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SENATE BILL 5723

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State of Washington

58th Legislature

2003 Regular Session

By Senators Haugen and Stevens

Read first time 02/07/2003. Referred to Committee on Children & Family Services & 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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