The department may issue an order for DNA testing when DNA
14 testing is appropriate under rules adopted by the department and was
15 not available or allowed in the court in which the conviction occurred.

16 (3) The order for DNA testing shall be served on the law
17 enforcement agency holding the evidence by personal service or by any
18 form of mail requiring a return receipt.

1 (4) Within twenty days of the date of service of an order for DNA
2 testing, any party required to produce evidence for DNA testing may
3 petition in superior court to bar or postpone DNA testing.

4 (5) The order for DNA testing shall contain:

5 (a) An explanation of the right to proceed in superior court under
6 subsection (4) of this section; and

7 (b) Notice that if no one proceeds under subsection (4) of this
8 section, the agency issuing the order will schedule DNA testing and
9 will notify the producing law enforcement agency of the time and place
10 of testing by regular mail.

11 NEW SECTION. **Sec. 2.** A new section is added to chapter 72.09 RCW
12 to read as follows:

13 The department shall adopt such administrative rules as are
14 necessary to implement this act. The rules shall define, at a minimum,
15 the following terms: Appropriate evidence available for testing, and
16 reasonable basis for proving the person's innocence. The rules shall
17 also establish the procedure by which offenders may request testing,
18 the procedure by which these requests are evaluated, the procedure by
19 which an offender may appeal to the department for reconsideration of
20 a request that was denied, and the procedure by which any testing will
21 occur. In no case may the department adopt a rule that is inconsistent
22 with the need to maintain a chain of custody for any evidence subject
23 to testing.

24 The department shall also, by rule, establish what costs it will
25 incur and what costs, if any, shall be the responsibility of the
26 offender. The department is specifically authorized to adopt, by rule,
27 a lifetime limitation on the number of evidence testing requests an
28 offender may make or the total amount of public funds spent per
29 offender for testing, or both. The department is encouraged to adopt
30 a fee schedule that includes an offender copayment requirement that
31 balances the need to deter frivolous requests with the need to conduct
32 tests that may prove an offender innocent.

33 NEW SECTION. **Sec. 3.** A new section is added to chapter 72.09 RCW
34 to read as follows:

35 Nothing in this act shall be construed to create a new or
36 additional cause of action in any court. Nothing in this act shall be

1 construed to limit any rights offenders might otherwise have to court
2 access under any other statutory or constitutional provision.

3 NEW SECTION. **Sec. 4.** Section 1 of this act takes effect September
4 1, 2000.

5 NEW SECTION. **Sec. 5.** If specific funding for the purposes of this
6 act, referencing this act by bill or chapter number, is not provided by
7 June 30, 2000, in the omnibus appropriations act, this act is null and
8 void.

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