

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

301 State House
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FISCAL IMPACT STATEMENT

LS 7601

BILL NUMBER: HB 1826

DATE PREPARED: Feb 6, 2001

BILL AMENDED:

SUBJECT: DNA Evidence and Death Sentences.

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FUNDS AFFECTED: X **GENERAL**
 X **DEDICATED**
 FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

(A) It allows a person who has been convicted of murder and sentenced to death to petition the court that convicted the person to require the forensic DNA testing of any biological material that: (1) is related to the investigation or prosecution that resulted in the person's conviction; (2) is in the possession of the court, the state, or a political subdivision of the state; and (3) was not previously subjected to DNA testing or may be subjected to retesting with new DNA techniques that provide a reasonable likelihood of more accurate and probative results.

(B) It provides that if the results of DNA testing are favorable to the person, the court must: (1) order a hearing; and (2) enter any order that serves the interests of justice, including an order that vacates and sets aside the judgment against the person, discharges the person if the person is imprisoned, resentsences the person, or grants the person a new trial.

(C) It requires the state and all political subdivisions of the state to preserve any biological material secured in connection with a prosecution for murder for the time that any person remains sentenced to death in connection with the case.

(D) It provides for exceptions.

Effective Date: July 1, 2001.

Explanation of State Expenditures: Provision A applies DNA testing for offenders who have been convicted of murder and sentenced to death. Currently, 41 offenders are on death row.

The State Police report that the backlog for investigations has increased from 50 to 300 cases in FY 2000. Consequently, it is now understaffed to meet the demand for current investigations. If the evidence is evaluated by an outside source, the costs would be between \$2,000 and \$3,000 per investigation and \$1,000

per day for additional expert witness testimony. The state would be responsible for the costs of this testing if the offender is indigent.

The following shows a summary of current offenders on death row by five-year increments when offenders have been sentenced to death. The Indiana State Police indicate that it likely maintains biological evidence from some of the cases that are less than ten years old.

<u>Time Period When Offenders Were Sentenced to Death</u>	<u>Number of Offenders</u>
Before 01-Jan-80	1
Between 01-Jan-80 and 31-Dec-85	7
Between 01-Jan-85 and 31-Dec-89	12
Between 01-Jan-90 and 31-Dec-95	12
Between 01-Jan-95 and 31-Dec-99	6
After 01-Jan-2000	<u>3</u>
Total Number of Offenders	<u>41</u>

In future cases, the investigative staff of the State Police might be required to collect more biological evidence for DNA analysis than they collect under current law and practice.

Provision C: Under current practice, evidence is brought to the State Police laboratory where a sample of evidence is removed and put in cold storage for two to three years. After the two- to three-year period, the evidence is kept in storage in a cool dark dry area where it will keep indefinitely. The item from which the sample was taken is returned to the submitting agency. The State Police laboratory retains the evidence until staff receive notification from the county prosecuting attorney. This provision could increase storage costs for both the State Police and local law enforcement agencies because the biological evidence must be retained until the person either consents to the evidence being destroyed or until the person is no longer sentenced to death.

Explanation of State Revenues:

Explanation of Local Expenditures: Provision B: Depending on the results of the DNA evidence, the trial court may be required to order a new trial for an offender. The added costs for new trials would include the jury and witness expenses.

Provision C: See Explanation of State Expenditures, above.

Explanation of Local Revenues:

State Agencies Affected: Indiana State Police.

Local Agencies Affected: Trial courts, prosecuting attorney's offices.

Information Sources: Eric Lawrence, Indiana State Police.