

March 29, 2001

H 884. INNOCENCE PROTECTION ACT. TO ASSIST AN INNOCENT PERSON CHARGED WITH OR WRONGFULLY CONVICTED OF A CRIMINAL OFFENSE IN ESTABLISHING THE PERSON'S INNOCENCE AND TO AMEND THE LAW PROVIDING COMPENSATION TO THE PERSON FOR A WRONGFUL CONVICTION. Enacts provisions dealing with DNA evidence, compensation for wrongful conviction, and reporting on the administration of capital punishment laws. (1) Adds new GS 15A-266.5 to provide that, for criminal defense purposes, a defendant in a criminal action or proceeding must have access to information in the State DNA Database or Databank relating to the number of requests previously made for a comparison search and the identity of the requesting party. (2) Adds GS 15A-267 to provide that criminal defendant or defendant's representative must have access before trial to any DNA samples and analyses performed in connection with charges being tried. Requires court, in response to defendant's motion, to order DNA information obtained during investigation of crime scene to be checked against DNA records and profiles in or available through State DNA Database and Databank and national DNA index system. Requires court to disclose results to defendant and prosecutor if defendant makes a showing that the analysis may be material to the defense and that the request is reasonable. (3) Amends GS 15A-266.10(a)(expungement of DNA record and sample) to require expungement of DNA sample upon notification of reversal of conviction of case or granting of a pardon. Provides that databank, database, law enforcement or police agency, or forensic DNA laboratory must return the DNA records and samples, analyses, or other documents relating to the records to defendant or to attorney at time of reversal or pardon. (4) Adds new 15A-268 to require a governmental entity that, during a criminal investigation, collects evidence containing DNA to preserve any biological material relating to the case for the period of time the person is incarcerated in connection with that case. Evidence must be retained in a condition suitable for DNA testing. Permits governmental entity to dispose of biological material before incarceration is over upon proper notification to imprisoned person, counsel of record, appropriate public defender, and Attorney General and if governmental entity does not receive proper request that material be retained. (5) Requires court, upon motion of defendant, to order DNA testing of biological material related to investigation or prosecution, if material was not tested or new test would provide new information when court determines that, had test been conducted and results presented at trial, there is a reasonable probability that verdict would have been more favorable to defendant. In cases in which defendant has been sentenced to death, requires State to perform DNA testing upon request of prosecution or defense if specified conditions are met. Requires court to appoint counsel for indigent defendant bringing this motion. Court may order an applicant able to pay or the State to pay cost of DNA testing. (6) Provides that if DNA testing results are unfavorable to applicant, court may assess applicant costs of testing if applicant is not indigent. Provides that if DNA results are favorable to applicant, court must order hearing and enter appropriate order. (7) Amends GS 148-82 to allow claim against the State for pecuniary loss for erroneous conviction and imprisonment if person has been granted a pardon by the Governor on grounds that crime was not committed at all or not committed by that person, that conviction was reversed or set aside because person was not guilty, or that person was found not guilty of offense in a new trial or rehearing. (8) Amends GS 148-84 to raise the maximum compensation that Industrial Comm'n may award claimant who was pardoned for reasons listed above from \$150,000 to \$500,000. (9) Requires Division of Criminal Statistics annually to prepare and transmit to the General Assembly a report concerning the administrative of capital punishment laws by the North Carolina state government. Lists required categories of information. Requires Attorney General to ensure that reports are distribution to media and posted on the Internet.

Intro. by Hackney, Blue, Nesbitt, Sutton.

Ref. to Judiciary I	GS 15A, 148, 114
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April 19, 2001

H 884. INNOCENCE PROTECTION ACT. Intro. 3/29/01. House committee substitute makes the following changes to 1st edition. (1) Provides that a hearing is to be conducted when the DNA results are returned, whether favorable or unfavorable to the defendant (original bill, only if favorable). (2) Deletes provisions amending GS 148-82 and 148-84 (regarding compensation of

wrongly convicted individuals) and GS 114-10.2 (regarding a report on administration of capital punishment laws). (3) Makes act effective Dec. 1, 2001.

June 14, 2001

H 884. INNOCENCE PROTECTION ACT. Intro. 3/29/01. Senate committee substitute makes the following changes to 2nd edition. Changes title to *AN ACT TO ASSIST AN INNOCENT PERSON CHARGED WITH OR WRONGLY CONVICTED OF A CRIMINAL OFFENSE IN ESTABLISHING THE PERSON'S INNOCENCE*. Adds GS 15A-146(b1) to provide that person entitled to expungement under this section may also apply to the court for order expunging DNA records when case has been dismissed by trial court and person's DNA record has been stored in state DNA Databank and DNA sample has been included in state DNA Databank. Copy of application to be served on district attorney. If application granted, copy of order dismissing charges shall be attached to order of expungement. Adds GS 15A-146(b2) to provide for SBI purging of record upon receipt of order of expungement. Adds GS 15A-148 to provide for expunction of DNA records when charges are dismissed on appeal or when pardon of innocence is granted, including procedure for SBI sending letter to defendant documenting expungement of DNA record and DNA sample. Amends GS 15A-267 to provide that criminal defendant shall have access before trial to any DNA analysis performed in connection with the case and any biological material that has not been DNA tested that was collected from the crime scene, the defendant's residence, or the defendant's property. Court may order SBI to perform DNA testing and DNA Database comparisons of biological material collected but not tested upon showing that material is relevant to the investigation, was not previously DNA tested, and that testing is material to defendant's request, with defendant responsible for costs. Amends GS 15A-268(b) to provide for governmental entity to dispose of sample of evidence containing DNA if (1) notice is given to district attorney, (2) district attorney notified specified parties, (3) notice contained specified requirements, and (4) there was no receipt of written request in compliance with conditions set forth in sub-division (3)d of this subsection. Adds GS 15A-903(g) to provide that defendant has right to obtain a copy of DNA lab reports provided to district attorney revealing that there was a DNA match in accordance with procedure set forth in GS 15A-902. Sections 4, 5, and 6 effective when act becomes law; with remainder effective Oct. 1, 2001 and applies to evidence, records, and samples in possession of a governmental entity on or after Oct. 1, 2001.

June 18, 2001

H 884. INNOCENCE PROTECTION ACT. Intro. 3/29/01. Senate amendment changes 3rd edition by altering proposed GS 15A-269(b) to provide that a court shall grant the motion for DNA testing of the evidence upon its determination that (1) it is material to the defendant's defense; (2) it is related to the investigation or prosecution that resulted in the judgment; (3) it either was not DNA tested previously or was so tested but the requested DNA test would provide significantly more accurate or probative results; and (4) if DNA testing had been conducted, there exists a reasonable probability that the verdict would have been more favorable to the defendant.

July 16, 2001

SL 2001-282 (H 884). INNOCENCE PROTECTION ACT. AN ACT TO ASSIST AN INNOCENT PERSON CHARGED WITH OR WRONGLY CONVICTED OF A CRIMINAL OFFENSE IN ESTABLISHING THE PERSON'S INNOCENCE. Summarized in *Daily Bulletin* 3/29/01, 4/19/01, 6/14/01, and 6/18/01. Enacted July 13, 2001. GS 15A-267, as enacted in Section 4 of this act, and Section 5 of this act, are effective July 13, 2001, and apply to persons charged with crimes on or after that date. Section 6 of this act is effective July 13, 2001. The remainder of this act becomes effective Oct. 1, 2001, and applies to evidence, records, and samples in the possession of a governmental entity on or after that date.