

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 524

INTRODUCER: Senator Ingoglia

SUBJECT: DNA Samples from Inmates

DATE: January 12, 2024

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	<b>Pre-meeting</b>
2.			ACJ	
3.			FP	

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**I. Summary:**

SB 524 requires that each inmate in the custody of the Department of Corrections (DOC) who has not previously provided a DNA sample pursuant to s. 943.325, F.S., provide a DNA sample to the Florida Department of Law Enforcement (FDLE) by September 30, 2024. The FDLE is required to collect and process the samples pursuant to s. 943.325, F.S.

The FDLE reports that there is no fiscal impact to the FDLE lab resulting from the bill.

The bill may have an indeterminate fiscal impact on the DOC. See Section V. Fiscal Impact Statement.

The bill takes effect upon becoming a law.

**II. Present Situation:**

On January 1, 1990, the State's first process dedicated to collecting biological samples, analyzing the Deoxyribonucleic Acid (DNA) therein, and storing the resulting individual identification became law.<sup>1</sup> The FDLE became the administrator of the process including the database that ultimately contained the DNA analyses.<sup>2</sup>

The biological samples were first collected from persons convicted in Florida of any offense or attempted offense defined in ch. 794, F.S., relating to sexual battery, or of any offense or attempted offense under ch. 800, F.S., relating to lewd and lascivious conduct.<sup>3</sup> In the early years

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<sup>1</sup> Section 943.325, F.S. (Chapter 89-335, L.O.F.).

<sup>2</sup> Section 943.325(4), and (5) F.S.

<sup>3</sup> Section 943.325(1), F.S. (Chapter 89-335, L.O.F.).

the DNA Database was phased-in, based upon adequate funding and the related criminal offenses until all felony offenses were included.<sup>4</sup>

Current law requires “qualifying offenders” to provide DNA samples under specified circumstances.

A qualified offender means any juvenile or adult who is:

- Committed to a county jail;
- Committed to or under the supervision of the (DOC), including persons incarcerated in a private correctional institution operated under contract pursuant to s. 944.105, F.S.;
- Committed to or under the supervision of the Department of Juvenile Justice;
- Transferred to this state under the Interstate Compact on Juveniles, part XIII of ch. 985, F.S.;
- or
- Accepted under Article IV of the Interstate Corrections Compact, part III of ch. 941, F.S.

And who is:

- Convicted of any felony offense or attempted felony offense in this state or of a similar offense in another jurisdiction;
- Convicted of certain misdemeanor offenses;
- Arrested for any felony offense or attempted felony offense in this state; or
- In the custody of a law enforcement agency and is subject to an immigration detainer issued by a federal immigration agency.<sup>5</sup>

Any qualifying offender, who is:

- Arrested in this state;
- Incarcerated in this state; or
- On probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision in this state;

is required to submit a DNA sample to a department-designated facility.<sup>6</sup>

Arrested qualifying offenders must submit a DNA sample at the time they are booked into a jail, correctional facility, or juvenile facility.<sup>7</sup> Incarcerated persons and those in the custody of the Department of Juvenile Justice must submit required DNA samples not less than 45 days before their presumptive date of release from such incarceration or commitment.<sup>8</sup>

Upon the conviction of any qualifying offender which results in the commitment of the offender to a county jail, correctional facility, or juvenile facility, the entity responsible for the jail or facility shall ensure that a DNA sample is promptly secured and transmitted to the FDLE. Personnel at the jail, correctional facility, or juvenile facility shall collect the DNA samples as part of the regular processing of qualifying offenders committed to the jail or facility.<sup>9</sup>

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<sup>4</sup> Section 943.325(3)(b), F.S.

<sup>5</sup> Section 943.325(2)(g), F.S.

<sup>6</sup> Section 943.325(7), F.S.

<sup>7</sup> Section 943.325(7)(b), F.S.

<sup>8</sup> Section 943.325(7)(c), F.S.

<sup>9</sup> Section 943.325(7)(d), F.S.

If a qualifying offender is not incarcerated following conviction, that offender may not be released from the custody of the court at the time of sentencing or released pursuant to a bond or surety until the DNA sample required by this section has been taken by the sheriff or his or her designee. The sheriff shall secure, process, and transmit the DNA sample to the FDLE in a timely manner.<sup>10</sup>

A law enforcement agency having custody of a person who becomes a qualifying offender solely because of the issuance of an immigration detainer by a federal immigration agency shall ensure that a DNA sample is taken from the offender immediately after the agency receives the detainer and shall secure and transmit the sample to the FDLE in a timely manner.<sup>11</sup>

As a condition of probation, community control, or any other court-ordered community supervision, the court shall order offenders to submit to the drawing of the blood or other biological specimens when required under s. 943.325, F.S., as a condition of the probation, community control, or other court-ordered community supervision.<sup>12</sup>

If the order of a sentencing court fails to order a qualifying offender to submit a DNA sample as mandated by this section, the prosecutor may seek an amended order from the sentencing court requiring submission of a DNA sample.<sup>13</sup> In the alternative, FDLE, DOC, a law enforcement agency, or a prosecutor may apply to the appropriate circuit court with jurisdiction for an order authorizing the seizure of the qualifying offender for the purpose of securing the required DNA sample.<sup>14</sup>

The FDLE reports that the FDLE DNA database works with DOC to ensure that both agency's systems accurately show the inmates who need to have DNA samples taken.<sup>15</sup> As of November 17, 2023, the two databases were in sync and as of November 20, 2023, DOC confirmed that 48 inmates in Florida need to have samples collected.<sup>16</sup> The number of inmates changes constantly due to new inmates coming into the system while others are released.<sup>17</sup>

### **III. Effect of Proposed Changes:**

The bill requires that each inmate in the custody of the DOC who has not previously provided a DNA sample pursuant to s. 943.325, F.S., provide a DNA sample to the FDLE by September 30, 2024. The FDLE is required to collect and process the samples pursuant to s. 943.325, F.S.

The bill takes effect upon becoming a law.

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<sup>10</sup> Section 943.325(7)(e), F.S.

<sup>11</sup> Section 943.325 (7)(f), F.S.

<sup>12</sup> Section 948.014(1), F.S.

<sup>13</sup> Section 943.325(12)(b), F.S.

<sup>14</sup> *Id.*

<sup>15</sup>The Florida Department of Law Enforcement, *2024 FDLE Legislative Bill Analysis*, November 27, 2023 (on file with the Senate committee on Criminal Justice).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The FDLE reports that there is no expected impact to the FDLE lab.<sup>18</sup>

The DOC may have a fiscal impact due to the off-schedule collection of the DNA samples. The DOC has not yet responded to the Agency Bill Analysis Request so this impact is indeterminate at this time.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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<sup>18</sup> *Id.*

**VIII. Statutes Affected:**

This bill substantially amends section 943.325 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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