

# Legislative Analysis

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## DNA TESTING AND NEW TRIALS

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**House Bill 4413 (Substitute H-1)**  
**Sponsor: Rep. Tonya Schuitmaker**  
**Committee: Judiciary**

### First Analysis (3-3-05)

**BRIEF SUMMARY:** The bill would extend the deadline for convicted felons to petition the circuit court for a DNA test of biological materials related to the conviction and for a new trial, from January 1, 2006 to January 1, 2009.

**FISCAL IMPACT:** The bill would have an indeterminate impact on the state and on local units of government, depending on the number of petitions, DNA tests, new trials, indigent counsel assigned, prisoners released, and any impact from the procedures for the preservation of evidence.

### THE APPARENT PROBLEM:

Currently, Chapter X of the Code of Criminal Procedure permits individuals convicted of a felony prior to January 8, 2001 who are currently serving a prison sentence for that felony to petition the circuit court for a DNA test of biological materials identified in the investigation that led to the conviction and for a new trial based on the results of that test. The code provides that the petition must be filed before January 1, 2006. Given that the sunset date is fast approaching, legislation extending the sunset has been introduced.

### THE CONTENT OF THE BILL:

The bill would amend Chapter X of the Code of Criminal Procedure to extend from January 1, 2006 to January 1, 2009 the deadline for convicted felons to petition the circuit court for a DNA test of biological materials related to the conviction and for a new trial

The circuit court in the appropriate county is required to order the DNA test if the convicted individual (1) presents proof that on its face shows that the material to be tested is significantly related to the identity of the perpetrator of, or accomplice to, the crime resulting in the conviction; and (2) establishes by clear and convincing evidence that a sample of the material is available for DNA testing, the material was not previously subject to DNA testing or will be subject to testing not available at the time of the conviction, and that his or her identity as the perpetrator was at issue during the trial.

MCL 770.16

***BACKGROUND INFORMATION:***

The Lansing-based Thomas M. Cooley Law School operates the Cooley Innocence Project with the purpose of freeing individuals wrongly convicted of crimes they did not commit. The project, which began in early 2001, operates as a law school clinic with a staff of 6 to 10 law students and a few faculty members, and it is now one of approximately 30 similar projects throughout the country. Since the program began, it has received approximately 2,600 requests for assistance, and has screened approximately 2,400 of those requests according to the statutory requirements. Many of these requests involve cases that are at least 10 years old, and the time required to screen the request often takes two to three years. The work of the project has led to the exoneration of two individuals.

***ARGUMENTS:******For:***

The bill is necessary to ensure that individuals wrongly convicted and imprisoned of a crime continue to have reasonable access to the courts in attempting to prove their innocence. Many individuals currently incarcerated were convicted before DNA testing was generally available or before more sophisticated testing became available. The current law was enacted in 2001 (see Senate Bill 1395 of 1999-2000) after it became apparent there was no clear authority or procedure for inmates to request that certain biological materials be subject to a DNA test or to request a new trial if the results of that test could prove their innocence. The expiration of the filing deadline would revert to a legal system that confounded efforts to free individuals wrongly imprisoned.

***POSITIONS:***

The Prosecuting Attorneys Association of Michigan supports the bill. (3-2-05)

The Cooley Innocence Project supports the bill. (3-2-05)

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