

CERTIFICATION OF ENROLLMENT

SUBSTITUTE HOUSE BILL 2491

56th Legislature
2000 Regular Session

Passed by the House March 9, 2000
Yeas 98 Nays 0

Speaker of the House of Representatives

Speaker of the House of Representatives

Passed by the Senate March 8, 2000
Yeas 44 Nays 0

President of the Senate

Approved

Governor of the State of Washington

CERTIFICATE

We, Timothy A. Martin and Cynthia Zehnder, Co-Chief Clerks of the House of Representatives of the State of Washington, do hereby certify that the attached is **SUBSTITUTE HOUSE BILL 2491** as passed by the House of Representatives and the Senate on the dates hereon set forth.

Chief Clerk

Chief Clerk

FILED

**Secretary of State
State of Washington**

SUBSTITUTE HOUSE BILL 2491

AS AMENDED BY THE SENATE

Passed Legislature - 2000 Regular Session

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; amending RCW 10.37.050;
2 adding a new section to chapter 10.73 RCW; and creating new sections.

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

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

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

16 (2) The prosecutor shall screen the request. The request shall be
17 reviewed based upon the likelihood that the DNA evidence would
18 demonstrate innocence on a more probable than not basis. Upon
19 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 NEW SECTION. **Sec. 2.** By December 1, 2001, the office of public
13 defense shall prepare a report detailing the following: (1) The number
14 of postconviction DNA test requests approved by the respective
15 prosecutor; (2) the number of postconviction DNA test requests denied
16 by the respective prosecutor and a summary of the basis for the
17 denials; (3) the number of appeals for postconviction DNA testing
18 approved by the attorney general's office; (4) the number of appeals
19 for postconviction DNA testing denied by the attorney general's office
20 and a summary of the basis for the denials; and (5) a summary of the
21 results of the postconviction DNA tests conducted pursuant to section
22 1 (2) and (3) of this act. The report shall also provide an estimate
23 of the number of persons convicted of crimes where DNA evidence was not
24 admitted because the court ruled DNA testing did not meet acceptable
25 scientific standards or where DNA testing technology was not
26 sufficiently developed to test the DNA evidence in the case.

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

29 The indictment or information is sufficient if it can be understood
30 therefrom--

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

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

35 (3) That the defendant is named, or if his name cannot be
36 discovered, that he is described by a fictitious name or by reference

1 to a unique genetic sequence of deoxyribonucleic acid, with the
2 statement that his real name is ((~~to the jury~~)) unknown;

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

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

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

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

16 NEW SECTION. **Sec. 4.** Nothing in this act is intended to create a
17 legal right or cause of action. Nothing in this act is intended to
18 deny or alter any existing legal right or cause of action. Nothing in
19 this act should be interpreted to deny postconviction DNA testing
20 requests under existing law by convicted and incarcerated persons who
21 were sentenced to confinement for a term less than life or the death
22 penalty.

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