



This Bill Analysis reflects the contents of the bill as it was presented in committee.

SENATE BILL 425: Clarify DNA Result Would Have Changed Verdict.

2019-2020 General Assembly

Committee:	House Judiciary. If favorable, re-refer to Rules, Calendar, and Operations of the House	Date:	June 12, 2019
Introduced by:	Sens. McKissick, Britt, Daniel	Prepared by:	Susan Sitze*
Analysis of:	PCS to Second Edition S425-CSSA-47		Staff Attorney

OVERVIEW: *The Proposed Committee Substitute (PCS) for Senate Bill 425 would modify the standard used in granting a defendant's motion for post-conviction DNA testing and would modify which judge hears a motion for appropriate relief filed after a claim of innocence is denied.*

CURRENT LAW:

Post-conviction DNA testing

Pursuant to G.S. 15A-269, a defendant may file a post-conviction motion for the performance of DNA testing, and if the testing complies with FBI and National DNA Index System (NDIS) requirements, the profiles shall be input into the Criminal DNA Index System (CODIS), provided that the biological evidence (1) is material to the defense, (2) related to the investigation or prosecution that resulted in the judgment, and (3) either (a) was not previously tested or (b) a new test would provide results significantly more accurate and probative of the perpetrators identity or have a probability of contradicting prior test results.

The court shall grant the motion for DNA testing if the testing complies with FBI requirements and upon determination that:

- (1), (2), and (3), above are met;
- If the DNA testing being requested had been conducted on the evidence, there exist a reasonable probability that the verdict would have been *more favorable to the defendant*; and
- The defendant has signed an affidavit of innocence.

Motions for Appropriate Relief

Pursuant to G.S. 15A-1413, post-conviction motions for appropriate relief (MAR) made more than 10 days after conviction are assigned by the senior resident superior court judge or chief district court judge of the trial court where judgment was entered.

BILL ANALYSIS:

Section 1 of the PCS for Senate Bill 425 would amend G.S. 15A-269(b)(2) to modify the standard the court is required to determine. Rather than finding a probability that the verdict would have been more favorable to the defendant, the court would have to determine that favorable DNA results would "give support to the defendant's innocence claim."

Section 2 of the PCS for Senate Bill 425 would amend G.S. 15A-1469(h) to provide that if a defendant has had a claim of factual innocence denied by a three-judge panel, any MAR filed by that defendant

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within one year of that denial shall be heard by the senior judge of the three-judge panel that heard the claim of factual innocence.

EFFECTIVE DATE: This act is effective when it becomes law. Section 1 of this act applies to motions pending or filed on or after that date. Section 2 of this act applies to motions filed on or after that date.

**Shawn Middlebrooks, Staff Attorney, substantially contributed to this summary.*