

Amendment No.2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED (Y/N)
ADOPTED AS AMENDED (Y/N)
ADOPTED W/O OBJECTION (Y/N)
FAILED TO ADOPT (Y/N)
WITHDRAWN (Y/N)
OTHER

1 Committee/Subcommittee hearing bill: Judiciary Committee
2 Representative Grant, J. offered the following:

Amendment (with title amendment)

Remove lines 237-340 and insert:

custodian to conduct a physical search for the evidence. If a
search is ordered, the governmental entity must produce a report
containing the following information:

1. The nature of the search conducted.

2. The date the search was conducted.

3. The results of the search.

4. Any records showing the physical evidence was lost or
destroyed.

5. The signature of the person who supervised the search,
attesting to the accuracy of the contents of the report.

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17 The report must be provided to the court, the petitioner, and
18 the prosecuting authority.

19 Section 2. Section 925.12, Florida Statutes, is amended to
20 read:

21 925.12 Forensic analysis ~~DNA testing~~; defendants entering
22 pleas.-

23 (1) DEFINITIONS.-As used in this section, the term:

24 (a) "Forensic analysis" has the same meaning as provided
25 in s. 925.11.

26 (b) "Petitioner" has the same meaning as provided in s.
27 925.11.

28 (2) A person ~~For defendants~~ who has ~~have~~ entered a plea of
29 guilty or nolo contendere to a felony on or after July 1, 2006,
30 but before July 1, 2020, a defendant may petition for
31 postsentencing DNA testing under s. 925.11 under the following
32 circumstances:

33 (a) The facts on which the petition is predicated were
34 unknown to the petitioner or the petitioner's attorney at the
35 time the plea was entered and could not have been ascertained by
36 the exercise of due diligence; or

37 (b) The physical evidence for which DNA testing is sought
38 was not disclosed to the defense by the state before ~~prior to~~
39 the entry of the plea by the petitioner.

40 (3) A person who has entered a plea of guilty or nolo
41 contendere to a felony on or after July 1, 2020, may petition

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42 for postsentencing forensic analysis under s. 925.11 under the
43 following circumstances:

44 (a) The facts on which the petition is predicated were
45 unknown to the petitioner or the petitioner's attorney at the
46 time the plea was entered and could not have been ascertained by
47 the exercise of due diligence; or

48 (b) The physical evidence for which forensic analysis is
49 sought was not disclosed to the defense by the state before the
50 entry of the plea by the petitioner.

51 (4)(2) For defendants seeking to enter a plea of guilty or
52 nolo contendere to a felony on or after July 1, 2020 July 1,
53 2006, the court shall inquire of the defendant and of counsel
54 for the defendant and the state as to physical evidence
55 containing DNA known to exist that, if subjected to forensic
56 analysis, could produce evidence that is material to the
57 identification of the perpetrator of, or accomplice to, the
58 crime before could exonerate the defendant prior to accepting a
59 plea of guilty or nolo contendere. If no such physical evidence
60 containing DNA that could exonerate the defendant is known to
61 exist, the court may proceed with consideration of accepting the
62 plea. If such physical evidence containing DNA that could
63 exonerate the defendant is known to exist, the court may
64 postpone the proceeding on the defendant's behalf and order
65 forensic analysis DNA testing upon motion of counsel specifying
66 the physical evidence to be tested.

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67 ~~(5)(3)~~ It is the intent of the Legislature that the
68 Supreme Court adopt rules of procedure consistent with this
69 section for a court, before ~~prior to~~ the acceptance of a plea,
70 to make an inquiry into the following matters:

71 (a) Whether counsel for the defense has reviewed the
72 discovery disclosed by the state and whether such discovery
73 included a listing or description of physical items of evidence.

74 (b) Whether the nature of the evidence against the
75 defendant disclosed through discovery has been reviewed with the
76 defendant.

77 (c) Whether the defendant or counsel for the defendant is
78 aware of any physical evidence disclosed by the state for which
79 forensic analysis could produce a result material to the
80 identification of the perpetrator of, or accomplice to, the
81 crime ~~DNA testing may exonerate the defendant.~~

82 (d) Whether the state is aware of any physical evidence
83 for which forensic analysis could produce a result material to
84 the identification of the perpetrator of, or accomplice to, the
85 crime ~~DNA testing may exonerate the defendant.~~

86 ~~(6)(4)~~ It is the intent of the Legislature that the
87 postponement of the proceedings by the court on the defendant's
88 behalf under subsection (3) ~~(2)~~ constitute an extension
89 attributable to the defendant for purposes of the defendant's
90 right to a speedy trial.

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91 Section 3. Subsections (6) and (14) of section 943.325,
92 Florida Statutes, are amended to read:

93 943.325 DNA database.—

94 (6) SAMPLES.—The statewide DNA database may contain DNA
95 data obtained from the following types of biological samples:

96 (a) Crime scene samples.

97 (b) Samples obtained from qualifying offenders required by
98 this section to provide a biological sample for DNA analysis and
99 inclusion in the statewide DNA database.

100 (c) Samples lawfully obtained during the course of a
101 criminal investigation.

102 (d) Samples from deceased victims or suspects that were
103 lawfully obtained during the course of a criminal investigation.

104 (e) Samples from unidentified human remains.

105 (f) Samples from persons reported missing.

106 (g) Samples voluntarily contributed by relatives of
107 missing persons.

108 (h) Samples obtained from DNA analysis ordered under s.
109 925.11.

110 (i) ~~(h)~~ Other samples approved by the department.

111 (14) RESULTS.—The results of a DNA analysis and the
112 comparison of analytic results shall be released only to
113 criminal justice agencies as defined in s. 943.045 at the
114 request of the agency or as required by s. 925.11.

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T I T L E A M E N D M E N T

118

Remove line 21 and insert:

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specified persons to petition for forensic analysis