



Ninety-Seventh Legislature - First Session - 2001
Introducer's Statement of Intent
LB 659

Chairperson: Senator Kermit A. Brashear
Committee: Judiciary
Date of Hearing: February 23, 2001

The following constitutes the reasons for this bill and the purposes which are sought to be accomplished thereby:

The purpose of the DNA Testing Act is to provide wrongfully convicted persons an opportunity to establish their innocence through deoxyribonucleic acid (DNA) testing.

The Act establishes rules and procedures governing applications for DNA testing by convicted offenders. An applicant must allege that evidence to be tested:

- (1) Is related to the investigation or prosecution that resulted in the applicant's conviction;
- (2) Is in the state's actual or constructive possession; and
- (3) Was not previously subjected to DNA testing or to the form of DNA testing requested.

If an applicant is indigent, counsel will be appointed, and the cost of DNA testing will be paid by the state.

Because access to DNA testing has value only if evidence containing DNA is preserved, the state is prohibited from destroying any biological material in a criminal case while any person remains incarcerated in connection with such case unless such person is:

- (1) Notified of the state's intent to destroy the material;
- (2) Notified of the provisions of the DNA Testing Act; and
- (3) Afforded at least 90 days to request DNA testing.

If results of DNA testing are favorable to the applicant, the court shall enter "any order that serves the interest of justice", including:

- (1) Vacating and setting aside the judgment;

- (2) Discharging the person if he or she is in custody;
- (3) Resentencing the person, or;
- (4) Granting a new trial.

The DNA Testing Act does not limit a person's ability to obtain DNA testing or other postconviction relief under any other provisions of law.

Principal Introducer:

_____ **Senator Ernie Chambers**