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West's General Laws of Rhode Island Annotated [Currentness](#)

Title 10. Courts and Civil Procedure--Procedure in Particular Actions

▢ [Chapter 9.1. Post Conviction Remedy](#)

→ **§ 10-9.1-11. Innocence protection--Mandatory preservation of biological evidence**

(a) *Mandatory preservation.* During the term of the defendant's incarceration resulting from his or her conviction after trial, the Rhode Island state police and each and every municipal police department in the state of Rhode Island, their agents, and any person to whom biological evidence has been transferred shall be obligated to preserve all biological evidence that comes into its possession during the course of a criminal investigation.

(b) *Petition to destroy evidence.* A police department or agent may be relieved of the obligation of mandatory preservation by applying to a justice of the superior court for permission to destroy biological evidence. Upon receipt of the petition, a justice of the superior court shall hold a hearing, and after giving notice to all defendants charged in connection with the prosecution, the justice shall grant the petition upon finding that:

- (1) The Rhode Island Supreme Court has decided the defendant's appeal; and
- (2) The defendant does not seek further preservation of the biological evidence.

(c) *Petition by defendant requesting testing.* Notwithstanding any other provision of law governing postconviction relief, any person who was convicted of and sentenced for a crime and who is currently serving an actual term of imprisonment and incarceration pursuant to that sentence may, at any time, file a petition with the superior court requesting the forensic DNA testing of any evidence that is in the possession or control of the prosecution, law enforcement, laboratory, or court. A person filing a petition under this section must certify under the pains and penalties of perjury that the requested testing is related to the investigation or prosecution that resulted in the judgment of conviction and that the evidence sought to be tested contains biological evidence.

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