



HOUSE REPUBLICAN STAFF ANALYSIS

Bill:	House File 657 (Formerly HF 426)	House Committee:	PASSED on March 3 (20-0)
Committee:	Judiciary	House Floor:	
Floor Manager:	Rep. Jones	Senate Floor:	
Date:	March 20, 2023	Governor:	
Staff:	Amanda Wille (1-5230)		

Preservation of Evidence

- Sets standards for how long biological evidence in a felony or aggravated misdemeanor case must be kept
- HF 657 requires the prosecution to provide the defense with information about incarcerated witnesses
- Gives a defendant access to their file for post-conviction relief.
- **Fiscal note-** Summary- DPS \$50,000 one time, \$15,000 yearly. Court costs unknown.
Division I- Courts may need dedicated storage space to comply with preservation. Cost unknown. DPS costs \$15,000 yearly to mail kits back to LEO's that submitted them. Unknown costs on refrigerated space.
Division II- DPS Onetime \$50,000 cost for a database. Courts may incur costs on additional hearings
Division III-Costs increase for courts unknown

Section by Section Analysis

Division I

Preservation of Biological Evidence in Criminal Investigations

Requires all biological evidence collected involving a felony or aggravated misdemeanor to be preserved and stored as follows:

- If there was a conviction or deferred judgement the evidence shall be kept either:
 - o 20 years from the date the conviction becomes final, or
 - o the entire time the defendant remains in custody.
- If there was no conviction evidence shall be kept until the expiration of the statute of limitations for the alleged offense.

The agency shall retain enough biological evidence to develop a DNA profile from the material.

The defendant can request an inventory of biological evidence related to their case.

If evidence is too bulky or impractical to retain it can be destroyed but a portion likely to contain biological evidence shall be kept in order to permit future DNA testing.

If an agency will be destroying samples of DNA evidence they must contact the victim, individuals in custody based on the evidence, attorneys for the defendant, prosecuting agency, and the Attorney General. The agency must wait 180 days after the notices are sent.

If an agency cannot provide the biological evidence the court may apply appropriate sanctions.

Division II
Incarcerated Witness Testimony

If the prosecution intends to use a witness who is incarcerated the defense must be notified 90 days in advance (with exceptions provided by the court).

The prosecuting attorney shall provide the defense with information about the incarcerated individual including:

- Criminal history
- Witness cooperation agreement and any benefit requested or provided to the witness.
- Contents of any statement given by the defendant to the incarcerated witness, including time and place.
- Any information regarding the incarcerated witness recanting testimony.
- Other criminal cases the incarcerated witness has testified in.

The defense can request a pretrial hearing to determine if the incarcerated witness's testimony is reliable and admissible based on set standards.

A prosecuting attorney's office shall keep central records of all incarcerated witnesses and their testimony.

Division III
Post-Conviction Access to Investigative Files in Criminal Cases

After a conviction for a felony or aggravated misdemeanor a prosecuting attorney shall retain and provide any files and other documents related to the case when requested by the defendant.

This division sets standards for what information must be preserved, how it must be preserved and any limits the defendant has on accessing the information.

Amendment Analysis

H 1115- Jones

In Division I biological evidence collected in a class "A" or "B" felony must be preserved, not all felonies and aggravated misdemeanors.

Clarifies standards for the destruction of biological evidence listed in Division I

If the prosecuting attorney objects to disclosing information in Division II regarding an incarcerated witness, the court can review and permit information to be withheld if the courts finds it is not required to be disclosed under the Iowa rules of evidence or the Constitution.

Nothing in Division III requires the disclosure of attorney work product.
Additional clean up and clarification of procedures.