CHAPTER 2004-67

Committee Substitute for
Committee Substitute for Senate Bill No. 44

An act relating to DNA evidence; amending s. 925.11, F.S.; extending the period following sentencing during which a petition may be filed or considered by the court to order the testing of criminal DNA evidence; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Subsection (1) of section 925.11, Florida Statutes, is amended to read:

925.11 Postsentencing DNA testing.—

(1) Petition for examination.—

(a) A person who has been tried and found guilty of committing a crime and has been sentenced by a court established by the laws of this state may petition that court to order the examination of physical evidence collected at the time of the investigation of the crime for which he or she has been sentenced which may contain DNA (deoxyribonucleic acid) and which would exonerate that person or mitigate the sentence that person received.

(b) Except as provided in subparagraph 2., a petition for postsentencing DNA testing may be filed or considered:

1. Within 4 ~~2~~ years following the date that the judgment and sentence in the case becomes final if no direct appeal is taken, within 4 ~~2~~ years following the date that the conviction is affirmed on direct appeal if an appeal is taken, within 4 ~~2~~ years following the date that collateral counsel is appointed or retained subsequent to the conviction being affirmed on direct appeal in a capital case, or by October 1, 2005 ~~2003~~, whichever occurs later; or

2. At any time if the facts on which the petition is predicated were unknown to the petitioner or the petitioner's attorney and could not have been ascertained by the exercise of due diligence.

Section 2. This act shall take effect upon becoming a law and shall operate retroactively to October 1, 2003.

Approved by the Governor May 20, 2004.

Filed in Office Secretary of State May 20, 2004.