

HOUSE COMMITTEE OF REFERENCE REPORT

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Chair of Committee

January 31, 2023  
Date

Committee on Judiciary.

After consideration on the merits, the Committee recommends the following:

HB23-1034 be amended as follows, and as so amended, be referred to the Committee of the Whole with favorable recommendation:

- 1 Amend printed bill, page 3, strike lines 6 through 8 and substitute  
2 "CONVICTED."
- 3 Page 4, lines 12 and 13, strike "OR WOULD HAVE RECEIVED A LESSER  
4 SENTENCE".
- 5 Page 4, line 16, strike "A" and substitute "IT FINDS BY A PREPONDERANCE  
6 OF THE EVIDENCE THAT a".
- 7 Page 4, line 19, after "~~Conclusive~~" insert "IT FINDS BY A PREPONDERANCE  
8 OF THE EVIDENCE THAT".
- 9 Page 4, strike lines 20 through 22, and substitute "petitioner's conviction  
10 and OR, IF PREVIOUSLY AVAILABLE AND TESTED, THE EVIDENCE CAN BE  
11 SUBJECTED TO MORE ADVANCED, SCIENTIFICALLY RELIABLE DNA TESTING  
12 THAT PROVIDES A REASONABLE LIKELIHOOD OF MORE PROBATIVE  
13 RESULTS; OR".
- 14 Page 4, line 27, after "MAY" insert "ONLY".
- 15 Page 5, line 7, strike "THE COURT FINDS GOOD CAUSE OR THAT" and  
16 substitute "THE PETITIONER ESTABLISHES GOOD CAUSE WHY A SUCCESSIVE  
17 PETITION SHOULD BE CONSIDERED OR THE COURT FINDS THAT".
- 18 Page 5, lines 11 and 12, strike "**amend (3); and**".
- 19 Page 5, lines 13 and 14, strike "UPON RECEIPT OF A MOTION FOR  
20 POSTCONVICTION DNA TESTING, THE STATE" and substitute "WHEN A

1 MOTION FOR POSTCONVICTION DNA TESTING IS GRANTED, THE PRIMARY  
2 INVESTIGATIVE AGENCY THAT HANDLED THE CASE".

3 Page 5, strike lines 17 through 21.

4 Page 5, strike line 27 and substitute "THE COLORADO BUREAU OF  
5 INVESTIGATION; EXCEPT THAT THE COURT, UPON REQUEST OF THE  
6 PETITIONER AND AFTER THE PETITIONER ESTABLISHING GOOD CAUSE, MAY  
7 ORDER TESTING BY ANOTHER TESTING LABORATORY OR AGENCY THAT  
8 CONFORMS TO THE CURRENT VERSION OF ISO/IEC 17025 REQUIREMENTS,  
9 THE APPROPRIATION QUALITY ASSURANCE STANDARDS REQUIRED BY THE  
10 FEDERAL BUREAU OF INVESTIGATION, AND FORENSIC-SPECIFIC  
11 REQUIREMENTS AND IS ACCREDITED BY AN ORGANIZATION THAT IS  
12 SIGNATORY TO THE INTERNATIONAL LABORATORY ACCREDITATION  
13 COOPERATION MUTUAL RECOGNITION ARRANGEMENTS FOR TESTING  
14 LABORATORIES. THE PETITIONER SHALL".

15 Page 6, strike lines 1 and 2.

16 Page 6, line 26, after "HEARING" insert "WITHIN THIRTY DAYS AFTER THE  
17 RESULT".

18 Page 7, line 2, after "ORDER" insert "WITHIN THIRTY DAYS AFTER THE  
19 HEARING".

20 Page 7, line 8, strike "24-4.1-302.5 AND 24-4.1-303." and substitute  
21 "24-4.1-301 TO 24-4.1-305".

22 Page 7, after line 8, insert:

23 "SECTION 7. In Colorado Revised Statutes, 24-4.1-302, **amend**  
24 (2)(u); and **add** (2)(u.5) as follows:

25 **24-4.1-302. Definitions.** As used in this part 3, and for no other  
26 purpose, including the expansion of the rights of any defendant:

27 (2) "Critical stages" means the following stages of the criminal  
28 justice process:

29 (u) The decision, whether by court order, stipulation of the parties,  
30 or otherwise, to conduct postconviction DNA testing ~~to establish the~~  
31 ~~actual innocence of the person convicted of a crime against the victim~~  
32 pursuant to section 18-1-413, the results of any such postconviction DNA  
33 testing, and court proceedings initiated based on the result of the  
34 postconviction DNA testing. An inmate's written or oral request for such  
35 testing is not a "critical stage".

36 (u.5) A HEARING HELD PURSUANT TO SECTION 18-1-416 (1.5);

1           **SECTION 8.** In Colorado Revised Statutes, 24-4.1-303, **amend**  
2 (11)(b) as follows:

3           **24-4.1-303. Procedures for ensuring rights of victims of**  
4 **crimes.** (11) The district attorney shall inform a victim of the following:

5           (b) Any of the critical stages specified in section 24-4.1-302 (2)(a)  
6 to (2)(j), ~~and~~ (2)(l), AND (2)(u.5) of a criminal proceeding relating to a  
7 person accused of a crime against the victim; except that the district  
8 attorney shall not be obligated to inform the victim of any appellate  
9 review undertaken by the attorney general's office;

10           **SECTION 9. Effective date - applicability.** This act takes effect  
11 on October 1, 2023, and applies to petitions filed on or after said date.".

12 Renumber succeeding section accordingly.

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