

2001 DRAFTING REQUEST**Assembly Amendment (AA-AB291)**Received: **04/12/2001**Received By: **rryan**Wanted: **04/17/2001**

Identical to LRB:

For: **Scott Walker (608) 266-9180**By/Representing: **Anne Sappenfield**This file may be shown to any legislator: **NO**Drafter: **rryan**

May Contact:

Addl. Drafters:

Subject: **Criminal Law - procedure**

Extra Copies:

MGD**Anne Sappenfield (Leg. Council)**Submit via email: **NO**

Requester's email:

Pre Topic:

No specific pre topic given

Topic:

standard for granting motion for postconviction DNA testing

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	rryan 04/13/2001	jdyer 04/16/2001	jfrantze 04/16/2001	_____	lrb_docadmin 04/16/2001	lrb_docadmin 04/16/2001	
/2	rryan 04/24/2001	jdyer 04/24/2001	pgreensl 04/24/2001	_____	lrb_docadmin 04/24/2001	lrb_docadmin 04/24/2001	

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FE Sent For:

12 4/24 JLD
4/24 PJS
4/24 SCS
<END>

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17	rryan	<i>[Signature]</i>	<i>[Signature]</i> 4/1/01	<i>[Signature]</i> 4/16			

FE Sent For:

<END>

Anne Sapperfeld

4/12/01

Amend to AB 291

p. 20 & 23

consolidate standards for evidence
- move chain of custody to sub (2)

→ from sub (7)
sub (7) should say evidence
must meet conditions under
sub (2)

- under 7(a)1. defendant has to
claim innocence

get rid of 2.-4. on p. 23

for the discrepancy std. (7)(b)
add "reasonably probable" that
outcome would have been more
favorable

- rather than conviction
would have been more
favorable

p. 24 lines 13 & 14 - just refer
to claim versus "innocence"
claim - b/c not all
movants claim complete
innocence

*OK per Anne to leave chain of custody std under (7)
versus (2) b/c person won't know until after discovery



State of Wisconsin
2001 - 2002 LEGISLATURE

LRBa0431/1

RLR:.....

By Tues. 4/17, 9:00 AM

ASSEMBLY AMENDMENT,
TO 2001 ASSEMBLY BILL 291

- 1 At the locations indicated, amend the bill as follows:
- 2 1. Page 22, line 17: delete "of innocence".
- 3 2. Page 22, line 20: after that line insert:
- 4 "1. The movant claims that he or she is innocent of the offense at issue in the
- 5 motion under sub. (2)."
- 6 3. Page 22, line 21: delete "1" and substitute "2".
- 7 4. Page 23, line 1: delete lines 1 to 2 and substitute:
- 8 "3. The evidence to be tested meets the conditions under sub. (2) (a) to (c)."
- 9 5. Page 23, line 3: delete "3" and substitute "4".
- 10 6. Page 23, line 7: delete lines 7 to 11.
- 11 7. Page 23, line 14: delete "The conviction" and substitute "It is reasonably
- 12 probable that the conviction".

1

8. Page 23, line 20: delete lines 20 to 21 and substitute:

2

"2. The evidence to be tested meets the conditions under sub. (2) (a) to (c)."

3

9. Page 24, line 1: delete lines 1 to 5.

4

10. Page 24, line 13: delete "innocence".

5

11. Page 25, line 4: delete "of innocence".

6

(END)

4/18/01

Anne Sappenfield
redraft 204371

p. 1, L. 11 should read "It is
reasonably probable that the outcome
of the proceeding resulting in the "

Ryan, Robin

From: Gilbert, Melissa
Sent: April 20, 2001 8:31 AM
To: Ryan, Robin
Subject: RE: Revised amendment to AB Robin,

Looks good to me. Please send the new version over.

Thanks,
Missy

-----Original Message-----

From: Ryan, Robin
Sent: Thursday, April 19, 2001 4:41 PM
To: Gilbert, Melissa
Subject: FW: Revised amendment to AB 291

I emailed the following proposed language for the redraft of LRB-a0431 (the amendment on the DNA bill) Anne. It does cover both the outcome of a plea or trial, plus the sentencing/commitment phase, it just changes the order in which the items are listed. Since this is a change to the language discussed by the committee Anne wanted me to obtain approval from your office. Thanks

(In case is not clear, the amendment would have the remainder of the sentence as it is in the current bill in place of the "....." in the 2nd version below.)

thanks

-----Original Message-----

From: Sappenfield, Anne
Sent: April 19, 2001 4:31 PM
To: Ryan, Robin
Subject: RE: Revised amendment to AB 291

Your revision looks good. I was working on it kind of last minute and was trying to think through whether it made sense to keep a reference to sentencing in or not. Anyway, unless you think of a reason to keep the sentencing reference in, go ahead with the second version. Please run it by Walker's office first, though, to see if they have a problem with wording that isn't exactly like the committee voted on.

Thanks!

Anne Sappenfield
Senior Staff Attorney
Legislative Council Staff

-----Original Message-----

From: Ryan, Robin
Sent: Thursday, April 19, 2001 9:48 AM
To: Sappenfield, Anne
Subject: Revised amendment to AB 291

04/20/2001

Let me first make sure I am transcribing properly this time. The revised 974.07 (7) (b) should read as follows:

It is reasonably probable that the outcome of the proceeding resulting in the conviction or sentence in a criminal proceeding, the finding of not guilty by reason of mental disease or defect, the commitment under s. 971.17, or the adjudication or disposition in a proceeding under ch. 938, would have been more favorable to the movant if the results of the DNA testing had been available before he or she was prosecuted, convicted, found not guilty by reason of mental disease or defect, or adjudicated delinquent for the offense.

How about the following. I think it does the same thing, but flows a little better:

It is reasonably probable that the outcome of the proceedings that resulted in the conviction, finding of not guilty by reason of mental disease or defect, or the delinquency adjudication for the offense at issue in the motion under sub. (2), or the terms of the sentence, the commitment under 971.17 or the disposition under ch. 938, would have been more favorable to the movant

Thanks

Today 4/24/01

RMR

**ASSEMBLY AMENDMENT ,
TO 2001 ASSEMBLY BILL 291**

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 22, line 17: delete "of innocence".

3 **2.** Page 22, line 20: after that line insert:

4 *(1m)* The movant claims that he or she is innocent of the offense at issue in the
5 motion under sub. (2)."

6 **3.** Page 22, line 21: delete "1." and substitute "2."

7 **4.** Page 23, line 1: delete lines 1 and 2 and substitute:

8 *(2m)* The evidence to be tested meets the conditions under sub. (2) (a) to (c)."

9 **5.** Page 23, line 7: delete lines 7 to 11.

10 **6.** Page 23, line 14: delete "The conviction" and substitute "It is reasonably
11 probable that the conviction".

INSERT

12 **7.** Page 23, line 20: delete lines 20 and 21 and substitute:

2001-2002 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBa0431/2ins
RLR::

1 **Insert:**

2 **1.** Page 23, line 14: delete lines 14 to 16 and substitute:

3 text:
treat "1. It is reasonably probable that the outcome of the proceedings that resulted
4 in the conviction, finding of not guilty by reason of mental disease or defect, or the
5 delinquency adjudication for the offense at issue in the motion under sub. (2), or the
6 terms of the sentence, the commitment under s. 971.17, or the disposition under ch.
7 938, would have been more".

(end ins)