

2019 Regular Session

HOUSE BILL NO. 275

BY REPRESENTATIVE DUPLESSIS

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIMINAL/PROCEDURE: Provides relative to post-conviction DNA testing

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 926.1(A), (F), (H)(3) and (5), and
3 (K), relative to post-conviction DNA testing; to extend the time period in which to
4 file an application for post-conviction DNA testing; to extend the time period for
5 preservation of biological material under certain circumstances; to provide relative
6 to accreditation of laboratories for purposes of post-conviction DNA testing; to
7 provide relative to the administration of the DNA Testing Post-Conviction Relief for
8 Indigents Fund; and to provide for related matters.

9 Be it enacted by the Legislature of Louisiana:

10 Section 1. Code of Criminal Procedure Article 926.1(A), (F), (H)(3) and (5), and (K)
11 are hereby amended and reenacted to read as follows:

12 Art. 926.1. Application for DNA testing

13 A.(1) Prior to August 31, ~~2019~~ 2024, a person convicted of a felony may file
14 an application under the provisions of this Article for post-conviction relief
15 requesting DNA testing of an unknown sample secured in relation to the offense for
16 which he was convicted. On or after August 31, ~~2019~~ 2024, a petitioner may request
17 DNA testing under the rules for filing an application for post-conviction relief as
18 provided in Article 930.4 or 930.8 of this Code.

19 (2) Notwithstanding the provisions of Subparagraph (1) of this Paragraph,
20 in cases in which the defendant has been sentenced to death prior to August 15,

1 are known to contain biological material that can be subjected to DNA testing, in all
2 cases that, as of August 15, 2001, have been concluded by a verdict of guilty or a
3 plea of guilty.

4 * * *

5 (5) Notwithstanding the provisions of Subparagraphs (3) and (4) of this
6 Paragraph, after service of the application on the district attorney and the law
7 enforcement agency in possession of the evidence, the clerks of court of each parish
8 and all law enforcement agencies, including but not limited to district attorneys,
9 sheriffs, the office of state police, local police agencies, and crime laboratories may
10 forward for proper storage and preservation all items of evidence described in
11 Subparagraph (3) of this Paragraph to a laboratory that is accredited in forensic DNA
12 analysis by the American Society of Crime Laboratory Directors/Laboratory
13 Accreditation Board (ASCLD/LAB) by an accrediting body that is a signatory to the
14 International Laboratory Accreditation Cooperation Mutual Recognition
15 Arrangements for Testing Laboratories (ILAC MRA) and requires conformance to
16 an accreditation program based on the international standard ISO/IEC 17025 with
17 an accreditation scope in the field of forensic science testing in the discipline of
18 biology, and that is compliant with the current version of the Federal Bureau of
19 Investigations Quality Assurance Standards for Forensic DNA Testing Laboratories.

20 * * *

21 K. There is hereby created in the state treasury a special fund designated as
22 the DNA Testing Post-Conviction Relief for Indigents Fund. The fund shall consist
23 of money specially appropriated by the legislature. No other public money may be
24 used to pay for the DNA testing authorized under the provisions of this Article. The
25 fund shall be administered by the Louisiana ~~Indigent Defense Assistance~~ Public
26 Defender Board. The fund shall be segregated from all other funds and shall be used
27 exclusively for the purposes established under the provisions of this Article. If the
28 court finds that a petitioner under Article 926.1 of this Code is indigent, the fund
29 shall pay for the testing as authorized in the court order.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 275 Engrossed

2019 Regular Session

Duplessis

Abstract: Extends the time period for filing an application for post-conviction relief DNA testing and for preservation of evidence, and changes the accreditation entity for the crime laboratories performing post-conviction DNA testing.

Present law provides for the rules for post-conviction relief and generally requires all applications to be filed within two years after the judgment of conviction and sentence have become final. Present law creates an exception to the time period for filing an application for post-conviction relief by allowing petitioners until Aug. 31, 2019, to seek post-conviction DNA testing.

Proposed law extends the time period for petitioners seeking post-conviction DNA testing to Aug. 31, 2024.

Present law additionally requires that once an application for DNA testing is served on the district attorney and the law enforcement agency in possession of the evidence to be tested, the clerks of court of each parish and all law enforcement agencies, including but not limited to district attorneys, sheriffs, the office of state police, local police agencies, and crime laboratories are to preserve until Aug. 31, 2019, all items of evidence in their possession which are known to contain biological material that can be subjected to DNA testing, in all cases that, as of Aug. 15, 2001, have been concluded by a verdict of guilty or a plea of guilty.

Proposed law extends the time period for the preservation of all items of evidence until Aug. 31, 2024.

Present law provides that for purposes of DNA testing, crime laboratories shall be accredited by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB).

Proposed law changes the accreditation for the crime laboratories to those accredited by an accrediting body that is a signatory to the International Laboratory Accreditation Cooperation Mutual Recognition Arrangements for Testing Laboratories (ILAC MRA) and requires conformance to an accreditation program based on the international standard ISO/IEC 17025 with an accreditation scope in the field of forensic science testing in the discipline of biology, and that is compliant with the current version of the Federal Bureau of Investigations Quality Assurance Standards for Forensic DNA Testing Laboratories.

Present law provides for the creation of the DNA Testing Post-Conviction Relief for Indigents Fund in the state treasury to be administered by the La. Indigent Defense Assistance Board.

Proposed law changes the La. Indigent Defense Assistance Board to the La. Public Defender Board.

(Amends C.Cr.P. Art. 926.1(A), (F), (H)(3) and (5), and (K))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. With respect to the time period in which to file an application for post-conviction DNA testing, extend the present law time period of Aug. 31, 2019, to Aug. 31, 2024, rather than remove the time period.
2. With respect to the time period for the preservation of all items of evidence that contain biological material, extend the present law time period of Aug. 31, 2019, to Aug. 31, 2024, rather than remove the time period.