

81.10 Application requirements for DNA profiling after conviction.

1. A defendant who has been convicted of a felony or aggravated misdemeanor may make an application to the court for an order to require that DNA profiling be performed on a forensic sample collected in the case for which the person stands convicted.

2. The application shall state the following:

a. The specific crimes for which the defendant stands convicted in this case.

b. The facts of the underlying case, as proven at trial or admitted to during a guilty plea proceeding.

c. Whether any of the charges include sexual abuse or involve sexual assault, and if so, whether a sexual assault examination was conducted and forensic samples were preserved, if known.

d. Whether identity was at issue or contested by the defendant.

e. Whether the defendant offered an alibi, and if so, testimony corroborating the alibi and, from whom.

f. Whether eyewitness testimony was offered, and if so from whom.

g. Whether any issues of police or prosecutor misconduct have been raised in the past or are being raised by the application.

h. The type of inculpatory evidence admitted into evidence at trial or admitted to during a guilty plea proceeding.

i. Whether blood testing or other biological evidence testing was conducted previously in connection with the case and, if so, by whom and the result, if known.

j. What biological evidence exists and, if known, the agency or laboratory storing the forensic sample that the defendant seeks to have tested.

k. Why the requested DNA profiling of the forensic sample is material to the issue in the case and not merely cumulative or impeaching.

l. Why the DNA profiling results would have changed the outcome of the trial or invalidated a guilty plea if the requested DNA profiling had been conducted prior to the conviction.

3. a. A proceeding for relief filed under [this section](#) shall be filed in the county where the defendant was convicted. The proceeding is commenced by filing an application for relief with the district court in which the conviction took place, without paying a filing fee. The notice of the application shall be served by certified mail upon the county attorney and, if known, upon the state, local agency, or laboratory holding evidence described in [subsection 2](#), paragraph "k". The county attorney shall have sixty days to file an answer to the application.

b. The application shall be heard in and before any judge or the court in which the defendant's conviction or sentence took place. A record of the proceedings shall be made.

4. Any DNA profiling of the defendant or other biological evidence testing conducted by the state or by the defendant shall be disclosed and the results of such profiling or testing described in the application or answer.

5. If the forensic sample requested to be tested was previously subjected to DNA or other biological analysis by either party, the court may order the disclosure of the results of such testing, including laboratory reports, notes, and underlying data, to the court and the parties.

6. The court may order a hearing on the application to determine if the forensic sample should be subjected to DNA profiling.

[2005 Acts, ch 158, §10, 19; 2013 Acts, ch 107, §3, 5; 2019 Acts, ch 149, §2](#)

Referred to in [§81.13, 822.2, 822.3](#)