

HB 1519 -- Post-Conviction DNA Testing

Sponsor: Johnson (61)

This bill requires any criminal justice agency having possession or custody of biological evidence from a class A, B, C, or non-class felony with a possible sentence of at least seven years imprisonment to retain and preserve that evidence for as long as the individual remains incarcerated unless:

- (1) The agency notifies any person who remains incarcerated in connection with the case and any counsel of record or public defender organization for the judicial district in which the judgment of conviction for the person was entered of the agency's intention to destroy the evidence;
- (2) No person submits a written objection to the destruction of the biological evidence to the agency within 90 days of receiving notice; and
- (3) No other provision of law requires that the biological evidence be preserved.

The bill limits who may apply for post-conviction DNA testing to those that were convicted of a class A, B, C, or non-class felony with a possible prison sentence of at least seven years and are in the custody of the Department of Corrections. Once the DNA testing is granted, the individual must pay the costs associated with the testing, unless the results are favorable to the individual, in which case, the state must pay the costs.

If an order for DNA testing was granted prior to the effective date of the bill to a petitioner incarcerated for a crime in which the penalty was capital punishment and the order was not executed within six months of the date of the order, failure to execute the order due to the fact that the DNA evidence was lost, destroyed, or damaged will result in an automatic stay of execution.