



H.B. 481

126th General Assembly
(As Introduced)

Reps. Chandler, Skindell, Healy, J. McGregor, Miller, Hood, Strahorn, Williams, Koziura, Yuko, Allen, Perry, Brown

BILL SUMMARY

- Eliminates the former two-year window for filing applications for post-conviction DNA testing for eligible inmates and instead allows an eligible inmate to request post-conviction DNA testing at any time if specified criteria are met.
- Removes the provisions that required an inmate to have been incarcerated for a felony offense committed prior to October 29, 2003, and to have been in prison on that date in order to be eligible for post-conviction DNA testing.

CONTENT AND OPERATION

Post-conviction DNA testing

Current law

Procedure when inmate did not plead guilty or no contest. Substitute S.B. 11 of the 125th General Assembly, as modified by Sub. H.B. 525 of the 125th General Assembly, allowed certain incarcerated offenders (inmates), before October 29, 2005, to submit an application for DNA testing to the court of common pleas that sentenced the inmate. Generally, an inmate could submit an application for DNA testing if (1) the offense for which the inmate was incarcerated was a felony that was committed prior to October 29, 2003, and the inmate was convicted by a judge or jury, (2) the inmate was sentenced to a prison term or sentence of death for the felony and on October 29, 2003, was in prison serving that prison term or under that sentence of death, (3) on the date on which the application was filed, the inmate had at least one year remaining on the prison term, or the inmate was in prison under a sentence of death, and (4) the inmate did not plead guilty or no contest to the offense for which the inmate was incarcerated

(R.C. 2953.72(C)). The court, based on statutory criteria and procedures, decides whether the application should be granted; if the court rejects the application, a limited appeal of the rejection is available (R.C. 2953.73(D) and (E)).

Procedure when inmate pleaded guilty or no contest. Inmates who pleaded guilty or no contest to a felony offense that was committed prior to October 29, 2003, could file an application for DNA testing by October 29, 2005, if (1) the inmate was sentenced to a prison term or sentence of death for the felony and on October 29, 2003, was in prison serving that prison term or under that sentence of death, and (2) on the date on which the application was filed the inmate had at least one year remaining on the prison term or the inmate was in prison under a sentence of death (R.C. 2953.82(A)). However, the prosecuting attorney has authority to refuse the application, the decision of which cannot be appealed by the offender (R.C. 2953.82(B) to (E)).

General procedure for DNA testing. If an inmate's application is approved, the DNA test is conducted. If the DNA test establishes, by clear and convincing evidence, the actual innocence of the inmate, the inmate may file a petition asking the court to set aside or vacate the judgment or sentence or grant other appropriate relief. (R.C. 2953.21, *not in the bill.*)

While the time period has expired under current law during which an application for post-conviction DNA testing may be filed, the process of reviewing previously filed applications continues. Consequently, under current law an inmate is no longer permitted to timely file an application for DNA testing, but an application that was timely filed may still be approved or disapproved.

The bill

The bill removes the time period during which an inmate may file an application for DNA testing under the existing procedure for DNA testing, which the bill does not modify. Thus, under the bill, an inmate described above in "**Current law**" may file an application for DNA testing at any time if the inmate satisfies the other requirements in current law. The bill also removes the provisions that required an inmate to have been incarcerated for a felony offense that was committed prior to October 29, 2003, and to have been in prison on that date as a prerequisite to filing the application. If an inmate meets the other requirement of current law, the inmate can file an application for DNA testing regardless of when the offense for which the inmate was incarcerated was committed. (R.C. 2953.72(A), (C)(1)(a) and (b), 2953.73(A), and 2953.82(A) and (B).)

HISTORY

ACTION

DATE

Introduced

01-24-06

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