

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.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 678

INTRODUCER: Criminal Justice Committee and Senator Bradley

SUBJECT: Forensic Investigative Genetic Genealogy Grant Program

DATE: February 20, 2024 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cellon</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Kolich</u>	<u>Harkness</u>	<u>ACJ</u>	Favorable
3.	<u>Cellon</u>	<u>Yeatman</u>	<u>FP</u>	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 678 creates the Forensic Investigative Genetic Genealogy Grant Program within the Florida Department of Law Enforcement (FDLE). The purpose of the program is to award grants to statewide and local law enforcement agencies or medical examiner’s offices to support local agencies in the processing of DNA samples.

The FDLE will annually award to law enforcement agencies or medical examiner’s offices funds specially appropriated for the grant program to cover expenses related to using forensic genetic genealogy methods to generate investigative leads for criminal investigations or identifying unidentified human remains.

The term “investigative genetic genealogy” means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use. Grant funding is intended for developing genealogy DNA profiles consisting of 100,000 or more markers.

Grants may be used in accordance with FDLE rule to:

- Analyze DNA samples collected under applicable legal authority using forensic genetic genealogy methods for solving violent crimes.
- Analyze unidentified human remains.

Grant recipients must provide a report to the FDLE executive director no later than one year after receiving the funding. The report must include:

- The amount of annual funding received;
- The number and type of cases pursued using forensic genetic genealogical DNA analysis;
- The type of forensic genetic genealogical methods used, including the name of the laboratory to which such testing is outsourced, if any, and the identity of the entity conducting any genetic genealogical research;
- The result of the testing, such as decedent identification, perpetrator identification, or no identification; and
- The amount of time it took to make an identification or to determine no identification could be made.

The FDLE may adopt rules to implement and administer the grant program, and to allocate funds.

The bill becomes effective July 1, 2024.

This bill does not have a fiscal impact on the FDLE. See Section V. Fiscal Impact Statement.

II. Present Situation:

Current Florida Law

Section 119.071(2)(r)2., F.S., makes investigative genetic genealogy information and materials held by an agency before, on, or after July 1, 2023, confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.¹

As defined in s. 119.071(2)(r), F.S., “investigative genetic genealogy information and materials” means the information, records, and genetic profiles created or collected by or on behalf of a law enforcement agency conducting investigative genetic genealogy research.² It includes any names and personal identifying information or identifiers of individuals determined through the use of genealogy databases, traditional genealogical methods, or other investigative means.³ The term does not include the name or personal identifying information of the donor of a biological sample attributable to a perpetrator; or a person identified through investigative genetic genealogy who is a witness to or has personal knowledge related to the crime under investigation.⁴

“Investigative genetic genealogy” means the application of genetic genealogy and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains and living unidentified missing persons.⁵

¹ Chapter 2023-235, L.O.F.

² Section 119.071(2)(r)1.d., F.S.

³ *Id.*

⁴ Section 119.071(2)(r)1.d. (I) and (II), F.S.

⁵ Section 119.071(2)(r)1.c., F.S.

The term “genetic genealogy” means the use of DNA testing in combination with traditional genealogical methods to infer relationships between persons and determine ancestry.⁶

“Traditional genealogical methods” means the use of genealogical databases and historical records to trace the family lineage of a person.⁷ “DNA record” means all information associated with the collection and analysis of a person's DNA sample, including the distinguishing characteristics collectively referred to as a DNA profile, and includes a single nucleotide polymorphism and a whole genome sequencing DNA profile.⁸

A law enforcement agency may disclose investigative genetic genealogy information and materials in furtherance of its official duties and responsibilities or to another governmental agency in the furtherance of its official duties and responsibilities.⁹

A law enforcement agency must disclose investigative genetic genealogy information and materials pursuant to a court order for furtherance of a criminal prosecution. If a court orders the disclosure of such information and materials, the recipient of the information and materials must maintain the confidential and exempt status of the information and materials and may only publicly disclose the information and materials as necessary for purposes of a criminal prosecution as determined by the court.¹⁰

Catching the Golden State Killer Using Consumer DNA Testing Database

A Florida-based genealogy website called GEDmatch that allows users to voluntarily share their genetic profiles for free provided information that led investigators to the “Golden State Killer” who had eluded law enforcement since 1976.¹¹ The website revealed a distant relative and that information helped lead authorities to the man suspected of conducting a reign of terror up and down California, including 12 homicides, 45 rapes, and more than 100 residential burglaries between 1976 and 1986.¹² The man subsequently pleaded guilty to 13 counts of first-degree murder and special circumstances (including murder committed during burglaries and rapes), as well as 13 counts of kidnapping.¹³

⁶ Section 119.071(2)(r)1.b., F.S.

⁷ Section 119.071(2)(r)1.e., F.S.

⁸ Section 119.071(2)(r)1.a., F.S.

⁹ Section 119.071(2)(r)3.a., F.S.

¹⁰ Section 119.071(2)(r)3.b., F.S.

¹¹ Los Angeles Times, *The untold story of how the Golden State Killer was found: A covert operation and private DNA*, Paige St. John, December 8, 2020, available at <https://www.latimes.com/california/story/2020-12-08/man-in-the-window>, (last visited January 9, 2024).

¹² *Id.*

¹³ CNN News, “*Hearing details ghastly crimes of Golden State Killer as he pleads guilty to killings*,” Elliott C. McLaughlin, Stella Chan, June 29, 2020, available at <https://www.cnn.com/2020/06/29/us/golden-state-killer-plea-expected/index.html#:~:text=DeAngelo%20pleaded%20guilty%20to%202013,as%2013%20counts%20of%20kidnapping>, (last visited January 9, 2024).

The Florida Department of Law Enforcement Forensic/Investigative Genetic Genealogy Program

The FDLE Genetic Genealogy team currently provides investigative leads to investigators based on DNA matches to relatives found in public genealogy databases.¹⁴ The team includes experts in genetic genealogy, analytical research, forensics, and investigations who work with local law enforcement agencies.¹⁵ In its first year, the program helped identify four suspects, solving cases that were more than a decade old.¹⁶

III. Effect of Proposed Changes:

The bill creates the Forensic Investigative Genetic Genealogy Grant Program within the FDLE. The purpose of the program is to award grants to law enforcement agencies or medical examiner's offices to support local agencies in the processing of DNA samples.

The FDLE will annually award to statewide and local law enforcement agencies and medical examiner's offices any funds specially appropriated for the grant program to cover expenses related to using forensic investigative genetic genealogy methods to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.

The term "investigative genetic genealogy" means the combined application of laboratory testing, genetic genealogy, and law enforcement investigative techniques to develop investigative leads in unsolved violent crimes and provide investigative leads as to the identity of unidentified human remains. Such methods must be in accordance with department rule and compatible with multiple genealogical databases that are available for law enforcement use. Grant funding is intended for developing genealogy DNA profiles consisting of 100,000 or more markers.

Grants may be used, in accordance with FDLE rule, to:

- Analyze DNA samples collected under applicable legal authority using forensic genetic genealogy methods for solving violent crimes.
- Analyze DNA samples of unidentified human remains.

Grant recipients must provide a report to the FDLE executive director no later than one year after receiving the funding. The report must include:

- The amount of annual funding received;
- The number and type of cases pursued using investigative genetic genealogy methods;
- The type of forensic investigative genetic genealogical methods used, including the name of the laboratory to which such testing is outsourced, if any, and the identity of the entity conducting any genetic genealogical research;
- The result of the testing, such as decedent identification, perpetrator identification, or no identification; and

¹⁴ Florida Department of Law Enforcement, News, *FDLE Genetic Genealogy Investigations program solves cold cases in first year*, available at <https://www.fdle.state.fl.us/News/2019/October/FDLE-Genetic-Genealogy-Investigations-program-soly>, (last visited January 9, 2024).

¹⁵ *Id.*

¹⁶ *Id.*

- The amount of time it took to make an identification or to determine no identification could be made.

The FDLE may adopt rules pursuant to s. 120.536(1) and s. 120.54, F.S., to implement and administer the requirements in the bill, and to allocate funds.

The bill becomes effective July 1, 2024.

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:

This bill does not have a fiscal impact on the FDLE. The FDLE suggests that county labs may experience increased requests for services as a result of the bill. If the county labs cannot meet additional demands, the FDLE may experience higher volumes of examination requests.¹⁷ The FDLE can absorb these requests within current resources.

¹⁷ Florida Department of Law Enforcement, *2024 FDLE Legislative Bill Analysis*, December 5, 2023. (on file with the Senate Criminal Justice Committee).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 943.327 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on January 16, 2024:

The committee substitute:

- Changes the name of the grant program to the Forensic Investigative Genetic Genealogy Grant Program.
- Defines the term investigative genetic genealogy and sets forth specified scientific requirements for participation in the grant program.
- Provides that any specially appropriated grant funds may be used by statewide and local law enforcement agencies and medical examiner's offices to cover expenses associated with DNA analysis used to generate investigative leads for criminal investigations of violent crimes and to aid in the identification of unidentified human remains.
- Requires that grant recipients report specified facts and program analysis to the FDLE executive director, including the type of forensic investigative genetic genealogical methods used, no later than 1 year after receiving funding.
- Conveys rulemaking authority to FDLE to implement and administer the program and to allocate funds.

- B. **Amendments:**

None.