

Legislative Analysis



MAKING MATERIAL FALSE STATEMENT ON PETITION FOR DNA TESTING BY FELONS

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 6092 as introduced
Sponsor: Rep. Paul Condino

House Bill 6093 as introduced
Sponsor: Rep. Andy Coulouris
Committee: Judiciary

Complete to 5-14-08

A SUMMARY OF HOUSE BILLS 6092-6093 AS REPORTED BY COMMITTEE 5-14-08

House Bill 6092 would add a new section to the Michigan Penal Code (MCL 750.422a) to prohibit an individual from intentionally making a material false statement in a petition or supporting affidavit filed under Section 16 of Chapter X of the Code of Criminal Procedure (to retest DNA evidence and request a new trial). A violation would be a felony punishable by not more than five years of imprisonment and/or a fine of not more than \$10,000. The court could order the term of imprisonment imposed under this provision to be served consecutively to any other term of imprisonment currently being served by the individual.

The bill is tie-barred to House Bill 5089, which would extend the time period for a petition to retest DNA evidence in a felony conviction and request a new trial, expand the eligibility of convicted felons who could request the retest of DNA evidence and new trial, and revise the criteria used by a court to justify a new trial.

House Bill 6093 would amend the Code of Criminal Procedure (MCL 777.16v) to specify that making a material false statement in a petition seeking the review of DNA evidence would have a maximum term of imprisonment of five years. The bill is tie-barred to both House Bill 5089 and House Bill 6092.

BACKGROUND INFORMATION:

House Bill 5089 was passed earlier this year to, among other things, expand eligibility for convicted felons to request that evidence in their cases be tested for DNA and to request a new trial. At that time, prosecutors raised a concern that some felons could exploit the provisions under that bill for their own benefit, e.g., falsifying information on the petition for DNA testing to appear eligible, with the intention to deliberately delay the proceedings or extend the appeals process. Besides adding additional costs to the adjudication process, false applications for a retrial or DNA review could subject victims and their families to undo stress.

Current law makes it a four-year felony to falsely report a crime to law enforcement officials; some felt that a similar criminal penalty should be available for anyone falsifying information on a petition to review DNA evidence or to request a new trial.

FISCAL IMPACT:

The bills' fiscal impact would depend on the number of convictions obtained, the severity of sentences imposed, and whether consecutive sentencing was ordered. There are no data at present to indicate the number of prisoners who might be affected by the bills. Assuming that violators were all already serving prison sentences, any costs would be those of increased lengths of stay for affected prisoners. Costs under the bills would begin to accrue after affected prisoners would otherwise have been released. Any increase in penal fine collections could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

POSITIONS:

A representative of the Prosecuting Attorneys Association testified in support of the bills. (5-14-08)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Marilyn Peterson

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.