

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2001

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SENATE BILL 932

Short Title: DNA Tests/Convicted Murderers.

(Public)

Sponsors: Senators Rand; Cunningham, Dalton, and Soles.

Referred to: Judiciary I.

April 5, 2001

A BILL TO BE ENTITLED

AN ACT TO PROVIDE THAT A DEFENDANT CONVICTED OF FIRST DEGREE MURDER AND SENTENCED TO DEATH MAY HAVE AN OPPORTUNITY FOR DNA TESTING IF RELEVANT TO THE DEFENDANT'S ASSERTION OF ACTUAL INNOCENCE.

The General Assembly of North Carolina enacts:

**SECTION 1.** Chapter 15A of the General Statutes is amended by adding a new section to read:

**"§ 15A-2004. Motion for forensic DNA testing regarding actual innocence of defendant convicted of first degree murder and sentenced to death.**

(a) A defendant who has been convicted of first degree murder and sentenced to death may make a motion for the performance of forensic deoxyribonucleic acid (DNA) testing on evidence that was secured in relation to the trial that resulted in his or her conviction, but that had not previously been subject to DNA testing.

(b) The court shall allow the testing under reasonable conditions designed to protect the State's interest in the integrity of the evidence and the testing process. The court shall base its determination on clear and convincing evidence, that:

(1) The results of the testing will produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence;  
and

(2) The testing requested employs a scientific method generally accepted within the relevant scientific community.

(c) If the court orders a test to be conducted, the court shall select a laboratory or individual to perform the testing. In making this selection, the court shall consider, among other factors, the ability of the laboratory or individual to perform the test in an expeditious manner.

(d) The motion shall be filed in the superior court of the county in which the first degree murder indictment was returned and shall be served on the district attorney of the

1 district that prosecuted the defendant and on the Attorney General within 120 days of  
2 the effective date of this law. The clerk shall promptly bring the motion, or a copy of the  
3 motion, to the attention of the senior resident superior court judge of the district. The  
4 senior resident superior court judge shall review the motion and enter an order directing  
5 the State to file its answer within 30 days of the date of the order. If a hearing is  
6 necessary, the senior resident superior court judge shall calendar the case for hearing  
7 without unnecessary delay.

8 (e) If the senior resident superior court judge reviewing the motion did not  
9 preside at the trial of the defendant, that judge may, if it is practicable to do so, refer the  
10 motion to the judge who presided at the trial."

11 **SECTION 2.** This act is effective when it becomes law.