

April 16, 2007

H 1500. DNA EVIDENCE/PRESERVE & ACCESS BY DEFENDANT. Filed 4/16/07. *TO PROVIDE THE DEFENDANT ACCESS TO DNA TESTING OF EVIDENCE WHEN CURRENT TESTING PROCEDURES ARE MORE ACCURATE THAN PAST TESTING PROCEDURES, TO AMEND THE LAW GOVERNING THE PRESERVATION AND DISPOSITION OF POSSIBLE DNA EVIDENCE AND POSTCONVICTION DNA TESTING, AND TO PROVIDE A RIGHT OF APPEAL TO A DEFENDANT FOR DENIAL OF A MOTION TO CONDUCT DNA TESTING.*

Amends GS 15A-267(c) to provide the defendant access to DNA testing when more accurate testing procedures are available that were not available at the time of the previous testing. Amends GS 15A-268 to define *biological evidence* and to require a governmental entity in custody of evidence to preserve any physical evidence that is reasonably likely to contain biological evidence. Requires evidence to be preserved in a manner to prevent the contamination or degradation of biological evidence, subject to a continuous chain of custody, and retained with sufficient documentation to locate the evidence. Sets time periods for which the evidence must be preserved based on the type of conviction. Current law requires entities collecting evidence containing DNA to preserve a sample of the evidence for the period of time a defended convicted of a felony is incarcerated and allows the governmental entity to determine how the evidence is retained, except that it must be kept in a condition suitable for DNA testing. Also amends GS 15A-268 to allow a governmental entity to petition the court for an order allowing evidence to be disposed of early when listed conditions are met (current law does not require the governmental entity to petition the court). Provides for when the court, following a hearing, may enter an order allowing for early disposal of evidence and states that the order may (1) require the governmental entity to take measures to preserve portions of evidence for future testing or (2) provide the defendant with an opportunity to do so. Orders concerning the disposition of evidence are final and may be appealed. Amends GS 15A-269(b) to require a defendant to sign a sworn affidavit of innocence before the court may grant a motion for DNA testing. Enacts new GS 15A-270.1 allowing a defendant to appeal from an order denying the defendant's motion for DNA testing. Effective December 1, 2007.

Intro. by Glazier, Ross.

GS 15A

May 10, 2007

H 1500. DNA EVIDENCE/PRESERVE & ACCESS BY DEFENDANT. Filed 4/16/07. House committee substitute makes the following changes to 1st edition. Modifies GS 15A-267(c) to expand one of the conditions for pre-trial testing of DNA evidence that has been previously tested to include both that: (1) there are more accurate testing procedures now available, and (2) there is a reasonable possibility that the result would have been different with the more accurate measures now in place (was, there are more accurate testing procedures available). Modifies GS 15A-268 regarding preserving biological evidence to add requirements for preserving biological evidence regarding convictions of an offense that requires registration as a sex offender. Makes additional technical and grammatical changes.

July 18, 2007

H 1500. DNA EVIDENCE/PRESERVE & ACCESS BY DEFENDANT. Filed 4/16/07. Senate committee substitute makes the following changes to 2nd edition. Modifies proposed amendments to GS 15A-268 to provide that if a person was convicted pursuant to a guilty plea of a violent felony or any felony for which the person's genetic profile may be taken by a law enforcement agency and included in the state DNA database, physical evidence that is likely to contain biological evidence must be preserved for three years from the date of conviction. Requires the evidence to be preserved during the period of incarceration (was, the period of incarceration and any period of mandatory supervised release) for a conviction of a violent felony other than pursuant to a guilty plea. Deletes the requirement that the evidence be preserved during the period of sex offender registration for conviction of an offense that requires registration. Changes the effective date from December 1, 2007, to March 1, 2008. Makes a technical change.

September 4, 2007

SL 2007-539 (H 1500). DNA EVIDENCE/PRESERVE AND ACCESS BY DEFENDANT. AN ACT TO PROVIDE THE DEFENDANT ACCESS TO DNA TESTING OF EVIDENCE WHEN CURRENT TESTING PROCEDURES ARE MORE ACCURATE THAN PAST TESTING PROCEDURES, TO AMEND THE LAW GOVERNING THE PRESERVATION AND DISPOSITION OF POSSIBLE DNA EVIDENCE AND POSTCONVICTION DNA TESTING, AND TO PROVIDE A RIGHT OF APPEAL TO A DEFENDANT FOR DENIAL OF A MOTION TO CONDUCT DNA TESTING. Summarized in *Daily Bulletin* 4/16/07, 5/10/07, and 7/18/07. Enacted August 31, 2007. Effective March 1, 2008.