

West's Idaho Code Annotated
Title 19. Criminal Procedure
Chapter 49. Uniform Post-Conviction Procedure Act (Refs & Annos)

I.C. § 19-4902

§ 19-4902. Commencement of proceedings--Verification--Filing--Service--DNA testing

[Currentness](#)

(a) A proceeding is commenced by filing an application verified by the applicant with the clerk of the district court in which the conviction took place. An application may be filed at any time within one (1) year from the expiration of the time for appeal or from the determination of an appeal or from the determination of a proceeding following an appeal, whichever is later. Facts within the personal knowledge of the applicant and the authenticity of all documents and exhibits included in or attached to the application must be sworn to affirmatively as true and correct. The supreme court may prescribe the form of the application and verification. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(b) A petitioner may, at any time, file a petition before the trial court that entered the judgment of conviction in his or her case for the performance of fingerprint or forensic deoxyribonucleic acid (DNA) testing on evidence that was secured in relation to the trial which resulted in his or her conviction but which was not subject to the testing that is now requested because the technology for the testing was not available at the time of trial. The clerk shall docket the application upon its receipt and promptly bring it to the attention of the court and deliver a copy to the prosecuting attorney.

(c) The petitioner must present a prima facie case that:

(1) Identity was an issue in the trial which resulted in his or her conviction; and

(2) The evidence to be tested has been subject to a chain of custody sufficient to establish that such evidence has not been substituted, tampered with, replaced or altered in any material aspect.

(d) A petitioner who pleaded guilty in the underlying case may file a petition under subsection (b) of this section.

(e) The trial court shall allow the testing under reasonable conditions designed to protect the state's interests in the integrity of the evidence and the testing process upon a determination that:

(1) The result of the testing has the scientific potential to produce new, noncumulative evidence that would show that it is more probable than not that the petitioner is innocent; and

(2) The testing method requested would likely produce admissible results under the Idaho rules of evidence.

(f) In the event the fingerprint or forensic DNA test results demonstrate, in light of all admissible evidence, that the petitioner is not the person who committed the offense, the court shall order the appropriate relief.

(g) The cost of the forensic DNA test shall be at the petitioner's expense, except to the extent the petitioner qualifies for the test at public expense pursuant to chapter 8, title 19, Idaho Code, in which case the fingerprint or forensic DNA test shall be performed by, and paid for by funds allocated for, Idaho state police forensic services, provided the requested method of testing or specific technology is validated by the lab, within the laboratory accreditation scope, and laboratory staff are qualified and satisfactorily performing proficiency testing in the testing method. If the laboratory does not offer the specific type of testing required, the Idaho state police shall not be required to outsource the testing or in any way pay for or reimburse any entity for the testing to be performed. For the purposes of this subsection, "validated" means the accumulation of test data within the laboratory to demonstrate that established methods and procedures perform as expected in the laboratory. The petitioner may choose an ISO/IEC 17025 or an American society of crime laboratory directors/laboratory accreditation board accredited DNA testing laboratory to perform the DNA testing. Such testing shall be at the petitioner's expense.

Credits

S.L. 1967, ch. 25, § 2; S.L. 1979, ch. 133, § 1; S.L. 1988, ch. 76, § 1; S.L. 1993, ch. 265, § 1; S.L. 1996, ch. 420, § 2; S.L. 2001, ch. 317, § 3. Amended by S.L. 2010, ch. 135, § 3, eff. July 1, 2010; S.L. 2012, ch. 180, § 1, eff. March 29, 2012.

Notes of Decisions (240)

I.C. § 19-4902, ID ST § 19-4902

Current through the 2014 Second Regular Session of the 62nd Idaho Legislature.
