
HOUSE BILL 1391

State of Washington

58th Legislature

2003 Regular Session

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

Read first time 01/24/2003. Referred to Committee on Criminal Justice & Corrections.

1 AN ACT Relating to requests for postconviction DNA testing; and
2 amending RCW 10.73.170.

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

4 **Sec. 1.** RCW 10.73.170 and 2001 c 301 s 1 are each amended to read
5 as follows:

6 (1) On or before December 31, 2004, a person in this state who has
7 been convicted of a felony and is currently serving a term of
8 imprisonment and who has been denied postconviction DNA testing may
9 submit a request to the state Office of Public Defense, which will
10 transmit the request to the county prosecutor in the county where the
11 conviction was obtained for postconviction DNA testing, if DNA evidence
12 was not admitted because the court ruled DNA testing did not meet
13 acceptable scientific standards or DNA testing technology was not
14 sufficiently developed to test the DNA evidence in the case. On and
15 after January 1, 2005, a person must raise the DNA issues at trial or
16 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. The

1 prosecutor shall inform the requestor and the state Office of Public
2 Defense of the decision, and shall, in the case of an adverse decision,
3 advise the requestor of appeals rights. Upon determining that testing
4 should occur and the evidence still exists, the prosecutor shall
5 request DNA testing by the Washington state patrol crime laboratory.
6 Contact with victims shall be handled through victim/witness divisions.

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

15 (4) Notwithstanding any other provision of law, any biological
16 material that has been secured in connection with a criminal case prior
17 to July 22, 2001, may not be destroyed before January 1, 2005.

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