

SENATE BILL REPORT

SB 5003

As of January 31, 2005

Title: An act relating to DNA testing.

Brief Description: Revising DNA testing provision.

Sponsors: Senators Hargrove, Stevens, Haugen and Kline.

Brief History:

Committee Activity: Human Services & Corrections: 1/18/05.

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Staff: Edith Rice (786-7444)

Background: Current law permits a convicted felon, who is in prison, to request postconviction DNA testing on any evidence still available, if the DNA test results were not admitted at trial because they failed to meet acceptable scientific standards, or if DNA technology was not sufficiently developed in order to provide results. The request must, however, be made prior to December 31, 2004. Testing is to be provided if there is a likelihood, on a more probable than not basis, that the DNA test results will demonstrate innocence. After January 1, 2005, the offender must raise the issue at trial or on appeal.

The request is to be submitted to the state Office of Public Defense, which must transmit that request to the county prosecutor and transmit the prosecutor's decision on testing back to the offender. If testing is denied, the offender can appeal the decision within 30 days to the Attorney General's Office.

Advocates for the accused have raised concerns that if an offender did not make this request by the December 31, 2004 deadline, evidence might be destroyed.

Summary of Bill: Any convicted felon who requests DNA testing can submit the request to the court that entered the judgment of conviction. The requirement that the request be made before December 31, 2004, is eliminated. The basis for the DNA testing request is expanded to allow the testing if it is significantly more accurate than prior testing or would provide significant new information.

The court must grant the test if the results would, more probably than not, demonstrate innocence. The court is authorized to appoint counsel for the offender to make the testing motion.

The court at sentencing can order that biological material be preserved, and must identify which samples must be maintained and the length of time they must be preserved.

Appropriation: None.

Fiscal Note: Requested on January 14, 2005.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill puts us in conformance with federal regulations. It's has procedural safeguards and the fiscal impact should be limited.

Testimony Against: None.

Who Testified: PRO: Joanne Moore, Mary Jane Ferguson, Judy George Finkle, WA State office of Public Defense; John Smeller, Independent Project Northwest; Dan Satterberg, King Co. PAP, WA State office of Public Defense.