

Vernon's Texas Statutes and Codes Annotated
Code of Criminal Procedure (Refs & Annos)
Title 1. Code of Criminal Procedure of 1965
Miscellaneous Proceedings
Chapter 64. Motion for Forensic DNA Testing

Vernon's Ann.Texas C.C.P. Art. 64.01

Art. 64.01. Motion

Effective: September 1, 2015

[Currentness](#)

(a) In this section, “biological material”:

(1) means an item that is in possession of the state and that contains blood, semen, hair, saliva, skin tissue or cells, fingernail scrapings, bone, bodily fluids, or other identifiable biological evidence that may be suitable for forensic DNA testing; and

(2) includes the contents of a sexual assault evidence collection kit.

(a-1) A convicted person may submit to the convicting court a motion for forensic DNA testing of evidence that has a reasonable likelihood of containing biological material. The motion must be accompanied by an affidavit, sworn to by the convicted person, containing statements of fact in support of the motion.

(b) The motion may request forensic DNA testing only of evidence described by Subsection (a-1) that was secured in relation to the offense that is the basis of the challenged conviction and was in the possession of the state during the trial of the offense, but:

(1) was not previously subjected to DNA testing ; or

(2) although previously subjected to DNA testing, can be subjected to testing with newer testing techniques that provide a reasonable likelihood of results that are more accurate and probative than the results of the previous test.

(c) A convicted person is entitled to counsel during a proceeding under this chapter. The convicting court shall appoint counsel for the convicted person if the person informs the court that the person wishes to submit a motion under this chapter, the court finds reasonable grounds for a motion to be filed, and the court determines that the person is indigent. Counsel must be appointed under this subsection not later than the 45th day after the date the court finds reasonable grounds or the date the court determines that the person is indigent, whichever is later. Compensation of counsel is provided in the same manner as is required by:

(1) [Article 11.071](#) for the representation of a petitioner convicted of a capital felony; and

(2) Chapter 26 for the representation in a habeas corpus hearing of an indigent defendant convicted of a felony other than a capital felony.

Credits

Added by Acts 2001, 77th Leg., ch. 2, § 2, eff. April 5, 2001. Amended by Acts 2003, 78th Leg., ch. 13, § 1, eff. Sept. 1, 2003; Acts 2007, 80th Leg., ch. 1006, § 2, eff. Sept. 1, 2007; Acts 2011, 82nd Leg., ch. 278 (H.B. 1573), § 5, eff. Sept. 1, 2011; Acts 2011, 82nd Leg., ch. 366 (S.B. 122), § 1, eff. Sept. 1, 2011; Acts 2015, 84th Leg., ch. 70 (S.B. 487), § 1, eff. Sept. 1, 2015.

Vernon's Ann. Texas C. C. P. Art. 64.01, TX CRIM PRO Art. 64.01

Current through the end of the 2015 Regular Session of the 84th Legislature

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