

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 268

SPONSOR: Criminal Justice Committee and Senator Silver

SUBJECT: DNA Testing/Data Bank

DATE: March 16, 2001

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gardner</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
2.	<u>Forgas</u>	<u>Johnson</u>	<u>JU</u>	<u>Favorable</u>
3.	_____	_____	<u>APJ</u>	_____
4.	_____	_____	<u>AP</u>	_____
5.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 268 would establish a time table for expanding the DNA data bank to include all violent felons by July 1, 2004, and all felons by July 1, 2005. This bill would also require all persons in the custody of the Department of Corrections, Department of Juvenile Justice, privately operated prisons and detention centers, and all persons committed to local jails to submit two blood specimens for analysis if previously convicted for a violation of ch. 787, F.S., ss. 782.07, 812.13, and 812.131, F.S. Furthermore, the Florida Department of Law Enforcement would be required to establish procedures to accomplish the goals of this bill.

The provisions of this bill would take effect on July 1, 2001.

This bill amends the following section of the Florida Statutes: 943.325.

## II. Present Situation:

In 1989, the Legislature created s. 943.325, F.S., to establish a state DNA data bank under the control of the Florida Department of Law Enforcement (FDLE.) *See* Ch.1989-335, L.O.F. The purpose of the DNA data bank is to accumulate and analyze blood specimens from known criminals and then compare those known standards to DNA profiles that result from the testing of blood and other biological evidence collected from crime scenes to help solve crimes. According to FDLE, the DNA database has helped to resolve over 350 case investigations in this manner, where no known suspect had been identified.

The law has been amended periodically over the past ten years to increase the number of enumerated felony offenses which qualify those known convicted criminals to have their DNA profile added to the DNA database. There are currently over 75,000 individual criminals whose DNA profiles have been compiled in the Florida DNA database. In 2000, burglary was added as

one of the enumerated offenses and the growth in the number of profiles has accelerated such that there is a backlog of specimens to be analyzed and filed. At present, s. 943.325, F.S., in part, requires the convicted felon to submit two blood specimens to a FDLE designated testing facility as directed by the department, if that person is:

Convicted or was previously convicted in this state for any offense or attempted offense in:

- # ch. 794, F.S. (sexual battery);
- # ch. 800, F.S. (lewdness and indecent exposure);
- # s. 782.04, F.S. (murder);
- # s. 784.045, F.S. (aggravated battery);
- # s. 812.133, F.S. (carjacking);
- # s. 812.135, F.S. (home-invasion robbery); or
- # s. 810.02, F.S. (burglary); and

1. Is still incarcerated; or
2. Is no longer incarcerated but is within the confines of the legal state boundaries and is on probation, parole, community control, conditional release, control release, or any other court-ordered supervision.

A person under this section includes both juveniles and adults committed to or under the supervision of the Department of Corrections, the Department of Juvenile Justice or committed to a county jail.

Section 943.325, F.S., requires the court to include in the judgment of conviction an order stating that blood specimens are required to be drawn by the appropriate agency in a manner consistent with the section. This applies to felons convicted for an offense specified in the section whether they are incarcerated or currently supervised on probation, community control, or any other court ordered supervision.

The section proceeds to prescribe the mechanism to pay for the cost of drawing and testing the blood specimens. It then provides that if the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the person to submit to the drawing of the blood specimens as a condition of the supervision. If the convict is in custody, the blood draw is to be performed prior to release.

### III. Effect of Proposed Changes:

Committee Substitute for Senate Bill 268 would establish a time table for expanding the FDLE DNA data bank to include:

- As of July 1, 2002, any person who is convicted or was previously convicted in this state for any offense or attempted offense defined in s. 812.13, F.S., or s. 812.131 F.S.;
- As of July 1, 2003, any person who is convicted or was previously convicted in this state for any offense or attempted offense defined in ch. 787, F.S., or 782.07, F.S.;
- As of July 1, 2004, any person who is convicted or was previously convicted in this state for any violent felony offense or attempted violent felony offense; then

- As of July 1, 2005, any person who is convicted or was previously convicted in this state for any felony offense.

The bill would also expand the definition of incarcerated persons to include those held in privately run prisons operated under contract pursuant to s. 944.105, F.S., or s. 957.03, F.S.

Committee Substitute for Senate Bill 268 adds a provision to s. 943.325, F.S., requiring incarcerated persons convicted of certain violent crimes to submit blood specimens for DNA analysis not less than 45 days prior to their presumptive release dates. In doing so, this provision will capture DNA profiles from persons in prison for violations of ch. 787, F.S., (kidnapping and false imprisonment); s. 782.07, F.S., (manslaughter); s. 812.13, F.S., (robbery); and s. 812.131, F.S., (robbery by snatching), prior to release.

The DNA data bank is currently expanding to accommodate all burglars added in the year 2000 and to insure that all felons enumerated in subsection (1)(a) now on community supervision are added to the data bank.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

There could be an impact on the private sector if the volume of analysis needing to be done is greater than FDLE can handle, requiring the state to contract out the work.

##### **C. Government Sector Impact:**

There would certainly be an impact on FDLE, as it is required to hire more serologists, acquire more space for storing results, and spend more money on supplies. Those concerns were expressed by FDLE to the Senate Committee on Criminal Justice on January 9, 2001.

According to FDLE, the costs of building the DNA data bank will increase as the number of offenses are added up to the point of including all convicted felons. An additional \$746,000 would be required to add robbers to the data bank in the first year. By the year 2005, an additional \$10,974,000 would be needed to include all convicted felons in the data bank. It is possible that those costs would begin decreasing thereafter because of recidivism. Thus, some of those convicted in later years would have been previously tested under the provisions of this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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