

***Criminal Justice & Corrections  
Committee***

***SSB 5896***

***Brief Description:*** *Providing for additional DNA testing of evidence.*

***Sponsors:*** *By Senate Committee on Ways & Means (originally sponsored by Senators Constantine, Kline, Hargrove, Costa, Thibaudeau, Kohl-Welles and Regala).*

***Brief Summary of Substitute Bill***

- *Permits incarcerated felons to request post-conviction deoxyribonucleic acid (DNA) testing under certain circumstances.*
- *Prohibits destruction, until January 1, 2005, of biological material that has been secured in connection with a criminal case prior to the effective date of this act.*

***Hearing Date:*** *3/30/01*

***Staff:*** *Katy Freeman (786-7386).*

***Background:***

***Post-Conviction DNA Testing***

*Until January 1, 2003, a person sentenced to death or to life imprisonment without the possibility of release or parole, who has been denied post-conviction DNA testing, may request post-conviction DNA testing if the DNA evidence was not admitted at his or her trial because: (1) the court ruled that DNA testing did not meet acceptable scientific standards, or (2) DNA testing technology was not sufficiently developed to test the DNA evidence in the case.*

*The request for the post-conviction DNA testing may be made to the prosecutor's office in the county where the conviction was obtained. The request must be granted if the prosecutor determines that: (1) the evidence still exists, and (2) there is a likelihood that the DNA evidence would demonstrate innocence on a more probable-than-not basis.*

*If the prosecutor denies the request for post-conviction DNA testing, the decision may be appealed to the attorney general's office. The request must be granted if the attorney general's office determines that it is likely that the DNA testing would demonstrate innocence on a more probable-than-not basis.*

*DNA testing, if ordered, must be conducted by the Washington State Patrol Crime Laboratory.*

*On or after January 1, 2003, a person must raise the DNA issues at trial or on appeal.*

***Preservation of Biological Material***

*There is no law specifically addressing the preservation of biological material for DNA testing. Generally, property held as evidence may be sold at a public auction or destroyed 60 days after the case has finally been disposed of and the property has been released by order of the court.*

***Summary of Bill:***

***Post-Conviction DNA Testing***

*Until January 1, 2005, incarcerated felons who have been denied post-conviction DNA testing may request DNA testing if the DNA evidence was not admitted at his or her trial because: (1) the court ruled that DNA testing did not meet acceptable scientific standards, or (2) DNA testing technology was not sufficiently developed to test the DNA evidence in the case.*

*On or after January 1, 2005, a person must raise the DNA issues at trial or on appeal.*

***Preservation of Biological Material***

*Biological material secured in connection with a criminal case prior to the effective date of this act may not be destroyed before January 1, 2005.*

***No Creation of a Cause of Action and No Limitations on Offenders' Rights***

*This act does not create a cause of action in any court, nor does it limit offenders' existing legal rights to court access.*

***Appropriation:*** None.

***Fiscal Note:*** Preliminary available.

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