

Amendment No.

CHAMBER ACTION

Senate

House

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Representative Grant, J. offered the following:

Amendment

Remove lines 254-313 and insert:

of guilty or nolo contendere to a felony and has been sentenced
by a court established by the laws of the state ~~on or after July~~
~~1, 2006, a defendant~~ may petition that court for postsentencing
forensic analysis ~~DNA testing~~ under s. 925.11 under the
following circumstances:

(a) If the person entered a plea before July 1, 2006, the
person may petition for forensic analysis under s. 925.11.

(b) If the person entered a plea on or after July 1, 2006,
but before July 1, 2020, the person may petition for:

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14 1. Forensic analysis, other than DNA testing, under s.
15 925.11.

16 2. DNA testing, when either of the following applies:

17 a. The facts on which the petition is predicated were
18 unknown to the petitioner or the petitioner's attorney at the
19 time the plea was entered and could not have been ascertained by
20 the exercise of due diligence; or

21 b. ~~(b)~~ The physical evidence for which DNA testing is
22 sought was not disclosed to the defense by the state before
23 ~~prior to~~ the entry of the plea by the petitioner.

24 (c) If the person entered a plea on or after July 1, 2020,
25 the person may petition for forensic analysis when either of the
26 following applies:

27 1. The facts on which the petition is predicated were
28 unknown to the petitioner or the petitioner's attorney at the
29 time the plea was entered and could not have been ascertained by
30 the exercise of due diligence; or

31 2. The physical evidence for which forensic analysis is
32 sought was not disclosed to the defense by the state before the
33 entry of the plea by the petitioner.

34 (3) ~~(2)~~ For defendants seeking to enter a plea of guilty or
35 nolo contendere to a felony on or after July 1, 2020 ~~July 1,~~
36 ~~2006~~, the court shall inquire of the defendant and of counsel
37 for the defendant and the state as to physical evidence
38 ~~containing DNA~~ known to exist that, if subjected to forensic

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39 analysis, could produce evidence that is material to the
40 identification of the perpetrator of, or accomplice to, the
41 crime before ~~could exonerate the defendant prior to~~ accepting a
42 plea of guilty or nolo contendere. If no such physical evidence
43 ~~containing DNA that could exonerate the defendant~~ is known to
44 exist, the court may proceed with consideration of accepting the
45 plea. If such physical evidence ~~containing DNA that could~~
46 ~~exonerate the defendant~~ is known to exist, the court may
47 postpone the proceeding on the defendant's behalf and order
48 forensic analysis ~~DNA testing~~ upon motion of counsel specifying
49 the physical evidence to be tested.

50 (4)~~(3)~~ It is the intent of the Legislature that the
51 Supreme Court adopt rules of procedure consistent with this
52 section for a court, before ~~prior to~~ the acceptance of a plea,
53 to make an inquiry into the following matters:

54 (a) Whether counsel for the defense has reviewed the
55 discovery disclosed by the state and whether such discovery
56 included a listing or description of physical items of evidence.

57 (b) Whether the nature of the evidence against the
58 defendant disclosed through discovery has been reviewed with the
59 defendant.

60 (c) Whether the defendant or counsel for the defendant is
61 aware of any physical evidence disclosed by the state for which
62 forensic analysis could produce a result material to the

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63 identification of the perpetrator of, or accomplice to, the
64 crime ~~DNA testing may exonerate the defendant.~~

65 (d) Whether the state is aware of any physical evidence
66 for which forensic analysis could produce a result material to
67 the identification of the perpetrator of, or accomplice to, the
68 crime ~~DNA testing may exonerate the defendant.~~

69 ~~(5)(4)~~ It is the intent of the Legislature that the
70 postponement of the proceedings by the court on the defendant's
71 behalf under subsection (3) ~~(2)~~ constitute an extension

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