

HOUSE BILL REPORT

HB 1391

As Passed Legislature

Title: An act relating to requests for postconviction DNA testing.

Brief Description: Adjusting procedures for postconviction DNA testing.

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

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/4/03, 2/14/03 [DP].

Floor Activity:

Passed House: 2/28/03, 95-0.

Passed Senate: 4/11/03, 49-0.

Passed Legislature.

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).

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: Do pass. Signed by 7 members: Representatives O'Brien, Chair; Darneille, Vice Chair; Mielke, Ranking Minority Member; Ahern, Assistant Ranking Minority Member; Kagi, Lovick and Pearson.

Staff: Aaron Anderson (786-7119); Jim Morishima (786-7191).

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 90 days after adjournment of session in which bill is passed.

Testimony For: The bill addresses recommendations from a 2001 report from the OPD. The OPD does not receive information on all prisoner requests for postconviction DNA testing. There are less than 10 such requests a year. Two instances of postconviction DNA testing have resulted in new trials.

Testimony Against: None.

Testified: Representative Kagi, prime sponsor; and Joanne Moore, Washington State Office of Public Defense.