

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

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

1 2001, the application for DNA testing under the provisions of this Article may be
2 filed at any time.

3 * * *

4 F. Once an application has been filed and the court determines the location
5 of the evidence sought to be tested, the court shall serve a copy of the application on
6 the district attorney and the law enforcement agency which has possession of the
7 evidence to be tested, including but not limited to sheriffs, the office of state police,
8 local police agencies, and crime laboratories. If the court grants relief under this
9 Article and orders DNA testing the court shall also issue such orders as are
10 appropriate to obtain the necessary samples to be tested and to protect their integrity.
11 The testing shall be conducted by a laboratory mutually agreed upon by the district
12 attorney and the petitioner. If the parties cannot agree, the court shall designate a
13 laboratory to perform the tests ~~which that~~ is accredited by the American Society of
14 Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) in
15 forensic DNA analysis by an accrediting body that is a signatory to the International
16 Laboratory Accreditation Cooperation Mutual Recognition Arrangements for Testing
17 Laboratories (ILAC MRA) and requires conformance to an accreditation program
18 based on the international standard ISO/IEC 17025 with an accreditation scope in the
19 field of forensic science testing in the discipline of biology, and that is compliant
20 with the current version of the Federal Bureau of Investigations Quality Assurance
21 Standards for Forensic DNA Testing Laboratories.

22 * * *

23 H.

24 * * *

25 (3) After service of the application on the district attorney and the law
26 enforcement agency in possession of the evidence, the clerks of court of each parish
27 and all law enforcement agencies, including but not limited to district attorneys,
28 sheriffs, the office of state police, local police agencies, and crime laboratories shall
29 preserve until ~~August 31, 2019,~~ completion of the petitioner's sentence all items of

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

2019 Regular Session

Duplessis

Abstract: Removes 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 removes the time period for petitioners seeking post-conviction DNA testing.

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 requires the preservation of all items of evidence until completion of the petitioner's sentence.

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))