SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Judiciary Committee

BILL:	Senate Bill 186
INTRODUCER:	Senators Villalobos and Lynn
SUBJECT:	Postsentence DNA Testing
DATE:	February 7, 2006
REVISED:	02/09/06

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Favorable**
2.	Chinn	Maclure	JU	**Favorable**
3.			JA	
4.				
5.				
6.				

I. Summary:

Senate Bill 186 amends the existing postsentencing DNA testing statute in three significant ways: 1) it eliminates the deadline for filing postsentencing DNA testing petitions; 2) it eliminates the current requirement that a felon be convicted at trial in order to file a petition, allowing those pleading guilty or nolo contendere to file; and 3) it requires that evidence which is collected at the time of the crime for which testing may be requested be maintained until the term of the sentence in the case has expired.

The bill would become effective upon becoming a law, retroactive to the current deadline for filing petitions for postsentencing DNA testing, October 1, 2005.

This bill substantially amends section 925.11, Florida Statutes.

II. Present Situation:

When the Florida Legislature first addressed postsentencing DNA testing in 2001, it gave a person convicted at trial and sentenced a statutory right to petition for postsentencing DNA testing of physical evidence collected at the time of the crime.[1] Petitions for postsentencing DNA testing are based on the assertion that the DNA test results could exonerate that person or alternatively reduce the sentence.

[1] Chapter 2001-97, L.O.F.; ss. 925.11 and 943.3251, F.S.

In order to petition, the person must: 1) be convicted at trial and sentenced;[2] 2) show that his or her identity was a genuinely disputed issue in the case and why;[3] 3) claim to be innocent;[4] and 4) meet the reasonable probability standard that the person would have been acquitted or received a lesser sentence if the DNA testing had been done at the time of trial or done at the time of the petition under the evolving forensic DNA testing technologies.[5]

If the trial court determines that the facts are sufficiently alleged, the state attorney is required to respond within 30 days pursuant to court order.[6] If the court decides to hold a hearing, the court may appoint counsel for an indigent, if necessary.[7] The trial court must make a determination of whether to grant the petitioner's request for DNA testing based on a finding of whether:

- the physical evidence that may contain DNA still exists;
- the results of DNA testing of that evidence would have been admissible at trial and whether there is reliable proof that the evidence has not been materially altered and would be admissible at a future hearing; and
- a reasonable probability exists that the defendant would have been acquitted of the crime charged or received a lesser sentence if DNA test results had been admitted at trial.[8]

If the court denies the petition for DNA testing, a motion for rehearing must be filed within 15 days of the order, and the 30-day period of appeal is tolled until the court rules on the motion.[9] Otherwise, either party has 30 days to file an appeal of the ruling. The order denying relief must include notice of these time limitations. If the court grants the petition for DNA testing, the defendant is assessed the cost of the DNA testing unless the court finds that the defendant is indigent.[10] The Florida Department of Law Enforcement (FDLE) performs the DNA test pursuant to court order.[11] The results of the DNA testing are provided to the court, the defendant, and the prosecuting authority.[12]

Time Limitations

The Legislature amended s. 925.11, F.S., in 2004 to extend the original two-year time limitation during which time a person convicted at trial and sentenced must file a petition for post-conviction DNA testing of evidence to a four-year time limitation.[13] This extended the previous deadline of October 1, 2003, to October 1, 2005, for any petition that would otherwise be time-

[2] Section 925.11(1)(a), F.S.
[3] Section 925.11(2)(a)4., F.S.
[4] Section 925.11(2)(a)3., F.S.
[5] Section 925.11(2)(f)3., F.S.
[6] Section 925.11(2)(c), F.S.
[7] Section 925.11(2)(e), F.S.
[8] Section 925.11(2)(f), F.S.
[9] Section 925.11(3), F.S.
[10] Section 925.11(2)(g), F.S.
[11] Section 943.3251, F.S.
[12] Section 925.11(2)(i), F.S.
[13] Chapter 2004-67, L.O.F.

barred. The Florida Supreme Court adopted this new deadline in Rule 3.853, Florida Rules of Criminal Procedure, the rule that governs postconviction DNA court procedure.[14]

The time limit for filing a petition for postsentencing DNA testing is measured from *the later of the following dates*:

- Four years from the date the judgment and sentence became final;
- Four years from the date the conviction was affirmed on direct appeal;
- Four years from the date collateral counsel was appointed (applicable solely in death penalty cases); or
- October 1, 2005.

The law also provides a catch-all exception to the four-year time limitation. If the facts upon which the petition is based were unknown or could not have been known with the exercise of due diligence, then a person convicted at trial and sentenced could petition at any time for postsentencing DNA testing. This language mirrors the language of Rule 3.850(b)(1), Fl. R. Crim. P., commonly known as the "due diligence/newly discovered evidence" exception.

On September 29, 2005, the Florida Supreme Court amended Florida Rule of Criminal Procedure 3.853(d)(1). The amendment extended the time for filing petitions from October 1, 2005, to July 1, 2006.[15]

Preservation of Physical Evidence

Section 925.11(4), F.S., provides for preservation of physical evidence collected at the time of the crime for which postsentencing DNA testing may be requested. The length of time the governmental entity must preserve evidence directly relates to the length of time during which a petitioner may file for DNA testing. By virtue of the Legislature extending the petition filing deadline to allow petitioners four years to request testing, the requirements related to preservation of evidence are similarly extended.[16] Unchanged since the statute's enactment, however, evidence in death penalty cases must be maintained for 60 days after the execution of the sentence.

Physical evidence may be disposed of prior to the time limit for filing a petition for postsentencing DNA testing under certain conditions.[17] Prior to the disposition of the evidence, notice must be provided to the defendant and any counsel of record, the prosecuting authority, and the Attorney General. If the notifying governmental entity does not receive, within 90 days after notification, either a copy of a petition for postsentencing DNA testing or a request not to

[14] *Amendments to Florida Rule of Criminal Procedure 3.853(d)(1)(A)(Postconviction DNA Testing)*, 884 So. 2d 934 (Fla. 2004).
[15] *Emergency Recommendation and Report of the Florida Bar Criminal Procedure Rules Committee to Amend Rule 3.853(d), Florida Rules of Criminal Procedure*, SC 05-1702, September 29, 2005.
[16] Chapter 2004-67, L.O.F.; *see also, Amendments to Florida Rule of Criminal Procedure 3.853(d)(1)(A)(Postconviction DNA Testing)*, 884 So. 2d 934 (Fla. 2004) (approving similar extension language to rules of procedure for the court system).
[17] Section 925.11(4)(c), F.S.

dispose of the evidence because a petition will be filed, the evidence may be disposed of, unless some other provision of law or rule requires its preservation or retention.[18]

It should be pointed out that physical evidence in many older cases may have long since been destroyed as a matter of routine purging. If, however, the evidence existed and was under the control of a governmental entity at the time of the enactment of s. 925.11, F.S., it is highly unlikely that it has been destroyed. Given the advent of new testing DNA methods, governmental agencies are keenly aware of the potential usefulness of this evidence. Especially in the most serious cases, law enforcement actually has an interest in preserving the evidence until the inmate has served his or her sentence to completion. This is so because of the possibility a case could come back for a re-trial on some issue or the possibility that a convicted petitioner could be exonerated and the person who actually committed the crime may be arrested and stand trial.

Current statutory requirements for preserving evidence are also affected by an executive order issued by the Governor which extended the period of time law enforcement agencies must preserve evidence that may contain DNA. The order essentially eliminates any possibility that such evidence would be destroyed before postconviction testing could be performed, if requested and ordered by a court.[19]

Rights to Appeal, Generally

Under current law, a defendant who has been convicted has certain rights to appeal on direct appeal or on matters that are collateral to the conviction. Article V, Section 4(b) of the Florida Constitution has been construed to convey a constitutional protection of this right.[20]

Direct Appeals after Trial

Matters that are raised on direct appeal include evidentiary rulings made by the trial court during the course of the defendant's trial, and other matters objected to during the course of the trial such as the jury instructions, prosecutorial misconduct, and procedural rulings made by the trial court. The Legislature codified the "contemporaneous objection" rule, a procedural bar that prevented defendants from raising issues on appeal which had not been objected to at the trial level.[21] By requiring defendants to object to matters at the time of trial, the rule allows trial court judges to consider rulings carefully, perhaps correcting potential mistakes at the trial level.

Section 924.051(3), F.S., was enacted as part of the Criminal Appeal Reform Act of 1996 and reads as follows: "(3) An appeal may not be taken from a judgment or order of a trial court unless prejudicial error is alleged and is properly preserved or, if not properly preserved, would constitute fundamental error. A judgment or sentence may be reversed on appeal only when an appellate court determines after a review of the complete record that prejudicial error occurred and was properly preserved in the trial court or, if not properly preserved, would constitute fundamental error."[22]

[18] *Id*.
[19] Executive Order 05-160, August 5, 2005.
[20] *Amendments to the Florida Rules of Appellate Procedure*, 696 So. 2d 1103, 1104 (Fla. 1996).
[21] Section 924.051, F.S.
[22] Section 4, ch. 96-248, L.O.F.

The Florida Supreme Court found in *State v. Jefferson* that the foregoing provision did not constitute a jurisdictional bar to appellate review in criminal cases, but rather that the Legislature acted within its power to "place reasonable conditions" upon the right to appeal.[23]

Collateral Review

Postconviction proceedings, also known as collateral review, usually involve claims that the defendant's trial counsel was ineffective, claims of newly discovered evidence, or claims that the prosecution failed to disclose exculpatory evidence. Procedurally, collateral review is generally governed by Florida Rule of Criminal Procedure 3.850. A rule 3.850 motion must be filed in the trial court where the defendant was tried and sentenced. According to rule 3.850, unless the record in the case conclusively shows that the defendant is entitled to no relief, the trial court must order the state attorney to respond to the motion and may then hold an evidentiary hearing.[24] If the trial court denies the motion for postconviction relief with or without holding an evidentiary hearing, the defendant is then entitled to an appeal of this denial to the District Court of Appeal that has jurisdiction over the circuit court where the motion was filed.

A rule 3.850 motion must be filed within two years of the defendant's judgment and sentence becoming final unless the motion alleges that the facts on which the claim is based were unknown to the defendant and could not have been ascertained by the exercise of due diligence.[25] In order to grant a new trial based on newly discovered evidence, the trial court must first find that the evidence was unknown and could not have been known at the time of trial through due diligence. Then, the trial court must find that the evidence is of such a nature that it would probably produce an acquittal on retrial.[26]

Motions for postconviction relief based on newly discovered evidence must be raised within two years of the discovery of such evidence.[27] The Florida Supreme Court has held that the two-year time limit for filing a 3.850 motion based on newly discovered evidence begins to run on a defendant's postsentencing request for DNA testing when the testing method became available. For example, in *Sireci v. State*, the Florida Supreme Court held that the defendant's postconviction claim filed on his 1976 conviction, which was filed in 1993, was time barred because "DNA typing was recognized in this state as a valid test as early as 1988."[28]

Appeal or Review After a Plea of Guilty or Nolo Contendere

When a defendant pleads guilty or nolo contendere (no contest), having elected not to take his or her case to trial, appeal rights are limited. Section 924.06(3), F.S., states: "A defendant who pleads guilty *with no express reservation of the right to appeal a legally dispositive issue,* or a

[23] *State v. Jefferson*, 758 So. 2d 661, 664 (Fla. 2000) (quoting from *Amendments to the Florida Rules of Appellate Procedure*, 696 So. 2d at 1104-1105).
[24] Fla. R. Crim P. 3.850(d).
[25] Fla. R. Crim. P. 3.850(b).
[26] *Torres-Arboleda v. Dugger*, 636 So. 2d 1321, 1324-1325 (Fla. 1994); *Jones v. State*, 709 So. 2d 512, 521 (Fla. 1998).
[27] *Adams v. State*, 543 So. 2d 1244, 1247 (Fla.1989).
[28] 773 So. 2d 34, 43 (Fla. 2000); *See also, Ziegler v. State*, 654 So. 2d 1162, 1164 (Fla. 1995).

defendant who pleads nolo contendere *with no express reservation of the right to appeal a legally dispositive issue*, shall have no right to a direct appeal" (emphasis added).

In *Robinson v. State,* the Florida Supreme Court was asked to review the constitutionality of the foregoing statutory language.[29] The court upheld the statute as applied in *Robinson*, making it clear that once a defendant pleads guilty the only issues that may be appealed are actions that took place contemporaneous with the plea. The court stated: "There is an exclusive and limited class of issues which occur contemporaneously with the entry of the plea that may be the proper subject of an appeal. To our knowledge, they would include only the following: (1) subject matter jurisdiction, (2) the illegality of the sentence, (3) the failure of the government to abide by the plea agreement, and (4) the voluntary and intelligent character of the plea."[30] These principles continue are still controlling with respect to pleas of guilt or nolo contendere.

Section 924.051(4), F.S., enacted as part of the Criminal Appeal Reform Act of 1996, states: "(4) If a defendant pleads nolo contendere without expressly reserving the right to appeal a legally dispositive issue, or if a defendant pleads guilty without expressly reserving the right to appeal a legally dispositive issue, the defendant may not appeal the judgment or sentence." The Florida Supreme Court was asked to review this statute in *Leonard v. State,* and noting its similarity to the statute reviewed in *Robinson,* found that the enactment of that statute basically codified the rule in *Robinson*.[31]

In the *Leonard* case the Court states the rule to be followed by the lower courts: "[t]he district courts should affirm summarily … when the court determines that an appeal does not present: (1) a legally dispositive issue that was expressly reserved for appellate review pursuant to section 924.051(4); (2) an issue concerning whether the trial court lacked subject matter jurisdiction as set forth in *Robinson*; or (3) a preserved sentencing error or a sentencing error that constitutes fundamental error as set forth in our opinion in *Maddox*."[32]

The general policy of the Florida Supreme Court is that where a defendant enters a plea of nolo contendere and reserves the right to appeal an issue that is dispositive of the case, it avoids an unnecessary trial and helps narrow the issues much like stipulations to the facts or law can do in a trial situation.[33] When the parties stipulate that an issue is dispositive, in that the state cannot or will not proceed with the prosecution of the case if the case is remanded because a crucial trial court ruling is reversed, the state may not argue otherwise on appeal.[34] The First District Court of Appeal has further held that no stipulation is necessary under certain circumstances, such as where the trial court ruled upon the constitutionality of the statute under which the defendant is charged. In a case where that lower court ruling is not upheld on appeal, it is not merely tactically infeasible for the state to go forward, it is legally impossible.[35]

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[29] 373 So. 2d 898 (Fla. 1979).
[30] *Id*. at 902.
[31] 760 So. 2d 114, 118 (Fla. 2000).
[32] *Leonard v. State,* 760 So. 2d 114, 119 (Fla. 2000); *see also*, *Maddox v. State*, 760 So. 2d 89, 101 (Fla. 2000). *Maddox v. State* explains that a claim that the sentence imposed exceeds the maximum sentence allowed by statute constitutes a fundamental error that can be raised on appeal, even when the defendant had pled guilty.
[33] See *State v. Ashby,* 245 So. 2d 225, 228 (Fla. 1971); *Brown v. State,* 376 So. 2d 382, 384 (Fla. 1979).
[34] *Phuagnong v. State,* 714 So. 2d 527, 529 (Fla. 1st DCA 1998).
[35] *Griffin v. State,* 753 So. 2d 676, 677-678 (Fla. 2000).

III. Effect of Proposed Changes:

Senate Bill 186 eliminates the necessity of a trial for a convicted person to be eligible to file a petition seeking postsentencing DNA testing. The practical effect of this change is that defendants who have pled guilty or nolo contendere and have been sentenced would be eligible to file a petition to request DNA testing on evidence related to the crime for which they were convicted (assuming they meet the other requirements set forth in statute). The bill also eliminates the current deadline for filing a petition for postsentencing DNA testing, providing that a petition may be filed at any time after the judgment and sentence becomes final.

The proposed revision would require that physical evidence for which postsentencing DNA testing may be requested must be retained by the governmental entity in possession of it. In cases where a defendant has entered a plea and been sentenced, rather than going to trial, the evidence will be maintained by the local law enforcement agency (e.g., police department, sheriff's department, etc.) that handled the case. Requiring the retention of evidence in plea cases for testing purposes effects a new requirement for local law enforcement under the statute because current retention of evidence for possible DNA testing only applies to evidence related to trials and was therefore usually in the possession of the clerk of the court.

The current requirement that evidence must be preserved for 60 days after the execution of the sentence in death penalty cases would remain unchanged, but the length of time for retention of evidence in all other cases would change to conform to the bill's removal of the deadline for requesting DNA testing. Law enforcement agencies would be required to preserve evidence for non-death penalty cases until the expiration of sentence if no other provision of law or rule requires the preservation or retention of the evidence.

This bill takes effect upon becoming a law, retroactive to October 1, 2005, the current statutory deadline for filing petitions.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

The Legislature has the exclusive power to enact substantive laws while Article V, Section 2(a) of the Florida Constitution gives the Florida Supreme Court the power to "adopt rules for the practice and procedure in all courts including the time for seeking

appellate review." This bill may be challenged on a claim that it violates the separation of powers doctrine.[36]

The provisions of this bill may be distinguishable from other legislation that has raised separation of powers concerns, due to the fact that this bill expands a legislatively created substantive right to DNA testing.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The Florida Innocence Initiative (the Initiative) is a non-profit organization that assists inmates, who claim to be wrongfully convicted, with the process of requesting postsentencing DNA testing in the State of Florida. The Initiative has spent a total of almost $34,000 on DNA testing for Florida inmates since it was established in the state in 2003. The New York-based Innocence Project has spent an additional $32,692 on DNA testing in Florida since 2001, the year that the Legislature passed the state's postsentencing DNA testing statute.

The above figures represent the amount of funds spent on DNA testing by the Initiative and the Innocence Project based upon the current statute, which only allows such testing for inmates who were adjudicated guilty. According to staff at the Initiative, the organization has received requests for assistance in requesting postsentencing DNA testing from inmates who have pled guilty. The Initiative has rejected these requests in the past because convictions that are the result of a plea are currently not eligible for postsentencing DNA testing under the statute. If the proposed legislation is enacted, the Initiative would likely see an increase in the number of requests for assistance due to the increase in the pool of eligible inmates who are in prison as the result of a plea.

C. Government Sector Impact:

Local Law Enforcement

As previously noted, law enforcement agencies will be required to maintain physical evidence for which DNA testing may be requested until the expiration of the sentence in criminal cases where the defendant pleads guilty or nolo contendere. To date, primarily the clerks of the court have had this responsibility, due to the fact that testing has been limited to cases that have gone to trial. If this would create a fiscal impact for local law enforcement, it is indeterminate at this time.

[36] Art. II, Sect. 3, FLA. CONST.

Florida Department of Law Enforcement (FDLE)

The FDLE finds a minimal fiscal impact associated with the removal of the deadline for filing petitions in cases that have been tried, but it estimates a significant potential fiscal impact related to including plea cases under the postsentencing DNA testing umbrella.

Court records covering a period of three-and-a-half years show that approximately three to four percent of the crimes committed against persons actually result in a trial. The remaining cases result in a plea of guilt or nolo contendere. Translating these numbers to the current inmate population, 60,479, the FDLE believes approximately four percent of inmates sentenced for crimes that are more likely to produce a DNA sample are currently "eligible" for DNA testing under existing law. This figure, 2,419, is based upon an analysis of the types of crime and trial cases that resulted in a prison sentence. FDLE has received 100-150 cases for analysis, or about six percent of the eligible cases.

Assuming that the same rate of requests from inmates whose cases may have evidence that contains DNA are granted by the reviewing court, FDLE estimates approximately 3,483 new analysis requests from DOC inmates if the current law is amended to include plea cases. Dividing the total number estimated (3,483) over a five-year period equates to 696 cases per year.

The estimate of 696 cases per year, based upon the above calculations, represents the high end of the spectrum with respect to the number of DNA testing requests that the FDLE could be called upon to analyze. However, the actual number of DNA testing requests that could be encountered as a result of including inmates who pled guilty or nolo contendere may not be as predictable as these numbers might indicate. It must also be taken into account that DNA testing requests that stem from an adjudication of guilt could be more or less common than testing requests made by those who plead guilty or nolo contendere. In the former, the defendant argued his or her innocence to the point of adjudication while in the latter the defendant has pled out for one reason or another (e.g., guilty of crime charged, guilty of lesser crime than the one charged, or reasons unknown).

Also affecting the number of cases where DNA testing may be requested is the fact that some evidence containing DNA matter may have been purged by law enforcement before postsentencing DNA testing legislation required that such evidence be retained. Thus, the evidence that one might request to be tested no longer exists.

Based upon these concerns, a projection of the fiscal impact of SB 186 is somewhat indeterminate. The following calculations from FDLE provide an estimate of the fiscal impact if the number of cases where DNA testing is granted reaches the approximately 696 requests that the FDLE has projected.

FDLE Performs Analysis In-house

- FTE: 696 cases are approximately 4.8 FTE worth of cases. These analysts could be housed in a single unit to work only postsentencing testing. They would require one FTE for support. Cost for analysts would be $51,952.56 each (salary

plus benefits) Total: $259,762.80. Cost for Forensic Technologist: $37,975.08 (salary plus benefits). Total Cost for FTE: $297,738 (recurring).

- Cost for Kits and Expendables: Assuming each of these cases had 5 samples for DNA analysis, the number of samples would be 3,480 requiring 35 DNA kits @ $2,981 per Kit. Total Kit Cost: $104,335. There is approximately $50,000 for other expendables used in DNA analysis. Total: $154,335 (recurring).

- The unit would require OCO equipment listed below:

2 Thermal Cyclers ($8000 each)	Total: $ 16,000
1 Genetic Analyzer ($157,000)	Total: $157,000
1 Real Time PCR Instrument ($50,000)	Total: $ 50,000
5 Microscopes ($3,000 each)	Total: $ 15,000
5 Centrifuges ($2,000 each)	Total: $ 10,000
2 Biological Hoods ($15,000 each)	Total: $ 30,000
2 Incubators ($5,000 each)	Total: $ 10,000
(Non-recurring)	Total: $288,000

FDLE Outsources Cases to Private Vendors

- The costs for outsourcing cases to a private vendor would be between $1,500 and $3,000 per case depending on the type of analysis and the size of the case. Therefore, total costs for outsourcing 696 cases would be between $1,044,000 and $2,088,000 each year for five years and perhaps beyond.

Additional Considerations

It appears that FDLE's estimates have only accounted for defendants who are in the custody of the Department of Corrections. Defendants who have pled and not received a prison sentence may also petition for testing under the provisions of the bill. Although the motivation for one to seek testing under those circumstances may be less strong than one who is in prison, the opportunity would exist nonetheless.

The FDLE estimate also does not take into consideration that the Florida Innocence Initiative (the Initiative) currently pays for testing in the vast majority of investigation and litigation of postsentencing DNA petitions in Florida. A spokesperson for the Initiative has explained to Criminal Justice Committee staff that in most cases, the courts are granting their request to have the DNA tested at private laboratories because of commonly-degraded state of the evidence requires testing that FDLE is unable to perform.

Additionally, the above estimates of the fiscal impact of SB 186 assume that the state would be responsible for payment in all cases where petitions for postsentencing DNA testing are granted. Though the state would bear the cost for DNA testing in most postconviction cases, in cases where the defendant can afford to pay for testing the state

would not be required to pay. This is because the statute actually instructs the court to assess the cost of testing to the defendant subject to a finding of indigency.[37]

VI. Technical Deficiencies:

None.

VII. Related Issues:

Innocence Projects

Postsentencing DNA testing was primarily publicized through the efforts of attorney Barry C. Scheck and Peter Neufeld who began studying and litigating the forensic evidence testing in 1988. Their efforts resulted in the establishment of the Innocence Project in 1992 at the Benjamin N. Cardozo School of Law. Since then a number of innocence projects have been established nationwide. Many of these projects are run by pro-bono organizations. These projects form the backbone of The Innocence Network, which incorporates law schools, journalism schools, and public defender offices to assist inmates trying to prove their innocence whether or not the cases involve biological evidence which can be subjected to DNA testing.

It is a labor-and time-intensive review process to investigate inmates' claims of innocence made to innocence projects. Time estimates by the Florida Innocence Initiative range from three to five years for investigating the claims and determining whether such convicted persons have a viable claim to assert for postsentencing DNA testing of evidence that could exonerate them or otherwise reduce their sentence.

[37] Section 925.11(2)(g), F.S.

VIII. Summary of Amendments:

None.