

**Table 3. Post Conviction DNA Testing**

State/Jurisdiction <sup>1</sup>	Statute	Type of Offenders That Qualify for Testing	Standards for Granting the Application	Preservation of Evidence Statutes
Alabama	Ala. Code §15-18-200 (2009)	Capital offenses	Facial results should demonstrate actual innocence	
Alaska	Alaska Stat. §12.73.010	Felony offenses against the person	Raises reasonable probability of actual innocence	Alaska Stat. §12.36.200 <i>Amended by SB 110 (2010)</i>
Arizona	Ariz. Rev. Stat. Ann. §13-4240 (2009)	Felony offenses	Reasonable probability	Ariz. Rev. Stat. Ann. §13-4221 (2009)
Arkansas	Ark. Stat. Ann. §§16-112-201 through 208(2009)	Any crime	If denial would result in manifest injustice	Ark. Stat. Ann. §12-12-104 (2009)
California	Cal. Penal Code §1405(West 2009)	Felony offenses	Reasonable probability	Cal. Penal Code §1417.9 (West 2009)
Colorado	Colo. Rev. Stat. §§18-1-411 through 417 (2009)	Any incarcerated person	Prima facie showing of innocence	Colo. Rev. Stat. §18-1-1101 through 1108 (2009)
Connecticut	Conn. Gen. Stat. §54-102-kk (2009)	Any person convicted of crime	Reasonable probability	Conn. Gen. Stat. §54-102jj (2009)
Delaware	Del. Code. Ann. Tit.11, §4504 (2009)	A person convicted of a crime	Prima facie case it will be beneficial	
Florida	Fla. Stat. §925.11 (2009)	A person convicted of a felony	Judicial decision based on merits of application and response	Fla. Stat. §925.11 (2009)
Georgia	Ga. Code. §5-5-41 (2009)	Person convicted of a serious violent felony	Reasonable probability	Ga. Code. §17-5-56 (2009)
Hawaii	Hawaii Rev. Stat. §844D-121 (2009)	Any crime	Cannot be patently frivolous	Hawaii Rev. Stat. §844D-126 (2009)
Idaho	Idaho Code §§19-4901, 02 (2009)	Any crime	Must present a prima facie showing of innocence	
Illinois	Ill. Rev. Stat. Ch. 725, §5/116-3 (2009)	Any defendant who was convicted	Prima facie showing based on this evidence	Ill. Rev. Stat. Ch. 725, §5/116-4 (2009)
Indiana	Ind. Code. §35-38-7-1(2009)	Murder, Class A, B, C felony	Prima facie showing/reasonable probability	Ind. Code. §35-38-7-14 (2009)
Iowa	Iowa Code §81.10 (2009)	A felony	Reasonable probability and material to the issue	Iowa Code §81.10 (2009)
Kansas	Kan. Stat. Ann. §21-2512 (2009)	Murder and rape	May produce non-cumulative, exculpatory evidence	

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Kentucky	Ky. Rev. Stat. §§422.285, 287(2009)	Death sentence for a capital offense	Reasonable probability it will exculpate	Ky. Rev. Stat. §534.140 (2009)
Louisiana	La. Code Crim. Pro. §926.1 (West 2009)	Any felony	Articuable doubt	La. Code Crim. Pro. §926.1 (West 2009)
Maine	Me. Rev. Stat. Ann. Tit. 15 §§2136-2138 (2009)	A crime with a minimum 1 year sentence	Prima facie evidence material to conviction	
Maryland	Md. Crim. Proc. Code Ann. §8-201(2009)	Enumerated violations including rape, murder	Reasonable probability it will exculpate	Md. Crim. Proc. Code Ann. §8-201(2009)
Michigan	Mich. Comp Laws §770.16 (2009)	Any felony	Prima facie evidence material to conviction	Mich. Comp Laws §770.16 (2009)
Minnesota	Minn. Stat. §§590.01 through .06 (2009)	Any crime	Prima facie evidence material to conviction	Minn. Stat. §590.10 (2009)
Mississippi	Miss. Code Ann. §99-39-5 (2009)	Anyone sentenced	Reasonable likelihood of more probative results	Miss. Code Ann. §99-49-1 (2009)
Missouri	Mo. Rev. Stat. §§547.035, 650.056 (2009)	Any person in custody	Reasonable probability it will exculpate	Mo. Rev. Stat. §650.056 (2009)
Montana	Mont. Code. Ann. §§46-21-110, 53-1-214 (2009)	Any felony	Prima facie evidence material to conviction	Mont. Code. Ann. §46-21-111 (2009)
Nebraska	Neb. Rev. Stat. §29-2101, 4117 through 4125 (2009)	Any person in custody pursuant to judgment	Relevant noncumulative, exculpatory evidence	Neb. Rev. Stat. §29-4120 (2009)
Nevada	Nev. Rev. Stat. §176.0918 (2009)	Class A or B felony	Reasonable probability	Nev. Rev. Stat. §176.0918 (2009)
New Hampshire	N.H. Rev. Stat. Ann. §§651-D1 through D:4 (2009)	A person in custody	Reasonable probability	N.H. Rev. Stat. Ann. §651-D:3 (2009)
New Jersey	N.J. Rev. Stat. §2A:84A-32a (2009)	Any person convicted of crime	Court's discretion	
New Mexico	N.M. Stat. Ann. §31-1A-2 (2009)	Any felony	Preponderance of the evidence	N.M. Stat. Ann. §31-1A-2 (2009)
New York	N.Y. Crim. Pro. Law §440 (McKinney 2009)	Any convicted defendant	Reasonable probability its favorable to defendant	
North Carolina	N.C. Gen. Stat. §15A-269 (2009)	Defendant with judgment against	Reasonable probability of contradicting prior test results.	N.C. Gen. Stat. §15A-268 (2009)
North Dakota	N.D. Cent. Code §29-32.1-15 (2009)	A person convicted of any crime	Prima facie evidence material to conviction	
Ohio	Ohio Rev. Code. Ann. §§2953.71 through .83 (Page 2009)	An eligible inmate	Discretion of court of common pleas	Ohio Rev. Code. Ann. §§2953.81 (Page 2009)
Oregon	Or. Rev. Stat. §138.759 (2009)	Aggravated murder, a person felony, murder, a sex crime	Prima facie showing of actual innocence	SB 310 (2009)

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Pennsylvania	Pa. Cons. Stat. Tit. 42, §9543.1 (2009)	Anyone convicted of a criminal offense	Prima facie showing of actual innocence	
Rhode Island	R.I. Gen. Laws. §§10-9.1-11, 12 (2009)	Person convicted of any crime or violation of law	Reasonable probability of non-conviction	R.I. Gen. Laws. §10-9.1-11 (2009)
South Carolina	S.C. Code. Ann. §17-28-10 (Law. Co-op 2009)	Enumerated violations, including murder, and spousal sexual assault	Must be material	S.C. Code. Ann. §17-28-70 (Law. Co-op 2009)
South Dakota	S.D. Codified Laws Ann. §23-5B-1 (2009)	A person convicted of a felony	Testing must show actual innocence	
Tennessee	Tenn. Code. Ann. §§40-30-301 through 313 (2009)	A person convicted of 1 <sup>st</sup> degree, 2 <sup>nd</sup> degree murder, aggravated rape, rape, aggravated sexual battery or rape of a child, attempt of these offenses, and lesser included offenses or, direction of the trial judge, any other offense	Reasonable probability	Tenn. Code. Ann. §§40-30-309 (2009)
Texas	Tex. Crim. Proc. Code Ann. §§64.01 through .05 (Vernon 2009)	Any convicted person	Reasonable grounds	Tex. Gov. Code Ann. §411.052 (Vernon 2009), Tex. Crim. Proc. Code Ann. §38.43 (Vernon 2009)
Utah	Utah Code Ann. §§78B-9-301 through 304 (2009)	A person convicted of a felony	Must establish factual innocence	
Vermont	Vt. Stat. Ann. Tit. §§5561 through 5577 (2009)	Enumerated violations, including arson, murder, sexual assault.	I petition fails to demonstrate innocence	
Virginia	Va. Code §19.2-327.1 (2009)	A person convicted of a felony	Must be material, necessary, non-cumulative	Va. Code §19.2-270.4:1 (2009)
Washington	Wash. Rev. Code Ann. §10.73.170 (2009)	A person convicted of a felony	Likelihood to demonstrate innocence	Wash. Rev. Code Ann. §10.73.170 (2009)
West Virginia	W. Va. Code §15-2B-14 (2009)	A person convicted of a felony	Discretion of the court	
Wisconsin	Wis. Stat. §§974.02,.06,.07 (2009)	Anyone convicted of a crime	Reasonable probability	Wis. Stat. §§968.205, 7-12-304 (2009)
Wyoming	Wyo. Stat. §§7-12-302 through 315 (2009)	A felony offense	Must be material	

Note

1. States or jurisdictions that are not included have no such provisions.

Source: National Conference of State Legislatures, 2010.