UT LAW CLE

THE UNIVERSITY OF TEXAS SCHOOL OF LAW

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## **CHAPTER 64 MOTIONS**

**Legal & Ethical Considerations** 

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## **OVERVIEW**

#### CCP art 64.03 Requirements; Testing

- Evidence Exists and Testing is Possible (First & Second Prongs)
- Identity as an Issue (Third Prong)
- "Would not have been convicted" (Fourth Prong)
- Unreasonable Delay (Fifth Prong)
- Legislative History
  - Social and Political Landscape
  - Purpose
- Wrongful Convictions
- Application / Practical Considerations
- Conclusion

# CCP 64.03 REQUIREMENTS; TESTING





## **EVIDENCE EXISTS**

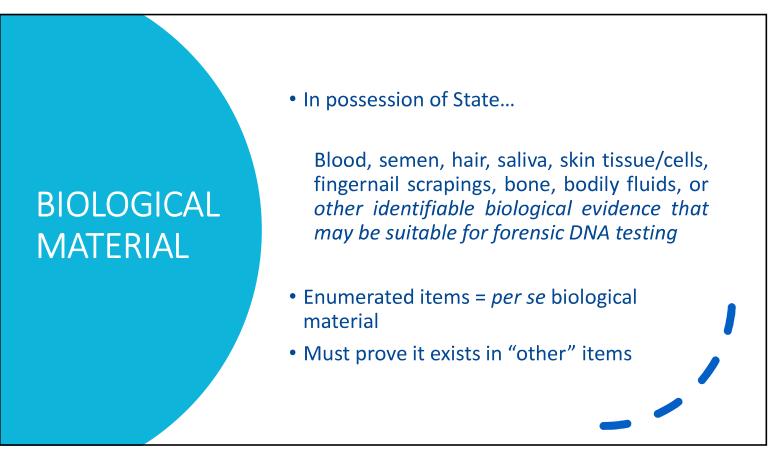
If no longer in possession of the State, a written explanation is required

Convicting court may reach decision without affidavits or evidentiary hearing

Mere assertions or general claims insufficient - FACTS

Is it the *type* of evidence that will yield DNA results?

### 5



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