

S.F. No. 0051**Post-conviction actual innocence.**

Sponsored By: Senator(s) Esquibel, F., Craft and Landen and
Representative(s) Byrd, Lockhart and Pelkey

AN ACT relating to criminal procedure; allowing a motion for new trial for persons convicted of a felony upon a showing of actual innocence based on non-DNA evidence; specifying requirements, procedures and conditions; providing for compensation; specifying retention of governmental immunity; conforming provisions; and providing for an effective date.

1/26/2016 Bill Number Assigned
2/5/2016 S Received for Introduction
2/10/2016 S Introduced and Referred to S01 - Judiciary 25-5-0-0-0

ROLL CALL

Ayes: Senator(s) Bebout, Boner, Burns, Case, Christensen, Coe, Cooper, Craft, Driskill, Emerich, Esquibel, F., Geis, Hastert, Johnson, Kinskey, Landen, Meier, Pappas, Perkins, Peterson, Ross, Rothfuss, Scott, Von Flatern, Wasserburger

Nays: Senator(s) Anderson, Barnard, Dockstader, Hicks, Nicholas, P.

Ayes 25 **Nays** 5 **Excused** 0 **Absent** 0 **Conflicts** 0

2/17/2016 S01 - Judiciary:Recommend Amend and Do Pass 3-2-0-0-0

ROLL CALL

Ayes: Senator(s) Christensen, Esquibel, F., Kinskey

Nays: Senator(s) Hicks, Von Flatern

Ayes 3 **Nays** 2 **Excused** 0 **Absent** 0 **Conflicts** 0

2/17/2016 S Placed on General File
2/18/2016 S COW:Rerefer to S02 - Appropriations
2/18/2016 S02 - Appropriations:Recommend Amend and Do Pass 3-2-0-0-0

ROLL CALL

Ayes: Senator(s) Burns, Hastert, Perkins

Nays: Senator(s) Ross, Wasserburger

Ayes 3 **Nays** 2 **Excused** 0 **Absent** 0 **Conflicts** 0

2/18/2016 S Placed on General File

SF0051SS001/FAILED

Page 1-line 3 Delete "based on non-DNA evidence".
Page 1-line 11 Delete "7-12-410" insert "7-12-409".
Page 3-line 2 Delete "7-12-410" insert "7-12-409".
Page 3-line 18 Delete "other than DNA evidence,".
Page 3-line 19 Delete "by clear and convincing evidence"
insert "a reasonable probability".
Page 4-lines 4 through 6 Delete.
Page 4-line 8 Delete "(iv)" insert "(iii)".
Page 4-line 9 Delete line through "statements, or".
Page 5-line 3 Delete "." insert "; and".
Page 5-after line 3 Insert:

"(iv) False evidence that is material on the issue of guilt was introduced against the movant at a hearing or trial related to the movant's incarceration.

(d) For the purpose of this section, "false evidence" includes opinions of experts that have either been repudiated by the expert who originally provided the opinion at a hearing or trial or that have been undermined by later scientific research or technological advances."

Page 5-line 12 After "." Insert "If the state's response opposes the motion, the movant shall have an opportunity to respond within sixty (60) days after service of the district attorney's motion."

Page 9-line 2 Delete "not".

Page 9-lines 4 through 7 Delete; renumber as necessary.

Page 9-line 9 Delete "7-12-410" insert "7-12-409".

Page 9-line 12 After "7-12-404" insert "or 7-12-310".

Page 10-line 8 Delete "two (2)" insert "five (5)".

Page 10-line 9 After "exoneration" insert "or July 1, 2016, whichever is later"; delete "regardless".

Page 10-line 10 Delete.

Page 10-line 11 Delete through "2016"; delete "office of" insert "court".

Page 10-line 12 Delete the first "the attorney general."; delete the second "attorney general" insert "court".

Page 10-line 15 Delete "fifty thousand" insert "one hundred fifty thousand dollars (\$150,000.00)".

Page 10-line 16 Delete "dollars (\$50,000.00)".

Page 10-line 19 Delete "fifty thousand dollars (\$50,000.00)" insert "one hundred fifty thousand dollars (\$150,000.00)".

Page 10-line 20 Delete "fifty thousand dollars" insert "one hundred fifty thousand dollars (\$150,000.00)".

Page 10-line 21 Delete "(\$50,000.00)".

Page 11-lines 21 through 23 Delete.

Page 12-lines 1 through 3 Delete.

Page 12-line 5 Delete "(f)" insert "(e)".

Page 12-lines 11 through 23 Delete.

Page 13-lines 1 through 3 Delete.

Page 13-line 5 Delete "(j)" insert "(f)".

Page 13-line 9 Delete "(k)" insert "(g)".

Page 13-lines 12 through 15 Delete.

Page 13-line 17 Delete "(n)" insert "(h)". CHRISTENSEN,
CHAIRMAN

SF0051SS002/ADOPTED

Page 1-line 6 After "provisions;" insert "providing an appropriation;"

Page 16-after line 9 Insert:

"Section 3. There is appropriated one hundred thousand dollars (\$100,000.00) from the general fund to the attorney general's office. This appropriation shall be expended only for the purpose of paying the compensation authorized by this act. This appropriation shall not revert as provided by law and shall be continuously appropriated to the attorney general's office. Notwithstanding any other provision of law, this appropriation shall not be transferred or expended for any other purpose."

Page 16-line 11

Delete "3." Insert "4.". ROSS, CHAIRMAN

2/18/2016 S COW:Failed 6-24-0-0-0

ROLL CALL

Ayes: Senator(s) Burns, Case, Craft, Esquibel, F., Hastert, Rothfuss

Nays: Senator(s) Anderson, Barnard, Bebout, Boner, Christensen, Coe, Cooper, Dockstader, Driskill, Emerich, Geis, Hicks, Johnson, Kinskey, Landen, Meier, Nicholas, P., Pappas, Perkins, Peterson, Ross, Scott, Von Flatern, Wasserburger

Ayes 6 **Nays** 24 **Excused** 0 **Absent** 0 **Conflicts** 0