

Article 2. Preservation of Evidence

Amendment # 1, Holmes, Currently conceptual

Sunset all of Article 2 (Page 2, line 23 through Page 6, line 5) to a date after a time that the legislature has had time to review the Task Force's report.

Amendment #2,DOL

Page 3, line 9, following "crime,"

Insert "the person is required to register as a sex offender,"

Amendment # 3, Rep. GRUENBERG – A.11

Page 3, line 31, following "storage";

Insert "unless the person does not have the ability to pay the cost"

Page 11, line 18, following "tested":

Insert "unless the applicant does not have the ability to pay the cost."

Oversight of evidence destruction

Amendment # 4, Rep. HERRON – A.3

Page 4, line 5, following "law"

Insert "and"

Page 4, lines 6-18

Delete all material and insert:

"(2) has obtained the consent of each person convicted of the crime for which the evidence or biological material was preserved."

Page 4, line 19

Delete "An"

Insert "if an agency is unable to obtain, under (e) of this section, the consent of each person convicted of the crime for which the evidence or biological material was preserved under (a) of this section, an"

Page 4, line 20-21

Delete "if the agency receives a request for continued preservation of evidence or biological material under (e) of this section"

Amendment # 5, Rep. Lynn – A.6

Page 5, lines 5- 6:

Delete "However, the court may not reverse or vacate a conviction based solely on a violation of the provisions of this section."

Amendment # 6, DOL

Page 5, line 6:

Following "a"

Insert: “good faith”

Post-Conviction DNA Testing Procedures

Application

Amendment # 7, Rep. LYNN – A.7

Page 8, line 1, following “offense”

Insert “and”

Page 8, line 4:

Delete “and”

Page 8, Lines 5-7

Delete all material.

Page 8, lines 29-30

Delete all material

Renumber the following paragraphs accordingly

Page 9, line 27

Delete “(8)”

Insert “(7)”

Page 10, line 12:

Delete “(12)”

Insert “(11)”

Amendment # 8, DOL

Page 8, line 7

Insert the following:

“for purposes of this section, the entry of a guilty or nolo contender plea is not an admission or concession of guilt;”

Page 8, line 30

Following “conviction;”

Insert the following:

“for the purposes of this section, the entry of a guilty or a nolo contender plea is not an admission of guilt;”

Findings

Amendment # 9, Rep. LYNN - A.8

Page 9, lines 3-5:

Delete “, and the applicant did not waive, or the applicant’s lawyer did not forgo for tactical reasons, the right to DNA testing”

Page 9, lines 6-13

Delete all materials and insert:

“(B) was previously subjected to DNA testing, and the applicant is requesting DNA testing using a method or technology that is substantially more probative than the previous DNA testing;”

Amendment # 10, Rep. LYNN - A.9

Page 9, lines 19-23:

Delete all material and insert:

“(8) the applicant identifies a theory of defense that would establish the applicant’s innocence;”

Renumber the following paragraphs accordingly.

Page 10, line 12:

Delete “(12)”

Insert “(11)”

Amendment # 11, DOL – Currently conceptual

Page 9, line 29 delete “conclusively”

Timeliness

Amendment # 12, Rep. HOLMES – Currently conceptual

Page 10, lines 11-23

Delete all material

Amendment # 13, Rep. HERRON – A.4

Page 10, line 12, following “12.73.020(12),”:

Insert “there is a presumption of timeliness if the application is filed before the term of imprisonment of the applicant for the crime for which the evidence or biological material is preserved is completed. This presumption of timeliness may be rebutted if the court finds that the application is based solely on information used in a previously denied application.”

Page 10, lines 13-23:

Delete all material.

Amendment # 14, DOL

Page 10, lines 18-23:

Delete all material and insert:

“three years or more after conviction; this presumption may be rebutted if the court finds good cause for filing three years or more after conviction.”

Task Force

Amendment # 15, DOL

Page 15, between lines 24 and 25:

Insert the following:

“(9) the public defender;

(10) a member of the Alaska Senate appointed by the President of the Senate;

(11) a member of the Alaska House of Representatives appointed by the Speaker of the House.”

Amendment # 16, Rep. GRUENBERG – A.12

Page 15, line 24, following AS 24.65.020”:

Insert;

(9) the director of the Public Defender Agency;

(10) a representative of the Alaska Innocence Project

(11) a representative of the Alaska Native Justice Center”

Page 15, line 25:

Delete “and (6)”

Insert “(6), (10), and (11)”

Amendment # 17, Rep. GRUENBERG – A.13

Page 16, line 3, following “cataloging,”:

Insert “retention, disposal,”

Amendment # 18, Rep. GRUENBERG – A.14

Page 16, lines 17-20

Delete all material

Uncodified law

Amendment # 19, DOL

Page 16, lines 28 -30

Delete all materials:

Insert the following:

“(c) Notwithstanding any other provision of this Act, a person whose conviction was entered before July 1, 2010, has until July 1, 2013 to file a claim under AS 12.73, or a later date if the court finds good cause for a later filing.”

Renumber the following sections accordingly.

Amendment # 20, Rep. GRUENBERG – A.15

Page 16, lines 28-30

Delete all material

AMENDMENT # 2

OFFERED IN THE HOUSE

TO: HB 316

Page 3, line 9:

Following "crime,"

Insert "the person is required to register as a sex offender,"

Gruenberg

26-GH2812\A.11
Luckhaupt
2/18/10

AMENDMENT

#3

OFFERED IN THE HOUSE

TO: HB 316

- 1 Page 3, line 31, following "storage":
- 2 Insert "unless the person does not have the ability to pay the costs"
- 3
- 4 Page 11, line 18, following "tested":
- 5 Insert "unless the applicant does not have the ability to pay the costs"

AMENDMENT

#4

OFFERED IN THE HOUSE
TO: HB 316

BY REPRESENTATIVE HERRON

1 Page 4, line 5, following "law;":

2 Insert "and"

3

4 Page 4, lines 6 - 18:

5 Delete all material and insert:

6 "(2) has obtained the consent of each person convicted of the crime for
7 which the evidence or biological material was preserved."
8

9 Page 4, line 19:

10 Delete "An"

11 Insert "If an agency is unable to obtain, under (e) of this section, the consent of each
12 person convicted of the crime for which the evidence or biological material was preserved
13 under (a) of this section, an"

14

15 Page 4, lines 20 - 21:

16 Delete "if the agency receives a request for continued preservation of evidence or
17 biological material under (e) of this section"

AMENDMENT

#5

OFFERED IN THE HOUSE

TO: HB 316

- 1 Page 5, lines 5 - 6:
- 2 Delete "However, the court may not reverse or vacate a conviction based solely on a
- 3 violation of the provisions of this section."

AMENDMENT

#6

OFFERED IN THE HOUSE

TO: HB 316

Page 5, line 6:

Following "a"

Insert: "good faith"

AMENDMENT #7

OFFERED IN THE HOUSE

TO: HB 316

1 Page 8, line 1, following "offense;":

2 Insert "and"

3

4 Page 8, line 4:

5 Delete "and"

6

7 Page 8, lines 5 - 7:

8 Delete all material.

9

10 Page 8, lines 29 - 30:

11 Delete all material.

12

13 Renumber the following paragraphs accordingly.

14

15 Page 9, line 27:

16 Delete "(8)"

17 Insert "(7)"

18

19 Page 10, line 12:

20 Delete "(12)"

21 Insert "(11)"

AMENDMENT

#8

OFFERED IN THE HOUSE

TO: HB 316

Page 8, line 7:

Following "offense;"

Insert the following:

"for purposes of this section, the entry of a guilty or a nolo contendere plea is not an admission or concession of guilt;"

Page 8, line 30:

Following "conviction;"

Insert the following:

"for purposes of this section, the entry of a guilty or a nolo contendere plea is not an admission or concession of guilt;"

AMENDMENT #9

OFFERED IN THE HOUSE

TO: HB 316

1 Page 9, lines 3 - 5:

2 Delete ", and the applicant did not waive, or the applicant's lawyer did not forgo for
3 tactical reasons, the right to request DNA testing"
4

5 Page 9, lines 6 - 13:

6 Delete all material and insert:

7 "(B) was previously subjected to DNA testing, and the
8 applicant is requesting DNA testing using a method or technology that is
9 substantially more probative than the previous DNA testing;"

AMENDMENT #10

OFFERED IN THE HOUSE

TO: HB 316

1 Page 9, lines 19 - 23:

2 Delete all material and insert:

3 "(8) the applicant identifies a theory of defense that would establish the
4 applicant's innocence;"
5

6 Renumber the following paragraphs accordingly.
7

8 Page 10, line 12:

9 Delete "(12)"

10 Insert "(11)"

AMENDMENT

#13

OFFERED IN THE HOUSE
TO: HB 316

BY REPRESENTATIVE HERRON

1 Page 10, line 12, following "12.73.020(12),":

2 Insert "there is a presumption of timeliness if the application is filed before the term of
3 imprisonment of the applicant for the crime for which the evidence or biological material is
4 preserved is completed. This presumption of timeliness may be rebutted if the court finds that
5 the application is based solely on information used in a previously denied application."
6

7 Page 10, lines 13 - 23:

8 Delete all material.

AMENDMENT

#14

OFFERED IN THE HOUSE

TO: HB 316

Page 10, lines 18 – 23:

Delete all material and insert:

“three years or more after conviction; this presumption may be rebutted if the court finds good cause for filing three years or more after conviction.”

AMENDMENT

#15

OFFERED IN THE HOUSE

TO: HB 316

Page 15, between lines 24 and 25:

Insert the following:

“(9) the public defender;

(10) a member of the Alaska Senate appointed by the President of the Senate;

(11) a member of the Alaska House of Representatives appointed by the Speaker
of the House.”

#16

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 316

1 Page 15, line 24, following "AS 24.65.020":

2 Insert ";

3 (9) the director of the Public Defender Agency;

4 (10) a representative of the Alaska Innocence Project;

5 (11) a representative of the Alaska Native Justice Center"

6

7 Page 15, line 25:

8 Delete "and (6)"

9 Insert "(6), (10), and (11)"

#17

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 316

- 1 Page 16, line 3, following "cataloging,":
- 2 Insert "retention, disposal,"

AMENDMENT #18

OFFERED IN THE HOUSE
TO: HB 316

- 1 Page 16, lines 17 - 20:
- 2 Delete all material.

AMENDMENT

#19

OFFERED IN THE HOUSE

TO: HB 316

Page 16, following line ~~28~~ ³⁰
Delete All material
Insert the following:

(c)
“~~Sec. 17~~. Notwithstanding any other provision of this Act, a person whose conviction was entered before July 1, 2010, has until July 1, 2013 to file a claim under AS 12.73, or a later date if the court finds good cause for a later filing.”

Renumber the following bill sections accordingly.

Gruenberg
26-GH2812\A.15
Luckhaupt
2/18/10

20
AMENDMENT

OFFERED IN THE HOUSE

TO: HB 316

- 1 Page 16, lines 28 - 30:
- 2 Delete all material.