

Regular Session, 2014

HOUSE BILL NO. 1038

BY REPRESENTATIVE DIXON

CRIMINAL/PROCEDURE: Extends the period in which to file an application for DNA testing

1 AN ACT

2 To amend and reenact Code of Criminal Procedure Article 926.1(A)(1) and (H)(3), relative  
3 to post-conviction DNA testing; to extend the time period in which to file an  
4 application for post-conviction DNA testing; to extend the time period for  
5 preservation of biological material which can be subject to DNA testing once an  
6 application for DNA testing has been served; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. Code of Criminal Procedure Article 926.1(A)(1) and (H)(3) are hereby  
9 amended and reenacted to read as follows:

10 Art. 926.1. Application for DNA testing

11 A.(1) Prior to August 31, ~~2014~~ 2019, a person convicted of a felony may file  
12 an application under the provisions of this Article for post-conviction relief  
13 requesting DNA testing of an unknown sample secured in relation to the offense for  
14 which he was convicted. On or after August 31, ~~2014~~ 2019, a petitioner may request  
15 DNA testing under the rules for filing an application for post-conviction relief as  
16 provided in Article 930.4 or 930.8 of this Code.

17 \* \* \*

18 H.

19 \* \* \*

1           (3) After service of the application on the district attorney and the law  
2 enforcement agency in possession of the evidence, the clerks of court of each parish  
3 and all law enforcement agencies, including but not limited to district attorneys,  
4 sheriffs, the office of state police, local police agencies, and crime laboratories shall  
5 preserve until August 31, ~~2014~~ 2019, all items of evidence in their possession which  
6 are known to contain biological material that can be subjected to DNA testing, in all  
7 cases that, as of August 15, 2001, have been concluded by a verdict of guilty or a  
8 plea of guilty.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Dixon

HB No. 1038

**Abstract:** Extends the time period for filing an application for post-conviction relief DNA testing and for preservation of evidence.

Present law provides for the rules for post-conviction relief and generally requires all applications to be filed within two years after the judgment of conviction and sentence have become final. Present law creates an exception to the time period for filing an application for post-conviction relief by allowing inmates until Aug. 31, 2014, to seek post-conviction DNA testing.

Proposed law extends the time period for such applications to be filed to Aug. 31, 2019.

Present law additionally requires that once an application for DNA testing is served on the district attorney or the law enforcement agency in possession of the evidence to be tested, the clerks of court of each parish and all law enforcement agencies, including but not limited to district attorneys, sheriffs, the office of state police, local police agencies, and crime laboratories are to preserve until Aug. 31, 2014, all items of evidence in their possession which are known to contain biological material that can be subjected to DNA testing, in all cases that, as of Aug. 15, 2001, have been concluded by a verdict of guilty or a plea of guilty.

Proposed law retains present law and extends the time period for such preservation until Aug. 31, 2019.

(Amends C.Cr.P. Art. 926.1(A)(1) and (H)(3))