

By the Committee on Judiciary; and Senator Villalobos

308-908-04

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A bill to be entitled
An act relating to DNA evidence; amending s.
925.11, F.S.; extending the period following
sentencing during which a petition may be filed
or considered by the court to order the testing
of criminal DNA evidence; providing an
effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 925.11, Florida
Statutes, is amended to read:

925.11 Postsentencing DNA testing.--

(1) Petition for examination.--

(a) A person who has been tried and found guilty of
committing a crime and has been sentenced by a court
established by the laws of this state may petition that court
to order the examination of physical evidence collected at the
time of the investigation of the crime for which he or she has
been sentenced which may contain DNA (deoxyribonucleic acid)
and which would exonerate that person or mitigate the sentence
that person received.

(b) Except as provided in subparagraph 2., a petition
for postsentencing DNA testing may be filed or considered:

1. Within 4 ~~2~~ years following the date that the
judgment and sentence in the case becomes final if no direct
appeal is taken, within 4 ~~2~~ years following the date that the
conviction is affirmed on direct appeal if an appeal is taken,
within 4 ~~2~~ years following the date that collateral counsel is
appointed or retained subsequent to the conviction being

1 affirmed on direct appeal in a capital case, or by October 1,
2 2005 ~~2003~~, whichever occurs later; or

3 2. At any time if the facts on which the petition is
4 predicated were unknown to the petitioner or the petitioner's
5 attorney and could not have been ascertained by the exercise
6 of due diligence.

7 Section 2. This act shall take effect upon becoming a
8 law.

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10 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
11 COMMITTEE SUBSTITUTE FOR
12 SB0044

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13 --Deletes lanaguage regarding legislative intent to amend the
14 law relating to DNA evidence.

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15 --Amends s. 925.11, F.S., to replace the pre-existing two-year
16 statute of limitations period with a four-year statute of
17 limitations period during which time a person convicted at
18 trial and sentenced can petition for post-conviction DNA
19 testing and during which time physical evidence must be
20 preserved before destruction.

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18 --Provides a deadline of October 1, 2005, for all petitions
19 that would otherwise be time-barred by operation of the law.

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