

COMMITTEE AMENDMENT ANALYSIS

Bill: Senate Bill 775

Printer's No.: 863

Amendment No.: A05089

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Summary:

Postconviction DNA testing

The amendment makes changes to section 9543.1 of the Judicial Code, Title 42 of the Pennsylvania Consolidated Statutes, relating to postconviction DNA testing. The amendment gives an individual the right to file a petition for DNA testing. The petition must specify the evidence to be tested. The amendment further specifies that the petition must include a description of the physical evidence containing DNA to be tested and, if known, the present location or the last known location of the evidence and how it was originally obtained.

The amendment requires the applicant to present a prima facie case demonstrating that the evidence to be tested was not previously subject to DNA testing or the developments in DNA testing techniques would establish the applicant's actual innocence of the offense for which the applicant was convicted.

If the court orders DNA testing, the amendment requires that the results of the DNA testing shall be provided to the applicant; the court shall order the production of any laboratory reports prepared in connection with the DNA testing; and the court may order the production of the underlying data or other laboratory document related to the DNA testing.

The amendment provides that the applicant may appeal a decision denying DNA testing pursuant to the Pennsylvania Rules of Appellate Procedure.

Post Conviction Relief Act amendment

As for post conviction relief generally the amendment revises section 9545 to extend the time for filing a petition from 60 days to 90 days. As a general rule post conviction petitions must be filed within one year of the date the judgment becomes final. There are certain exceptions. For example, if the facts upon which the claim is predicated were unknown to the petitioner and could not have been ascertained by the exercise of due diligence within the one year time period, a petition may be filed within 90 days of the date the claim could have been presented.

Revisions relating to collection of DNA samples from arrestees

The amendment also revises the provisions of the underlying bill relating to collecting DNA samples from arrestees. The sample shall be collected following arrest, during booking or intake or as soon as administratively practical after arrest but not later than prior to release on bail or pending trial or any other physical release from confinement or custody.

The amendment also phases in the collection of DNA samples from arrestees. Beginning 90 days after the effective date, any person required to provide a DNA sample for an arrest relating to homicide, crimes against an unborn child, sexual offenses, sexual abuse of children and sexual exploitation of children shall have a DNA sample collected. Beginning one year after the effective date, any person required to provide a DNA sample for an arrest relating to assault, arson, burglary, robbery and offenses against the family (concealing the death of a child, endangering the welfare of a child, dealing in infant children) shall have a DNA sample collected. Beginning two years after the effective date, any person required to provide a DNA sample for any other offense shall have a sample collected.

The State Police is directed to develop guidelines to implement this legislation instead of promulgate regulations.