

ARKANSAS SENATE
83rd General Assembly - Regular Session, 2001
Amendment Form

Subtitle of Senate Bill No. 4

"AN ACT TO PROVIDE METHODS FOR PRESERVING DNA AND OTHER SCIENTIFIC
EVIDENCE."

Amendment No. 1 to Senate Bill No. 4.

Amend Senate Bill No. 4 as originally introduced:

Page 1, delete lines 23 through 31 and substitute:

"SECTION 1. The General Assembly finds that the mission of the criminal justice system is to punish the guilty and to exonerate the innocent. The General Assembly further finds that Arkansas laws and procedures are insufficient to attain those goals, particularly in light of new technologies enhancing the ability to analyze scientific evidence.

SECTION 2. Arkansas Code 5-1-109, concerning statutes of limitations for felonies, is amended to add an additional subsection to read as follows:

(i) If there is biological evidence connecting a person with the commission of an offense and that person's identity is unknown, the prosecution is commenced if an indictment or information is filed against the unknown person and the indictment contains the genetic information of the unknown person, which is accepted to be likely to be applicable only to the unknown person.

SECTION 3. Arkansas Code 16-112-103(a), concerning writ of habeas corpus, is amended to read as follows:

(a)(1) The writ of habeas corpus shall be granted forthwith by any of the officers enumerated in § 16-112-102(a) to any person who shall apply for the writ by petition showing, by affidavit or other evidence, probable cause to believe he is detained without lawful authority, ~~or~~ is imprisoned when by law he is entitled to bail, or is innocent of the offense or offenses for which the person was convicted.

(2) The procedures for persons who are innocent shall be in accordance with § 16-112-124.

SECTION 4. Arkansas Code Title 16, Chapter 112, Subchapter 1 is amended by adding an additional section to read as follows:

16-112-124. Appeals -- New Scientific Evidence.

(a) Except when direct appeal is available, a person"

AND

Page 2, delete lines 1 through 5 and substitute:

"(1) Scientific evidence not available at trial establishes the petitioner's actual innocence; or

(2) The factual predicate for the claim could not have been previously discovered through the exercise of due diligence and the facts underlying the claim, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable fact-finder would find the petitioner guilty of the underlying offense."

AND

Page 2, delete lines 10 through 14

AND

Page 2, line 16, delete "SECTION 3." and substitute "SECTION 5."

AND

Page 3, delete lines 13 through 23

AND

Page 3, delete line 25 and substitute:

"SECTION 6. (a) The petition filed under this act shall be"

AND

Page 3, line 33, delete "shall not" and substitute "may"

AND

Page 4, line 7, delete "court" and substitute "circuit clerk"

AND

Page 4, line 8, delete "administrator"

AND

Page 4, line 8, delete "public" and substitute "judge"

AND

Page 4, line 9, delete "defender"

AND

Page 4, line 17, delete "court administrator" and substitute "circuit clerk"

AND

Page 4, line 20, delete "SECTION 6." and substitute "SECTION 7."

AND

Page 4, line 33, delete "SECTION 7." and substitute "SECTION 8."

AND

Page 5, delete lines 14 and 15

AND

Page 5, delete lines 21 through 28 and substitute:

"SECTION 9. (a) The appealing party shall, within thirty (30) calendar days after the entry of the order, file a notice of appeal if the party wishes to appeal.

(b)(1) If the appeal is by the petitioner, the service shall be on the"

AND

Page 5, line 32, delete "(d)" and substitute "(c)"

AND

Page 5, line 34, delete "SECTION 9." and substitute "SECTION 10."

AND

Page 5, line 36, delete "trial public defenders" and substitute "Public Defender Commission"

AND

Page 6, delete lines 3 through 5 and substitute:

"(c)(1) With the approval of the court, petitioners may"

AND

Page 6, line 9, delete "executive director" and substitute "court"

AND

Page 6, line 22, delete "SECTION 10." and substitute "SECTION 11."

AND

Page 6, line 29, delete "be" and substitute "be the greater of"

AND

Page 7, line 5, delete "hearing," and substitute "hearing and a reasonable period of time in which to respond,"

AND

Page 7, delete lines 17 and 18 and substitute:

"(2) A person who violates this section is guilty of a Class A misdemeanor."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator K. Smith

MG/VJF

VJF769

Secretary