

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 18-61—sSB 509
Judiciary Committee

AN ACT CONCERNING NEWLY DISCOVERED EVIDENCE

SUMMARY: Existing law generally prohibits individuals from petitioning for a new trial in a civil or criminal proceeding if three years or more have passed since the court rendered the judgment or decree. This act:

1. specifies that an existing exception to this limit based on DNA evidence that was not discoverable or available at the time of the original trial applies only to criminal proceedings and
2. 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.

Under prior law, the exception applied to DNA evidence that was not discoverable or available at the original trial. The act allows the exception for DNA or other evidence that was not discoverable or available at (1) the original trial or (2) any previous petition for a new trial based on DNA or other newly discovered evidence.

The act 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 act, newly discovered evidence in support of a petition for a new trial may include 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 act 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 act 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

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Under the act:

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.