

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 725 w/ CS Submission of Biological Specimens

SPONSOR(S): Holloway

TIED BILLS: IDEN./SIM. BILLS: SB 1648

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Corrections (Sub)</u>	<u>6 Y, 0 N</u>	<u>Whittier</u>	<u>De La Paz</u>
2) <u>Public Safety & Crime Prevention</u>	<u>18 Y, 0 N w/CS</u>	<u>Whittier</u>	<u>De La Paz</u>
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

During the 2001 Session, the Legislature added statutory language authorizing the Florida Department of Law Enforcement (FDLE or the department) to obtain biological specimens other than blood for DNA analysis. [See Chapter 2001-127, L.O.F.]

HB 725 w/ CS corrects cross-references to conform to this language. Section 948.03, F.S., addresses terms and conditions of probation or community control, and requires probationers and community controllees to submit two specimens of blood to FDLE to be registered with the DNA data bank. This bill gives the department discretion to obtain FDLE-approved biological specimens other than blood, such as buccal (oral) swabs which are obtained from the inside of a person's cheek.

The bill clarifies that approved biological specimens, other than blood, can be provided in the cases of juvenile offenders and adult sex offenders. Currently, these offenders are required to have blood specimens taken, but not other approved biological specimens.

The bill requires that, upon conviction, personnel at the jail, correctional facility, or juvenile facility are to collect the specimens as part of the regular processing of offenders. Further, if the person is not incarcerated following a conviction, at the time of sentencing, the offender is not to be released from the custody of the court until the sheriff or his or her designee has taken a biological specimen from the offender.

Finally, the bill directs the sheriff to secure, process, and transmit the specimens to the FDLE in a timely manner.

HB 725 w/ CS appears to have no negative fiscal impact on state or local governments.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0725b.ps.doc

DATE: April 1, 2003

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. DOES THE BILL:

- | | | | |
|--------------------------------------|------------------------------|-----------------------------|---|
| 1. Reduce government? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. Lower taxes? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. Expand individual freedom? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. Empower families? | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. EFFECT OF PROPOSED CHANGES:

The Florida Legislature created the DNA Offender Database in 1989, and since that time, the Florida Department of Law Enforcement (FDLE or the department) has entered samples collected from offenders convicted of the offenses specified under s. 943.325(1)(a), F.S., and created profiles in the DNA database. FDLE collects and analyzes blood specimens from known criminals and then makes comparisons to DNA profiles that result from the testing of blood and other biological evidence collected from crime scenes. Through the use of the DNA Offender Database, these comparisons help to solve crimes by matching suspects and victims to questioned serological samples.

The method of DNA analysis that is now being used in the FDLE crime laboratory system and throughout the country is a technique known as STR or Short Tandem Repeats. This technology can be used for analyzing very small or degraded samples and gives very high discrimination probabilities (the ability to tell individuals apart). This new technology allows the DNA database to utilize samples other than blood, including buccal (oral) swabs, which are taken from the inside of a person's cheek.

FDLE reports that buccal swab samples can be obtained at less cost to the collecting agency, since they do not require the service of a phlebotomist to draw blood. These samples can be collected easily, quickly, and with minimal discomfort to the subject. The swabs are suitable for the DNA analysis and will also survive long term storage.

During the 2001 Session, the Legislature added statutory language authorizing the FDLE to obtain biological specimens other than blood for DNA analysis. [See Chapter 2001-127, L.O.F.]

HB 725 w/ CS corrects cross-references to conform to this language. Section 948.03, F.S., addresses terms and conditions of probation or community control, and requires probationers and community controllees to submit two specimens of blood to FDLE to be registered with the DNA data bank. This bill gives the department discretion to obtain FDLE-approved biological specimens other than blood.

The bill clarifies that approved biological specimens, other than blood, can be provided in the cases of juvenile offenders and adult sex offenders. Currently, these offenders are required to have blood specimens taken, but not other approved biological specimens.

The bill requires that, upon conviction, personnel at the jail, correctional facility, or juvenile facility are to collect the specimens as part of the regular processing of offenders. Further, if the person is not incarcerated following a conviction, at the time of sentencing, the offender is not to be released from the custody of the court until the sheriff or his or her designee has taken a biological specimen from the offender.

The bill also directs the sheriff to secure, process, and transmit the specimens to the FDLE in a timely manner.

C. SECTION DIRECTORY:

Section 1: Amends s. 948.03, F.S., relating to submission of biological specimens.

Section 2: Amends s. 943.325, F.S., relating to submission, collection, and transmittal of biological specimens.

Section 3: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: See Fiscal Comments.
2. Expenditures: See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: See Fiscal Comments.
2. Expenditures: See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS:

The department reports that various sheriffs' offices have been consulted and all have advised that the oral swab is significantly faster and utilizes fewer resources; however, cost avoidance does not appear to be quantifiable.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision: N/A
2. Other: N/A

B. RULE-MAKING AUTHORITY: N/A

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 27, 2003, the Public Safety & Crime Prevention Committee passed the bill favorably with a strike-everything amendment which added a requirement that the local sheriff or their designee would be responsible for the collection of DNA specimens from those offenders who are required to provide samples, and clarified that approved biological specimens, other than blood, can be provided in the cases of juvenile offenders and adult sex offenders. Currently, these offenders are required to have blood specimens taken, but not other approved biological specimens.

This bill analysis incorporates the above changes to the bill.