

ONE HUNDRED FOURTH LEGISLATURE - FIRST SESSION - 2015
COMMITTEE STATEMENT
LB245

Hearing Date: Friday January 30, 2015
Committee On: Judiciary
Introducer: Pansing Brooks
One Liner: Change provisions relating to DNA testing of biological material

Roll Call Vote - Final Committee Action:
Advanced to General File with amendment(s)

Vote Results:

Aye: 8 Senators Chambers, Coash, Ebke, Krist, Morfeld, Pansing Brooks, Seiler, Williams

Nay:

Absent:

Present Not Voting:

Verbal Testimony:

Proponents:

SEN. PATTY PANSING BROOKS
MICHELLE FELDMAN
TED BRADFORD
TRACY HIGHTOWER
JEFF PATTERSON
JOANN TAYLOR
AMIE MARTINEZ
SARAH NEWELL
JOHN BERRY

Representing:

INTRODUCER
THE INNOCENCE PROJECT
THE INNOCENCE PROJECT
NEBRASKA INNOCENCE PROJECT
SELF
SELF/ NE INNOCENCE PROJECT
NE STATE BAR
NEBRASKA COMMISSION ON PUBLIC ADVOCACY
NCDA

Opponents:

Representing:

Neutral:

Representing:

Summary of purpose and/or changes:

LB245 would change a provision of the DNA Testing Act (29-4116 to 29-4125), section 29-4120

Under current law, the court shall order a DNA test if it determines that three factors are present: (1) DNA testing was "effectively not available" at trial; (2) The biological material to be tested is still be in its original condition; and (3) DNA testing may produce noncumulative, exculpatory, relevant evidence of wrongful conviction.

LB245 breaks the first factor down into two specific components, and retains the other two factors without changes.

The current statute only instructs the court to order DNA testing if it determines that DNA testing was "effectively not available at the time of trial". LB245 would expand this provision, by instructing the court to order DNA testing if the biological material was not previously tested. The bill would also clarify this provision, by instructing the court to order DNA testing if the DNA was previously tested, but current technology could provide "a reasonable likelihood of more accurate and probative results".

Explanation of amendments:

AM197 amends LB245 to include language from LB244, relating to motions for new trial based upon discovery of new evidence.

AM197 would amend 29-2103 to provide that a motion for new trial based on new evidence which was not available at the original trial shall be filed within a reasonable time after the discovery of the new evidence. Under current law, this type of motion cannot be filed more than three years after the date of the verdict.

Les Seiler, Chairperson