



Senate

General Assembly

File No. 615

February Session, 2018

Substitute Senate Bill No. 509

Senate, April 19, 2018

The Committee on Judiciary reported through SEN. DOYLE of the 9th Dist. and SEN. KISSEL of the 7th Dist., Chairpersons of the Committee on the part of the Senate, that the substitute bill ought to pass.

AN ACT CONCERNING NEWLY DISCOVERED EVIDENCE.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 52-582 of the general statutes is repealed and the
2 following is substituted in lieu thereof (*Effective October 1, 2018*):

3 (a) No petition for a new trial in any civil or criminal proceeding
4 shall be brought but within three years next after the rendition of the
5 judgment or decree complained of, except that a petition for a new trial
6 in a criminal proceeding based on DNA (deoxyribonucleic acid)
7 evidence or other newly discovered evidence, as described in
8 subsection (b) of this section, that was not discoverable or available at
9 the time of the original trial or at the time of any previous petition
10 under this section, may be brought at any time after the discovery or
11 availability of such new evidence, and the court may grant the petition
12 if the court finds that had such evidence been presented at trial, there
13 is a reasonable likelihood there would have been a different outcome
14 at the trial.

15 (b) (1) Such newly discovered evidence in support of a petition for a
 16 new trial may include newly discovered forensic scientific evidence
 17 that was not discoverable or available at the time of the original trial or
 18 original or previous petition for a new trial, as determined by the court
 19 under subdivision (2) of this subsection, including that which might
 20 undermine any forensic scientific evidence presented at the original
 21 trial.

22 (2) The court shall consider whether relevant forensic scientific
 23 evidence was not discoverable or available at the time of the original
 24 trial based upon a consideration of whether the relevant scientific
 25 evidence has changed since the applicable trial date or dates, or date of
 26 entry of a plea of guilty or nolo contendere, or the date of the most
 27 recent petition under this section.

28 (c) No provision of this section shall be construed to create a civil or
 29 criminal liability for an expert witness who repudiates the forensic
 30 scientific evidence such witness provided at a previous hearing or trial
 31 or included in a previous petition or who offered such evidence that
 32 has since been undermined by later scientific research or technological
 33 advancements.

34 (d) For purposes of this section, "forensic" means the application of
 35 scientific or technical practices to the recognition, collection, analysis
 36 and interpretation of evidence for criminal and civil law or regulatory
 37 issues, "forensic scientific evidence" includes scientific knowledge or
 38 technical knowledge, reports or testimony by forensic analysts or
 39 experts, and scientific standards or a scientific method or technique
 40 upon which the relevant scientific evidence is based, and "scientific
 41 knowledge" includes knowledge of the general scientific community
 42 and all fields of scientific knowledge upon which those fields or
 43 disciplines rely.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2018	52-582

Statement of Legislative Commissioners:

In Section 1(a), language was clarified to provide that a petition is for a new trial in a criminal proceeding and that a court may grant the petition.

JUD *Joint Favorable Subst. -LCO*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

OFA Fiscal Note

State Impact:

Agency Affected	Fund-Effect	FY 19 \$	FY 20 \$
Pub. Defender Serv. Com.	GF - Potential Cost	Minimal	Minimal

Note: GF=General Fund

Municipal Impact: None

Explanation

The bill allows for additional exceptions to the three-year limit for petitioning for a new trial and results in a potential cost to the Public Defender Services Commission (PDS). To the extent that the newly discovered evidence results in a successful petition for a new trial and the defendant is eligible to receive the services of a public defender, the bill results in potential minimal cost as it is anticipated that PDS will assign the majority of cases staff attorneys. For cases that an assigned counsel must be utilized, assigned counsel receives \$6,000 per case.

The Out Years

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of cases.

OLR Bill Analysis**SB 509*****AN ACT CONCERNING NEWLY DISCOVERED EVIDENCE.*****SUMMARY**

The law generally prohibits individuals from petitioning for a new trial in a civil or criminal proceeding if three years or more has passed since the court rendered the judgment or decree. Current law grants an exception to this three-year limit if the petition is based on DNA evidence that was not discoverable or available at the time of the original trial. This bill (1) specifies that the exception based on DNA evidence applies only to criminal proceedings and (2) allows for that exception only if the DNA evidence was not discoverable or available (a) at the original trial or (b) at any previous petition for a new trial based on DNA or other newly discovered evidence. It also allows for additional exceptions to the three-year limit for other newly discovered evidence that was not discoverable or available at the time of the original trial or any such previous petition for a new trial. The bill permits the court to grant these petitions if the court finds that, had such evidence been presented at trial, there is a reasonable likelihood there would have been a different trial outcome.

Under the bill, newly discovered evidence in support of a petition for a new trial may include newly discovered forensic scientific evidence that was not discoverable or available at the time of the original trial or previous petitions for a new trial, as determined by the court, including evidence that might undermine any forensic scientific evidence presented at the original trial.

The bill requires the court to consider whether relevant forensic scientific evidence was not discoverable or available at the time of the original trial based on whether the relevant scientific evidence has

changed since the (1) applicable trial date or dates, (2) date a guilty or nolo contendere plea was entered, or (3) date of the most recent petition for a new trial.

The bill specifies that none of the provisions regarding petitions for a new trial based on new forensic evidence create civil or criminal liability for an expert witness who repudiates the forensic scientific evidence that he or she (1) provided at a previous hearing or trial, (2) included in a previous petition, or (3) offered and that has since been undermined by later scientific research or technological advancements.

EFFECTIVE DATE: October 1, 2018

DEFINITIONS

Under the bill:

1. "forensic" means the application of scientific or technical practices to the recognition, collection, analysis, and interpretation of evidence for criminal and civil law or regulatory issues;
2. "forensic scientific evidence" includes scientific or technical knowledge, reports or testimony by forensic analysts or experts, and scientific standards or a scientific method or technique upon which the relevant scientific evidence is based; and
3. "scientific knowledge" includes knowledge of the general scientific community and all fields of scientific knowledge upon which those fields or disciplines rely.

COMMITTEE ACTION

Judiciary Committee

Joint Favorable
Yea 41 Nay 0 (04/04/2018)