
SUBSTITUTE HOUSE BILL 1889

State of Washington

57th Legislature

2001 Regular Session

By House Committee on Criminal Justice & Corrections (originally sponsored by Representatives Lovick, Cairnes, Dunshee, Lantz, Dickerson, Hurst, Kenney, Wood and Ruderman)

Read first time 02/26/2001. Referred to Committee on .

1 AN ACT Relating to DNA testing of evidence; and amending RCW
2 10.73.170.

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

4 **Sec. 1.** RCW 10.73.170 and 2000 c 92 s 1 are each amended to read
5 as follows:

6 (1) On or before December 31, ((2002)) 2004, a person in this state
7 who has been ((sentenced to death or life imprisonment without
8 possibility of release or parole)) convicted of a felony and is
9 currently serving a term of imprisonment and who has been denied
10 postconviction DNA testing may submit a request to the county
11 prosecutor in the county where the conviction was obtained for
12 postconviction DNA testing, if DNA evidence was not admitted because
13 the court ruled DNA testing did not meet acceptable scientific
14 standards or DNA testing technology was not sufficiently developed to
15 test the DNA evidence in the case. On and after January 1, ((2003))
16 2005, a person must raise the DNA issues at trial or on appeal.

17 (2) The prosecutor shall screen the request. The request shall be
18 reviewed based upon the likelihood that the DNA evidence would
19 demonstrate innocence on a more probable than not basis. Upon

1 determining that testing should occur and the evidence still exists,
2 the prosecutor shall request DNA testing by the Washington state patrol
3 crime laboratory. Contact with victims shall be handled through
4 victim/witness divisions.

5 (3) A person denied a request made pursuant to subsections (1) and
6 (2) of this section has a right to appeal his or her request within
7 thirty days of denial of the request by the prosecutor. The appeal
8 shall be to the ~~((attorney general's office))~~ trial court that entered
9 the judgment of conviction in his or her case. If the ~~((attorney~~
10 ~~general's office))~~ court determines that it is likely that the DNA
11 testing would demonstrate innocence on a more probable than not basis,
12 then the ~~((attorney general's office))~~ court shall ~~((request))~~ order
13 DNA testing by the Washington state patrol crime laboratory.

14 (4) The decision of the trial court granting or denying a motion
15 for DNA testing under this section is not appealable, and is subject to
16 review only through petition for writ of mandate or prohibition filed
17 by the person seeking DNA testing, the prosecuting attorney, or the
18 attorney general. Any such petition must be filed within twenty days
19 after the court's order granting or denying the motion for DNA testing.
20 In a noncapital case, the petition for writ of mandate or prohibition
21 is filed in the court of appeals. In a capital case, the petition is
22 filed in the supreme court. The court of appeals or supreme court must
23 expedite its review of a petition for writ of mandate or prohibition
24 filed under this section.

25 (5) Notwithstanding any other provision of law, any biological
26 material that has been secured in connection with a criminal case prior
27 to the effective date of this act may not be destroyed before January
28 1, 2005.

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