

West's North Dakota Century Code Annotated  
Title 29. Judicial Procedure, Criminal  
Chapter 29-32.1. Uniform Postconviction Procedure Act (Refs & Annos)

NDCC, 29-32.1-15

§ 29-32.1-15. Motion for DNA testing not available at trial

[Currentness](#)

1. Without limitation on a court's authority to order discovery under [section 29-32.1-08](#), a person convicted of a crime may make a motion for the performance of forensic DNA testing to demonstrate the person's actual innocence if:

- a. The testing is to be performed on evidence secured in relation to the trial which resulted in the conviction; and
- b. The evidence was not subject to the testing because either the technology for the testing was not available at the time of the trial or the testing was not available as evidence at the time of the trial.

2. A person who makes a motion under subsection 1 must present a *prima facie* case that:

- a. Identity was an issue in the trial; and
- b. The evidence to be tested has been subject to a chain of custody sufficient to establish that it has not been substituted, tampered with, replaced, or altered in any material aspect.

3. The court shall order that the testing be performed if:

- a. A *prima facie* case has been established under subsection 2;
- b. The testing has the scientific potential to produce new, noncumulative evidence materially relevant to the defendant's assertion of actual innocence; and

c. The testing requested employs a scientific method generally accepted within the relevant scientific community. The court shall impose reasonable conditions on the testing designed to protect the state's interests in the integrity of the evidence and the testing process.

#### Credits

[S.L. 2005, ch. 289, § 1.](#)

#### Notes of Decisions (3)

NDCC 29-32.1-15, ND ST 29-32.1-15

Current through chapter 522 (end) of the 2013 Regular Session of the 63rd Legislative Assembly.

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