

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 916

PRINTER NO. 1535

AMOUNT

See Fiscal Impact

FUND

General Fund

DATE INTRODUCED

March 15, 2018

PRIME SPONSOR

Senator Greenleaf

DESCRIPTION

Senate Bill 916 amends Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to update the Commonwealth's DNA testing law.

This legislation accomplishes the following:

- Removes the incarceration/supervision requirement to allow for post-conviction DNA testing at any time under certain circumstances;
- Allows for DNA testing when newer technology could provide substantially more accurate and substantially probative results;
- Provides that a request for post-conviction DNA testing shall be by written petition and shall be filed with the clerk of courts of the judicial district where the sentence is imposed;
- Provides that DNA testing may be sought at any time if the motion is made in a timely manner and for the purpose of demonstrating the applicant's actual innocence and not to delay the execution of sentence or administration of justice;
- Provides that a plea of guilty or a confession shall not prohibit an applicant from accessing DNA testing;
- Requires that the motion explain how there is a reasonable probability that the testing would produce exculpatory evidence that would establish the following:
 - i. The applicant's actual innocence of the offense for which the applicant was convicted;
 - ii. In a capital case, the applicant's actual innocence of the charged or uncharged conduct constituting an aggravating circumstance under section 9711(d) (relating to sentencing procedure for murder of the first degree) if the applicant's exoneration of the conduct would result in vacating a sentence of death; or
 - iii. In a capital case, a mitigating circumstance under section 9711(e)(7) under the circumstances set forth in section 9711(c)(1)(iv).

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- Provides that any DNA testing order under this section shall constitute a final order. An applicant or the Commonwealth may appeal a decision denying or granting a DNA testing order in accordance with the Pennsylvania Rules of Appellate Procedure;
- Provides that the court may require the Commonwealth to prepare an inventory of evidence related to the case and serve a copy of the inventory to the prosecution, the applicant, the applicant's attorney, if applicable, and the court;
- Establishes protocols for instances where the testing is conducted by the Pennsylvania State Police or private laboratories; and
- Provides that if testing complies with Federal Bureau of Investigation requirements and the data meets the National DNA Index System (NDIS) criteria, profiles obtained from the testing shall be searched or uploaded to the Combined DNA Index System (CODIS), which is administered by the Federal Bureau of Investigation.

This act shall take effect in 60 days.

FISCAL IMPACT:

Although there may be a small increase in the number of filings in county Courts of Common Pleas, the legislation limits the scope of available relief.

Additionally, the legislation provides that the court may require the Commonwealth to prepare an inventory of evidence related to the case. However, this inventory would have already taken place during preparation for the trial, so no substantial increased costs should result.

Assuming that the average cost of a rape kit is \$20, that testing a rape kit is \$1,300, and that there would be 100 filings in county Courts of Common Pleas, the estimated fiscal impact to the Commonwealth would be \$132,000.