
**Criminal Justice & Corrections
Committee**

HB 1391

Brief Description: Adjusting procedures for postconviction DNA testing.

Sponsors: Representatives Kagi, Delvin, O'Brien, Campbell, Sullivan, McIntire, Cooper, Moeller, Simpson, Flannigan, Wallace, Wood and Kenney.

Brief Summary of Bill

- Directs that requests for postconviction deoxyribonucleic acid (DNA) testing be made to the Washington State Office of Public Defense (OPD).
- Requires prosecutors to inform both the requestor and the OPD of decisions on postconviction DNA testing.
- Requires prosecutors denying requests for postconviction DNA testing to advise the requestor of the right to appeal to the Washington State Attorney General's Office (AG).

Hearing Date: 2/4/03

Staff: Aaron Anderson (786-7119).

Background:

Postconviction DNA Testing

Through December 31, 2004, a person sentenced to imprisonment for a felony conviction who has been denied postconviction DNA testing may request postconviction DNA testing if the DNA testing 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 postconviction DNA testing is 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.

Appeals of Prosecutorial Denials

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

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

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

Biological material secured in connection with a criminal case prior to July 22, 2001, may not be destroyed before January 1, 2005.

Summary of Bill:

Postconviction DNA Testing

Requests for postconviction DNA testing must be submitted to the OPD. The OPD then transmits the request to the county prosecutor.

Appeals of Prosecutorial Denials

The prosecutor informs both the requestor and the OPD of the decision on testing. If the prosecutor denies the request, the prosecutor must advise the requestor of appeals rights.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect ninety days after adjournment of session in which bill is passed.