

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 838

SPONSOR: Senator Bronson

SUBJECT: Burglary/DNA Testing

DATE: March 9, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable</u>
2.	_____	_____	<u>FP</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

Senate Bill 838 removes the requirement that a person who is or has been previously convicted must still be incarcerated in order to be required to submit a blood specimen for DNA testing. Blood specimens can be obtained from a person who is or has been previously incarcerated if that person is either still incarcerated or no longer incarcerated but within the confines of the legal state boundaries.

In addition to a blood specimen collection pursuant to a court order, the specimen may be provided by the person in the absence of a court order. If a judgment fails to order the convicted person to submit to the drawing of a blood specimen, the state attorney may seek an amended order for this purpose, or alternatively, the Department of Corrections or any law enforcement agency may seek such order.

Burglary is added to the list of offenses for collection of blood specimens for DNA testing.

This bill substantially amends s. 943.325, F.S., and reenacts s. 810.02, F.S.

II. Present Situation:

Section 943.325, F.S., in part, requires a person to submit two blood specimens to a Florida Department of Law Enforcement (FDLE) designated testing facility as directed by the department, if that person is:

1. Convicted or was previously convicted and is still incarcerated in this state for any offense or attempted offense in:
 - chapter 794, F.S. (sexual battery);
 - chapter 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); or
- s. 812.135, F.S. (home-invasion robbery); and

2. Within the confines of the legal state boundaries.

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.

The section requires the court to include in the judgment of conviction for an offense specified in the section, or a finding that a person, as described, violated a condition of probation, community control, or any other court ordered supervision, an order stating that blood specimens are required to be drawn by the appropriate agency in a manner consistent with the section. The section proceeds to prescribe the mechanism for payment of the blood specimens, and 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. For the purpose of this convicted person, the collection requirement must be based upon a court order. If the judgment sentences the convicted person to time served, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of that sentence.

In *Carra v. State*, 736 So.2d 721 (Fla. 2d DCA 1999), the Second District Court of Appeal held that the collection requirement of s. 943.325, F.S., was not applicable to Carra. While noting that Carra had been “previously convicted,” and may have been compelled to deliver blood specimens if still incarcerated, Carra was not incarcerated when the State moved to compel Carra to submit to the taking of blood specimens, and therefore did not fall within the ambit of the statute.

The Florida Department of Law Enforcement (FDLE) is currently authorized, pursuant to s. 943.325, F.S., to collect DNA samples from offenders convicted of lewd act/indecency, murder, sexual assaults, aggravated battery, carjacking and home-invasion robbery. One of the reasons for adding the latter three offenses, is the correlation between those offenses and sexual assaults and other violent offenses. *See* Proceedings, National Commission on the Future of DNA Evidence (presentation by Mr. David Coffman, Supervisor, Florida DNA Investigative Support Database), May 7, 1999.

A review by FDLE of criminal histories of offenders matched to sexual assaults and homicides through the DNA database found that 52 percent committed burglaries before they committed sexual assaults and homicides.

III. Effect of Proposed Changes:

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In addition to a blood specimen collection pursuant to a court order, the specimen may be provided by the person in the absence of a court order. If a judgment fails to order the convicted person to submit to the drawing of a blood specimen, the state attorney may seek an amended order for this purpose, or alternatively, the Department of Corrections or any law enforcement agency may seek such order.

These provisions are in response to the *Carra* decision and would ensure that blood specimens can be taken while the offender is still under the supervision of the Department of Corrections, the Department of Juvenile Justice or the local sheriff (if serving a sentence in a county jail).

Burglary is added to the list of offenses for collection of blood specimens for DNA testing. This provision would provide FDLE with the ability to match those offenders who, early in their criminal career, commit a burglary, and later in their career progress to violent crimes and victimization.

The bill provides for an effective date of July 1, 2000.

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 should be no impact on local law enforcement agencies and offenders beyond what is currently required by law.

C. Government Sector Impact:

Senate Bill 838 is the companion to a budget issue in FDLE's budget request for \$2,142,742 (from General Revenue) to expand its DNA collections to include burglary. The appropriation would authorize 2 scientists and additional equipment to meet the anticipated

increase in blood samples requiring analysis and entry into the DNA database. *See* Legislative Priorities, 2000-2001, Florida Department of Law Enforcement.

The Department of Corrections estimates that the fiscal impact on the department will be \$163,717 (5 FTE's) to obtain blood samples from 19,467 burglary admissions and \$166,820 (5 FTE's) to obtain blood samples from 19,836 incarcerated burglary offenders. For these projections, the department used 1998-99 offender admissions and the average cost of a nurse obtaining and processing one blood sample over a 30 minute period. On average, it costs the department \$8.41 per inmate (or \$16.82 per hour). Blood samples can be taken by either an RN or an LPN and the costs represent the average salary of the two positions.

The Department of Juvenile Justice estimates that the fiscal impact on the department will be \$220,400. The department estimates that the bill at a minimum has the potential to effect 5,510 youth. The cost projection is based on a cost of \$40 per test multiplied by 5,510 youth.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

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