

SB0211/762510/1

BY: House Judiciary Committee

AMENDMENTS TO SENATE BILL 211
(Third Reading File Bill)

AMENDMENT NO. 1

On page 1, in line 17, after “order” insert “and infer certain results”; on page 2, strike beginning with “by” in line 2 down through “or” in line 3; strike beginning with “Director” in line 4 down through “Services” in line 5 and substitute “Secretary of State Police under certain circumstances”; strike beginning with “the” in line 31 down through “City” in line 32 and substitute “local law enforcement units”; strike beginning with “providing” in line 38 down through “Act” in line 39 and substitute “requiring the Office of the Public Defender and the Governor’s Office of Crime Control and Prevention to jointly submit a certain report to certain committees”; strike beginning with “certain” in line 39 down through “of” in line 40; and on page 3, strike in their entirety lines 11 through 28, inclusive.

AMENDMENT NO. 2

On page 7, strike in their entirety lines 20 through 32 and substitute:

“(II) IF THE COURT DETERMINES AT A HEARING UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH THAT THE FAILURE TO PRODUCE EVIDENCE WAS THE RESULT OF INTENTIONAL AND WILLFUL DESTRUCTION, THE COURT SHALL:

1. ORDER A POSTCONVICTION HEARING TO BE CONDUCTED IN ACCORDANCE WITH SUBPARAGRAPH (III) OF THIS PARAGRAPH; AND

2. AT THE POSTCONVICTION HEARING INFER THAT THE RESULTS OF THE POSTCONVICTION DNA TESTING WOULD HAVE BEEN

(Over)

FAVORABLE TO THE PETITIONER.”; on page 8, in line 6, strike “**NO**” and substitute “**A**”; on page 11, in line 28, strike “**A DNA SAMPLE**” and substitute “**DNA EVIDENCE**”; on page 12, strike beginning with “**FACILITY**” in line 1 down through “**(2)**” in line 6 and substitute “**TIME THE INDIVIDUAL IS CHARGED,**”; strike beginning with the comma in line 6 down through “**ARRESTED**” in line 7; in line 8, strike “**(3)**” and substitute “**(2)**”; in line 11, strike “**(4)**” and substitute “**(3)**”; in line 13, strike “**(5)**” and substitute “**(4)**”.

AMENDMENT NO. 3

On page 16, in line 11, strike “**DECEMBER 31, 2009**” and substitute “**APRIL 1, 2010**”; in the same line, after “**AND**” insert “**ON OR BEFORE APRIL 1**”; in line 16, strike “**SEPTEMBER 1, 2009**” and substitute “**JANUARY 31, 2010**”; in the same line, after “**AND**” insert “**ON OR BEFORE JANUARY 31**”; in line 18, after the first “**DEPARTMENT**” insert “**FOR THE PRECEDING CALENDAR YEAR**”; in line 21, strike “**DECEMBER 31**” and substitute “**APRIL 1**”; in line 22, after “**INCLUDE**” insert “**, FOR THE PRECEDING CALENDAR YEAR**”; strike beginning with the colon in line 30 down through “**(I)**” in line 31; on pages 16 and 17, strike beginning with “**AND**” in line 33 on page 16 down through “**KNOWN;**” in line 2 on page 17; on page 17, in line 3, strike “**BIOLOGICAL**” and substitute “**DNA**”; in line 4, after “**INDIVIDUALS**” insert “**CHARGED WITH A CRIME OF VIOLENCE OR BURGLARY, OR ATTEMPT TO COMMIT A CRIME OF VIOLENCE OR BURGLARY, AS DEFINED IN § 2-501 OF THIS SUBTITLE**”.

AMENDMENT NO. 4

On page 17, in line 24, strike “**(1)**”; in the same line, strike “**DECEMBER 31, 2009**” and substitute “**APRIL 1, 2010**”; in the same line, after “**AND**” insert “**ON OR BEFORE APRIL 1 OF EVERY EVEN-NUMBERED YEAR**”; in the same line, strike “**ANNUALLY**”; strike beginning with the first “**THE**” in line 25 down through “**CITY**” in line 27 and substitute “**EACH LOCAL LAW ENFORCEMENT UNIT**”; in line 28, strike “**THEIR**” and substitute “**ITS**”; on pages 17 and 18, strike beginning with

“JURISDICTIONS.” in line 29 on page 17 down through “THE” in line 1 on page 18 and substitute “JURISDICTION FOR THE PRECEDING CALENDAR YEAR, AND THE”; in line 3, after “STATEWIDE” insert “FOR THE PRECEDING CALENDAR YEAR”; in line 4, strike “(I)” and substitute “(1)”; strike beginning with “SAMPLES” in line 4 down through “ARE” in line 5 and substitute “EVIDENCE IS”; in line 6, strike “(II)” and substitute “(2)”; in the same line, after “DNA” insert “EVIDENCE”; in line 9, strike “(III)” and substitute “(3)”; in line 10, strike “SAMPLE” and substitute “EVIDENCE”; in line 11, strike “(IV)” and substitute “(4)”; in the same line, after “DNA” insert “EVIDENCE”; in line 13, strike “(V)” and substitute “(5)”; in the same line, after “DNA” insert “EVIDENCE”; in line 16, strike “(VI)” and substitute “(6)”; in the same line, after “DNA” insert “EVIDENCE”; strike beginning with “POLICE” in line 20 down through “OFFICES” in line 21 and substitute “LOCAL LAW ENFORCEMENT UNITS AND THE DEPARTMENT”.

AMENDMENT NO. 5

On pages 18 through 31, strike in their entirety the lines beginning with line 24 on page 18 through line 12 on page 31, inclusive; on page 31, in line 15, strike “3” and substitute “2”; after line 19, insert:

“SECTION 3. AND BE IT FURTHER ENACTED, That, on or before January 15, 2009, the Office of the Public Defender and the Governor’s Office of Crime Control and Prevention jointly shall submit a report to the House Judiciary Committee and Senate Judicial Proceedings Committee on barriers to postconviction review of claims of factual innocence, and in particular, those based on DNA evidence.”

On page 31, in line 20, strike “, Section 1 of”; in line 23, strike “Section 1 of”; and strike in their entirety lines 24 through 29, inclusive.