

Introduced by Senator Burton
(Coauthor: Assembly Member Baugh)

January 10, 2000

An act to add Section 1405 to the Penal Code, relating to forensic testing.

LEGISLATIVE COUNSEL'S DIGEST

SB 1342, as introduced, Burton. Forensic testing: post conviction.

Existing law authorizes the defendant in a criminal case to file a motion for a new trial upon specified grounds including, but not limited to, the discovery of new evidence that is material to the defendant, and which could not, with reasonable diligence, have been discovered and produced at the trial.

This bill would grant to a defendant who was convicted in a criminal case, the right to file a motion after entry of judgment of conviction for the performance of fingerprint or forensic DNA testing on evidence that is relevant to the charges that resulted in the conviction but was not subject to testing, upon specified conditions, if the evidence or the technology for testing that evidence was not available to the defendant at the time of trial. The bill would require that reasonable notice of the motion be served upon the Attorney General. By increasing the duties of local officials, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for

making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1405 is added to the Penal Code,
2 to read:

3 1405. (a) A defendant who was convicted in a
4 criminal case, may make a motion before the trial court
5 that entered the judgment of conviction in his or her case
6 for performance of fingerprint or forensic DNA testing
7 on evidence that is relevant to the charges that resulted
8 in his or her conviction or sentence, but which was not
9 tested because either the evidence or the technology for
10 the forensic testing of the evidence was not available to
11 the defendant at the time of trial. Reasonable notice of
12 the motion shall be served upon the Attorney General.

13 (b) If the defendant presents a prima facie case that
14 identity was a significant issue at the trial that resulted in
15 his or her conviction, the court shall allow the testing
16 under reasonable conditions designed to protect the
17 people's interests in the integrity of the evidence and the
18 testing process upon a determination of both of the
19 following:

20 (1) The result of the testing has the scientific potential
21 to produce new, noncumulative evidence that is material
22 and relevant to the defendant's assertion of innocence.

23 (2) The testing requested employs a method generally
24 accepted within the relevant scientific community.

25 SEC. 2. Notwithstanding Section 17610 of the
26 Government Code, if the Commission on State Mandates
27 determines that this act contains costs mandated by the

1 state, reimbursement to local agencies and school
2 districts for those costs shall be made pursuant to Part 7
3 (commencing with Section 17500) of Division 4 of Title
4 2 of the Government Code. If the statewide cost of the
5 claim for reimbursement does not exceed one million
6 dollars (\$1,000,000), reimbursement shall be made from
7 the State Mandates Claims Fund.

