

Amendment No. (for drafter's use only)

CHAMBER ACTION

Senate

House

.  
.
.

1 Representative Brutus offered the following:

2  
3 **Amendment (with title amendment)**

4 On page 2, between lines 15 and 16,

5  
6 insert:

7 Section 1. A person convicted of a crime may at any time  
8 petition the court for postsentencing DNA testing on physical  
9 evidence collected in connection with the case. The court shall  
10 order postsentencing DNA testing only if the convicted person  
11 asserts under oath that he or she is innocent of the offense and  
12 establishes that exculpatory results of the requested DNA  
13 testing would create a reasonable probability that, if the test  
14 results had been admitted at trial, the person would have been  
15 acquitted or received a lesser sentence. If a petitioner was

060161

5/5/2005 11:48:18 AM

HOUSE AMENDMENT

Bill No. CS/CS/SB 1964

Amendment No. (for drafter's use only)

16 convicted pursuant to a plea of guilty, to obtain an order for  
17 DNA testing under this section, the petitioner must first  
18 demonstrate to the court that there is a likelihood that the  
19 plea was entered under circumstances that render it suspect or  
20 the court finds that the interests of justice warrant the  
21 requested testing. All government entities shall continue to  
22 preserve physical evidence that may be subjected to  
23 postsentencing DNA testing until the person convicted of the  
24 crime is no longer incarcerated, on probation or parole, or  
25 subject to registration as a sex offender. A motion to vacate a  
26 conviction or sentence filed under Rule 3.850, Florida Rules of  
27 Criminal Procedure, or a motion for postconviction or collateral  
28 relief filed under Rule 3.851, Florida Rules of Criminal  
29 Procedure, which is based on the results of DNA testing obtained  
30 under this section shall be treated as raising a claim of newly  
31 discovered evidence, and the time periods set forth in Rules  
32 3.850 and 3.851, Florida Rules of Criminal Procedure, shall  
33 commence on the date that the written test results are provided  
34 to the parties.

35  
36 ===== T I T L E A M E N D M E N T =====

37 On page 1, lines 2 and 3,  
38 remove: all of said lines

39  
40 and insert:

41 An act relating to wrongfully incarcerated persons; providing  
42 conditions for postsentencing DNA testing; requiring government

060161

5/5/2005 11:48:18 AM

HOUSE AMENDMENT

Bill No. CS/CS/SB 1964

Amendment No. (for drafter's use only)

43 entities to preserve certain evidence; providing for a motion to  
44 vacate; creating s. 961.01, F.S.;

060161

5/5/2005 11:48:18 AM