

House Engrossed Senate Bill

forensic evidence testing; postconviction relief

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

CHAPTER 157

SENATE BILL 1469

AN ACT

AMENDING TITLE 13, CHAPTER 38, ARTICLE 29, ARIZONA REVISED STATUTES, BY
ADDING SECTION 13-4241; RELATING TO POSTCONVICTION RELIEF.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 13, chapter 38, article 29, Arizona Revised
3 Statutes, is amended by adding section 13-4241, to read:

4 13-4241. Postconviction relief; request for advanced forensic
5 testing

6 A. AT ANY TIME, A PERSON WHO WAS CONVICTED OF AND SENTENCED FOR A
7 FELONY OFFENSE AND WHO MEETS THE REQUIREMENTS OF THIS SECTION MAY REQUEST
8 THAT ANY EVIDENCE THAT IS IN THE POSSESSION OR CONTROL OF THE COURT OR THE
9 STATE AND THAT IS RELATED TO THE INVESTIGATION OR PROSECUTION THAT
10 RESULTED IN THE JUDGMENT OF CONVICTION EITHER BE:

11 1. FORENSICALLY TESTED USING A TECHNIQUE THAT WAS NOT AVAILABLE AT
12 THE TIME OF SENTENCING AND THAT HAS BECOME WIDELY ACCEPTED IN THE
13 SCIENTIFIC COMMUNITY THROUGH ADVANCES IN TECHNOLOGY.

14 2. UPLOADED TO SEARCHABLE LOCAL, STATE OR NATIONAL DATABASES THAT
15 ARE SUBJECT TO THE STANDARDS IMPOSED BY THE AGENCY THAT IS RESPONSIBLE FOR
16 MANAGING THE DATABASE.

17 B. AFTER NOTICE TO THE PROSECUTOR AND AN OPPORTUNITY TO RESPOND,
18 THE COURT SHALL ORDER THE NEW FORENSIC TESTING IF THE COURT FINDS THAT ALL
19 OF THE FOLLOWING APPLY:

20 1. A REASONABLE PROBABILITY EXISTS THAT THE PETITIONER WOULD NOT
21 HAVE BEEN PROSECUTED OR CONVICTED IF EXCULPATORY RESULTS HAD BEEN OBTAINED
22 THROUGH THE NEW FORENSIC TESTING.

23 2. THE EVIDENCE IS STILL IN EXISTENCE AND IS IN A CONDITION THAT
24 ALLOWS THE NEW FORENSIC TESTING TO BE CONDUCTED.

25 3. THE EVIDENCE WAS NOT PREVIOUSLY SUBJECTED TO THE NEW FORENSIC
26 TESTING OR WAS NOT SUBJECTED TO THE ANALYSIS OR COMPARISON THAT IS NOW
27 REQUESTED.

28 4. THE NEW FORENSIC TESTING MAY RESOLVE AN ISSUE THAT WAS NOT
29 PREVIOUSLY RESOLVED BY ANY OTHER TESTING.

30 C. IF THE COURT ORDERS TESTING, THE COURT SHALL ORDER THE METHOD
31 AND RESPONSIBILITY FOR PAYMENT, IF NECESSARY.

32 D. THE COURT MAY APPOINT COUNSEL FOR AN INDIGENT PETITIONER AT ANY
33 TIME DURING ANY PROCEEDINGS UNDER THIS SECTION.

34 E. THE COURT MAY MAKE ANY ORDERS THAT THE COURT DEEMS APPROPRIATE,
35 INCLUDING DESIGNATING ANY OF THE FOLLOWING:

36 1. THE PROCEDURES TO ENSURE A PROPER CHAIN OF CUSTODY AND INTEGRITY
37 OF THE EVIDENCE.

38 2. THE PRESERVATION OF SOME OF THE SAMPLE FOR REPLICATING THE
39 TESTING.

40 3. ELIMINATION SAMPLES FROM THIRD PARTIES.

41 F. IF THE NEW FORENSIC TESTING MUST BE PERFORMED IN A LABORATORY,
42 THE NEW FORENSIC TESTING MUST BE PERFORMED BY THE DEPARTMENT OF PUBLIC
43 SAFETY CRIME LABORATORY UNLESS THE ORIGINAL INVESTIGATING AGENCY HAS A

1 LABORATORY THAT IS CAPABLE OF PERFORMING THE NEW FORENSIC TESTING OR THE
2 PARTIES MUTUALLY AGREE ON ANOTHER INTERNATIONALLY ACCREDITED LABORATORY.
3 G. THIS SECTION DOES NOT REQUIRE THIS STATE OR A LAW ENFORCEMENT
4 AGENCY IN THIS STATE TO RETAIN EVIDENCE BEYOND ANY TIME PERIOD THAT IS
5 ESTABLISHED BY LAW.

APPROVED BY THE GOVERNOR MARCH 30, 2021.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 30, 2021.