153rd GENERAL ASSEMBLY
FISCAL NOTE

BILL:	**SENATE SUBSTITUTE NO. 1 FOR SENATE BILL NO. 57**
SPONSOR:	**Senator Hoffner**
DESCRIPTION:	**AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO POSTCONVICTION REMEDY.**

Assumptions:

1. This Act becomes effective upon signature by the Governor.
2. This Act expands and clarifies access to post-conviction DNA testing and related motions for new trials. It removes the current three-year time limit for requesting forensic DNA testing, allows motions if a case is on direct appeal, and mandates courts to grant testing or a new trial when specific criteria are met. This Act also broadens eligibility to include individuals who pleaded guilty and refines the standard for granting a new trial.
3. In the Superior Court (the Court), the number of guilty pleas and trials that resulted in a guilty verdict for a 10-year period equaled 39,233. The Court also reviewed the number of post-conviction motions filed under the current statute and court rules for the past three years, with the total number of post-conviction motions filed equaling 2,416. As a result of this Act, the Court projects that it will receive a significant amount of filings from persons, even if ineligible, who will file for post-conviction relief, as the Court currently receives numerous post-conviction filings from persons whose prior post-conviction motions were denied. Each motion or petition received must be docketed and will require review to determine case status and eligibility. The Court estimates it would incur the following costs to be compliant with this Act:
    a. Recurring Costs – $346,405 in the Fiscal Year 2026 Personnel Costs (9 months of funding), including OECs (at a rate of 33.34%), for 1.0 FTE, Staff Attorney; and 3.0 FTE, Paralegal III (one for each county).
    b. One-Time Costs – $26,680
        i. $26,680 estimated for computer, technology, and office furniture startup costs for the new positions.
        ii. Indeterminable amount to modify the existing space to accommodate the additional personnel.
4. As the Court receives additional filings as a result of this Act, it is possible that the State's Division of Forensic Science (DFS) laboratory may experience increased costs of DNA testing pursuant to 11 Del. C. § 4504(e). According to the DFS, on average, DNA analysis costs $150 per specimen, and would likely test several specimens. It is unknown how many additional DNA tests may be ordered by the Court, nor if the Judicial Officer shall order the costs borne by the State or the applicant, so this cost is indeterminable and has not been included in this fiscal projection.
5. All Fiscal Year 2026 personnel costs have been estimated for nine months of funding, with the annualization of the remaining three months incorporated into the subsequent year estimates. Additionally, a 2% inflation cost has been included for projected increases in salary, health insurance, and OECs.
6. Lastly, it is assumed that if other pending legislation related to post-conviction remedies is passed by the General Assembly and enacted into law, the FTE positions and fiscal resources included in this fiscal projection, can be utilized for both this Act and Senate Substitute No. 1 for Senate Bill No. 58, or similar legislation of the 153rd General Assembly.

Cost:

	One-Time	Operating/Recurring
Fiscal Year 2026:	$26,680	$346,405
Fiscal Year 2027:		$471,111
Fiscal Year 2028:		$480,533

Prepared by Jason R. Smith
Office of the Controller General