

2. AT THE POSTCONVICTION HEARING INFER THAT THE RESULTS OF THE POSTCONVICTION DNA TESTING WOULD HAVE BEEN FAVORABLE TO THE PETITIONER.

(III) 1. A COURT ORDERING A POSTCONVICTION HEARING UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL OPEN THE POSTCONVICTION HEARING UNDER § 7-102 OF THIS ARTICLE, IF NO POSTCONVICTION HEARING HAS BEEN PREVIOUSLY INITIATED BY THE PETITIONER UNDER § 7-102 OF THIS ARTICLE.

2. A COURT ORDERING A POSTCONVICTION HEARING UNDER SUBPARAGRAPH (II) OF THIS PARAGRAPH SHALL REOPEN THE POSTCONVICTION HEARING UNDER § 7-104 OF THIS ARTICLE, IF ~~NO~~ A POSTCONVICTION HEARING HAS BEEN PREVIOUSLY INITIATED BY THE PETITIONER UNDER § 7-102 OF THIS ARTICLE.

[(3)] (4) The State shall make the scientific identification evidence available to parties in the case under terms that are mutually agreed on between them.

[(4)] (5) If an agreement cannot be reached, the party requesting the testing may file an application in the circuit court that entered the judgment for an order setting the terms under which the evidence will be made available for testing.

[(6)] (K) (1) The State may dispose of scientific identification evidence before the expiration of the time period described in [subsection (i)] SUBSECTION (J) of this section if the State notifies the following persons:

- (i) the person who is incarcerated in connection with the case;
- (ii) any attorney of record for the person incarcerated; and
- (iii) the Office of Public Defender for the judicial district in which the judgment of conviction was entered.

(2) The notification required in paragraph (1) of this subsection shall include:

- (i) a description of the scientific identification evidence;
- (ii) a statement that the State intends to dispose of the evidence;