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 Governmental Oversight and Accountability Committee

BILL:	CS/SB 2276
INTRODUCER:	Governmental Oversight and Accountability Committee and Senator Oelrich
SUBJECT:	DNA Database
DATE:	April 7, 2009 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	**Fav/2 amendments**
2.	Wilson	Wilson	GO	**Fav/CS**
3.			JU	
4.			JA	
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS.....		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Senate Bill 2276 requires that persons who are arrested for or charged with any felony offense submit a DNA sample at the time they are booked into a jail, correctional facility, or juvenile facility. This requirement will occur, as funding is provided, over the next 10 years. The first phase will begin on January 1, 2011, and will require the DNA sample from persons arrested for felony crimes set forth in Chapters 782 (murder), 784 (assault and battery), 794 (sexual battery), and 800 (lewd or lascivious acts), F.S.

The bill is also a reorganization of s. 943.325, F.S., commonly known as the DNA Database statute. This has required a substantial re-wording of the section, however, current law is mostly clarified or simplified.

The notable changes and additions to the section include:

- New misdemeanor offenses, which upon conviction will require that a DNA sample be provided, have been inserted – they are:
  - Unnatural or lascivious act, s. 800.02, F.S.
  - Exposure of sexual organs, s. 800.03, F.S.

  - Luring or enticing a child, s. 787.025, F.S.
  - Duty to report sexual battery, s. 794.027, F.S.
- New requirement that both adult and juvenile sex offenders and sexual predators provide DNA samples, if they have not already done so upon conviction in Florida;
- Definitions of certain terms as used in the statutory reorganization are created;
- A reporting requirement that the Florida Department of Law Enforcement (FDLE) must fulfill in even-numbered years;
- Certain FDLE administrative duties;
- A delineation of the types of samples that may be kept in the database;
- More specificity with regard to who may take a DNA sample;
- Requirements for obtaining DNA samples from juveniles, who otherwise qualify, transferred to Florida through the Interstate Compact, and adults, who otherwise qualify, transferred through the Interstate Corrections Compact;
- Requirements regarding the information collecting agencies must submit to FDLE with a sample;
- Restrictions on the use of DNA samples; and
- Legislative findings.

The section reorganization also includes the creation of two new crimes related to the misuse of DNA records or samples, and refusal to provide a sample.

This bill substantially amends section 943.325 of the Florida Statutes and amends sections 760.40 and 948.014 for the purpose of conforming those sections to the provisions of the bill.

II. Present Situation:

Currently, any person who is convicted of one of the following offenses is required to submit two biological (DNA) samples to FDLE[1]:

1. Any felony offense;
2. Any misdemeanor violation of stalking (s. 784.048, F.S.), voyeurism (s. 810.14, F.S.), obscenity (s. 847.011, F.S.), exposing a minor to harmful materials (s. 847.013, F.S.), computer pornography (s. 847.0135, F.S.), or direct observation, videotaping, or visual surveillance of customers in merchant's dressing rooms (s. 877.26, F.S.); or
3. An offense that was found to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.

FDLE processes submitted DNA offender samples and stores the record in Florida's DNA database. FDLE also contributes DNA samples to the Federal Bureau of Investigation's (FBI) CODIS (Combined DNA Index System). CODIS contains two indexes: one contains DNA profiles of offenders and the other contains forensic samples, generally evidence collected at crime scenes. Most commonly, forensic samples are searched against the offender index to attempt to establish the identity of a person who might have committed a criminal offense and against other forensic samples to establish potential links between cases being investigated.

[1] s. 943.325(1)(a) and (b), F.S.

Since the inception of the Florida convicted offender database, the number of known DNA samples gathered and entered into the system could be safely characterized as staggering. As of the end of August 2008, slightly over half a million samples from Florida have been analyzed and loaded into the system and a total of 9,052 investigations have been aided because of those samples.

The FDLE Forensic Services Unit runs an average of 10,000 known samples per month. Each week state and national "match reports" come through the system, when known samples are run against forensic unknown samples from crime scenes and other sources. Florida has an approximate 50 percent match rate – that is, about half the time a known sample is linked to a forensic (unknown) sample.

The known DNA samples arrive at FDLE from the agencies that take them from convicted offenders. At present there are approximately 500 "collection agencies." The collection kits are provided by FDLE. They are tracked by barcode with the identifying information provided by the agency taking the sample. According to information obtained from FDLE, this particular part of the process tends to create a bottleneck. Oftentimes samples cannot be analyzed and loaded into the system because agencies forward the samples with incomplete data which leads to a system slow-down while the FDLE staff verifies and completes the data.

One example of the cost of inefficiency that sometimes occurs due to incomplete data and record-checking at the collection site is found in the number of duplicate samples received by the lab. This happens when a known sample is submitted for the same individual more than once – likely in an abundance of caution, but for reasons only known by the collection agency. It is estimated that the duplication rate is currently running at a full 20 percent of the samples received. The estimated cost associated with the duplicate samples is $4 per duplicate. Using the average number of samples run per month of 10,000, and assuming the 20 percent duplication rate and cost of $4 is correct, this amounts to an annual cost of $96,000 that could be avoided if efficiency measures were created or put in place at the collection sites.

To date, thirteen states - Maryland's bill having recently been signed into law - have passed and implemented legislation authorizing the collection of DNA samples from felony arrestees. There are variations among the states because of their unique systems of criminal justice, but there are some recurring themes.

Six of the thirteen states require DNA in all felony arrests and four of those six states are implementing the program in a phased-in manner or upon specific funding. The seven remaining states are only taking arrestee samples in limited felony arrests. The states are also fairly evenly split on the issue of whether expungement of the sample and record is automatic under certain circumstances or if the arrestee has to initiate the process of expungement.

The federal government is set to implement taking DNA samples from anyone charged with a federal crime and from non-U.S. citizens who face deportation. Congress enacted the measure in late 2005 and the federal rule which will implement the measure is forthcoming.[2] It is estimated that the new requirements will add approximately 1.2 million samples a year to the federal DNA

[2] Pub.L. 109-162, §1002, Jan. 5, 2006; 28 CFR Part 28; 73 Federal Register 76, April 18, 2008.

database.[3] The federal law allows an arrested person to have his or her DNA purged from the State and National DNA Index, upon a showing that his or her arrest did not culminate in a charge being filed, if the case was dismissed, or if he or she was acquitted.

III. Effect of Proposed Changes:

As amended by the bill, subsection (6) of s. 943.325, F.S., will provide that any "qualifying offender" who is arrested[4] 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 the state will be required to submit a DNA[5] sample[6] to a department-designated facility.

The term "qualified offender" is defined to include any person convicted[7] of any felony offense or the misdemeanor offenses included under current law (specified above).[8]

The bill adds the following misdemeanor offenses to the current list of misdemeanor convictions for which a DNA sample is required:

- Unnatural or lascivious act, s. 800.02, F.S.
- Exposure of sexual organs, s. 800.03, F.S.
- Luring or enticing a child, s. 787.025, F.S.
- Duty to report sexual battery, s. 794.027, F.S.

The definition of "qualified offender" will also include any person *arrested for* a felony offense committed in this state under the following conditions relating to funding:

> Subject to appropriations for each phase of expansion of DNA sample collection and after determination and official notification to submitting agencies by FDLE that it has sufficient infrastructure, facilities, and personnel to receive such samples, all persons arrested for or charged with any of the following felony offenses shall be required to submit a DNA sample at the time they are booked into a jail, correctional facility, or juvenile facility:

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[3] www.abajournal.com/news posted April 17, 2008.

[4] The term "arrested" is defined to mean "apprehended or physically taken into custody, resulting in the submission of arrest fingerprints to the department, pursuant to s. 943.051, F.S."

[5] The bill provides the following definition of the term "DNA":
"DNA" means deoxyribonucleic acid. DNA is located in the cells and provides an individual's personal genetic blueprint. DNA encodes genetic information that is the basis of human heredity and forensic identification.

[6] The bill defines the term "DNA sample" to mean "a buccal or other approved biological specimen capable of undergoing DNA analysis."

[7] The bill defines the term "convicted" to mean "a finding of guilt by a court of competent jurisdiction, or entry of a plea of nolo contendere or guilty, or, in the case of a juvenile, the finding of delinquency regardless of adjudication."

[8] The term "qualified offender" also includes "juveniles and adults committed to a county jail or committed to or under the supervision of the Department of Corrections or the Department of Juvenile Justice, including persons incarcerated in a private correctional institution operated under contract pursuant to s. 944.105, and persons transferred to this state under the Interstate Compact on Juveniles, part XIII of chapter 985, or accepted under Article IV of the Interstate Corrections Compact, part III of chapter 941, and any person required to register as a sexual offender or sexual predator as defined in s. 943.0435, s. 775.21, s. 944.607, or s. 985.4815."

a. Beginning January 1, 2011, all felonies defined by chapters 782 (murder), 784 (assault and battery), 794 (sexual battery) and 800 (lewd or lascivious offenses), F.S.
b. Beginning January 1, 2013, all felonies defined by chapters 810 (burglary and trespass) and 812 (theft and robbery), F.S.
c. Beginning January 1, 2015, all felonies defined by chapters 787 (kidnapping), and 790 (firearm offenses), F.S.
d. Beginning January 1, 2017, all felonies defined by chapter 893 (controlled substances), F.S.
e. Beginning January 1, 2019, all felony offenses.

The bill authorizes FDLE to reject submissions of samples received for any felony arrests prior to funding of any phase of expansion or prior to FDLE's notification to submitting agencies. The bill requires FDLE, on or before February 1, 2010, and by February 1, of each even-numbered year until 2018 to provide the Legislature with a report listing the funding, infrastructure, facility, and personnel requirements for the DNA database and DNA evidentiary analysis for the expansion phase scheduled for the following year.

Establishment of statewide DNA database: As amended by the bill, subsection (3) of s. 943.325, F.S., will contain language similar to that currently located in subsection (8) which requires FDLE, through the statewide criminal laboratory analysis system to establish, implement, and maintain a statewide automated personal identification system capable of, but not limited to, classifying, matching, and storing analyses of DNA and other biological molecules and related data.

The bill specifies that the department will be the administrator of the statewide DNA database and that all accredited local government crime laboratories within the state shall have access through CODIS[9] to the statewide database in accordance with the rules and agreements established by the department.

Duties of FDLE: As amended by the bill, subsection (4) of s. 943.325, F.S., will contain language similar to language currently located in subsection (9) to require FDLE to:

1. Receive, process, and store DNA and the data derived therefrom furnished pursuant to the section.
2. Collect, process, maintain, and disseminate information and records as provided by the section.
3. Strive to maintain and disseminate only accurate and complete records.

Subsection (4) will also require FDLE to perform the following duties which are not specified in current law:

1. Participate in the national DNA database program administered by the Federal Bureau of Investigation (FBI).

[9] The bill defines "CODIS" to mean "the Federal Bureau of Investigation's Combined DNA Index System that allows the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories."

2. Provide for liaison with the FBI and other criminal justice agencies relating to the state's participation in the CODIS program and the national DNA index system.
3. Adopt rules specifying the proper procedure, including requisite identification information, for state and local law enforcement and correctional agencies to collect and submit DNA samples pursuant to the section.

Types of Samples: Current law does not specify the types of DNA samples that can be kept in the DNA database. The bill amends subsection (5) of s. 943.325, F.S., to specify that the statewide DNA database may contain DNA data obtained from the following types of biological samples:

1. Crime scene samples.
2. Samples contained from qualifying offenders required by this section to provide a biological sample for DNA analysis and inclusion in the statewide DNA database.
3. Samples lawfully obtained during the course of a criminal investigation.
4. Samples from deceased victims or suspects that were lawfully obtained during the course of a criminal investigation.
5. Samples from unidentified human remains.
6. Samples from persons reported missing.
7. Samples voluntarily contributed by relatives of missing persons.
8. Other samples approved by the department.

***Out-of-state offenders*:** The bill adds language to subsection (8) of s. 943.325, F.S., which is not in current law and requires the following offenders to provide a DNA sample to the entity responsible for supervision of the offender, who then is required to ensure that the DNA sample is collected and transmitted to FDLE:

- A qualifying offender who is transferred to this state under the Interstate Compact on Juveniles,[10] for a felony offense or attempted felony offense; or
- A qualifying offender who is accepted under Article IV of the Interstate Corrections Compact,[11] of a felony offense or attempted felony offense.

Collection of DNA and liability: Current law does not specifically state who is responsible for collecting a DNA sample. Subsection (10)(e) of s. 943.325, F.S., refers to a law enforcement officer or correctional officer taking a sample and also refers to medical personnel. Originally, DNA was collected through a blood draw; currently, it is collected through a cheek swab. The bill amends s. 943.325(9), F.S., to specify that the collection of DNA samples may be performed by any person using a collection kit approved by the department as directed in the kit or pursuant to other procedures approved by or acceptable to the department.

As amended by the bill, subsection (9)(b) of s. 943.325, F.S., will contain language similar to that currently found in subsection (10)(e) which provides that any person who collects or assists in the collection of a DNA sample is not civilly or criminally liable if a collection kit provided or

[10] See Part XIII of Chapter 985, F.S.
[11] See Part III of Chapter 941, F.S.

approved by FDLE is used and the collection is done as directed in the kit, in a manner approved by the department, or is performed in an otherwise reasonable manner.

Reasonable force: As amended by the bill, subsection (7) of s. 943.325, F.S., will contain language similar to that currently found in subsection (10)(e) to provide that duly authorized law enforcement and correctional personnel may employ reasonable force in cases where a qualified offender refuses to provide a DNA sample required under this section, and no such employee shall be civilly or criminally liable for the use of such reasonable force.

Sample collection and use: As amended by the bill, subsection (10) of s. 943.325, F.S., will contain language similar to that currently found in subsection (5) which:

- Requires FDLE to provide DNA sample collection kits, labels, or other appropriate containers and instructions for the collection of DNA samples; and
- Provides that after collection, DNA samples must be forwarded to FDLE for analysis to determine genetic markers and characteristics for the purpose of individual identification of the person submitting the sample.

The bill also adds language to subsection (10)(a) of s. 943.325, F.S., which is not contained in current law which provides that at a minimum, the following information must be included with each submission:

1. The qualifying offender's last name, first name, date of birth, race, gender, and State Identification (SID) number if known;
2. The statute number of each offense charged;
3. The collecting agency's name and address; and
4. The name and telephone number of the person performing the collection of the DNA sample or witnessing the collection of the sample.

As amended by the bill, subsection (10)(b) of s. 943.325, F.S., will contain language which is currently found in subsection (4) which provides that if a DNA sample submitted to FDLE cannot be used in the manner and for the purposes required by the section, the department may require that another sample be obtained.

Court orders and costs:
The bill moves language within s. 943.325, F.S., as follows:

- Subsection (11) will contain language similar to that currently found in subsection (10)(a) which provides that the sentencing court must include in the judgment order for a qualifying offender a provision requiring collection of a DNA sample from the defendant in a manner consistent with this section.

- Subsection (11)(a) will contain language similar to that currently found in subsection (12) and provides that unless the convicted person has been found indigent by the court, the person must pay the costs of collecting the approved biological specimens required under the section.

- Subsection (11)(b) of s. 943.325, F.S., contains language similar to that currently found in subsection (10)(f) and (11) and provides that if the order of the sentencing court fails to order a qualifying offender to submit a DNA sample as mandated by the section, the prosecutor may seek an amended order. Alternatively, FDLE, the Department of Corrections, a law enforcement agency, or a prosecutor may apply to the circuit court for an order authorizing the seizure of the qualifying offender for the purpose of securing the required sample.

- Subsection (11)(c) contains language that is currently found in subsection (13) that states that failure by a law enforcement agency or other entity involved in the collection of DNA samples under this section to strictly comply with the section or to abide by a statewide protocol for collecting DNA samples is not grounds for challenging the validity of the collection or the use of a DNA sample in court and evidence based upon or derived from a collected DNA sample may not be excluded by a court.

The bill also adds language in subsection (11)(d) and (e) of s. 943.325, F.S., that is not contained in current law which provides that:

- The detention, arrest, or conviction of a person based upon a database match or database information will not be invalidated if it is later determined that the sample was obtained or placed in the database by mistake.
- All DNA samples submitted to the department for any reason shall be retained in the statewide database and may be used for all lawful purposes as provided in the section.

Analysis of DNA samples and prohibitions on use: The bill creates language in subsection (12) of s. 943.325, F.S., that is not currently in law to provide that FDLE must specify procedures for the collection, submission, identification, analysis, storage, and disposition of the DNA samples and DNA records[12] collected under the section. The procedures must also ensure compliance with national quality assurance standards so that the DNA records may be accepted into the national DNA database.

The bill also adds language providing that the analyses of DNA samples collected under the section shall be used only for law enforcement identification purposes or to assist in the recovery or identification of human remains or missing persons and may not be used for identification of any medical or genetic condition. The bill further provides that when completed, the results of DNA analysis shall be entered into the statewide DNA database maintained and administered by FDLE for such purpose, as provided in the section.

Releasing results of analysis: As amended by the bill subsection (13) of s. 943.325, F.S., will contain language currently contained in subsection (7) which provides that the results of a DNA analysis and the comparison of analytical results shall be released only to criminal justice agencies as defined in s. 943.045(10), F.S, at the request of the agency; otherwise such information is confidential and exempt from public records laws.

[12] The bill defines the term "DNA record" to mean "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."

Criminal penalties: The bill creates the following two criminal offenses in subsection (14) of s. 943.325, F.S., which are not in current law. The bill makes it a second degree misdemeanor for any person subject to the requirements of the section to willfully refuse to provide a DNA sample.

The bill creates a third degree felony offense for any person who:

- Knowingly or intentionally discloses a DNA record, including the results of a DNA analysis, to a person or agency other than one authorized to have access to such records under the section;
- Knowingly or intentionally uses or receives DNA records, including the results of DNA analysis, for purposes other than those authorized under this section; or
- Knowingly or intentionally tampers or attempts to tamper with any DNA sample, the result of any analysis of a DNA sample, or a DNA sample collection container.

Other Potential Implications:

Any person required to register as a sexual offender or sexual predator, as defined in Florida law is included within the definition "qualifying offender" in the bill. The bill appears to require that sexual offenders and sexual predators must provide a sample of their DNA just because of their "status." The fact of the matter is that sexual offenders and sexual predators who have recently been convicted or are incarcerated or are under some type of supervision in the state have already been required to provide a sample, as a matter of their convictions. (s. 943.325(1)(a), F.S.)

However, there is a potential issue with those who were *not* convicted in Florida, *not* incarcerated in Florida or were *not* under supervision in Florida, who are nonetheless required by law to register as sex offenders or predators upon establishing a residence in this state. The State of Florida has a form of "status" jurisdiction over that segment of the population, but no more, unless a law is violated in our state. Requiring a DNA sample from a person who was not convicted here, who was not currently incarcerated here nor under supervision here, and certainly has not been *arrested* in Florida, may create a legal blurring of the line between "status" and "criminal jurisdiction" or even "arrested" on criminal charges. This bright line exists in the cases of "Jimmy Ryce" civil confinement situations, and it quite likely should exist in the "status" cases described above.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The amendments to s. 760.40, F.S, could be read to expand the scope of public records exemptions held in compliance with the new DNA testing regimen. Because these tests cover a wider range of subjects, as a result of the deletion of the condition of "convicted," this provision effectively could extend confidential and exempt status to a broader range

of participants. At the same time, current law exempts such tests from the public records. The section of law in which the status of test results is located is particularly difficult to read. A subsequent redrafting of this section would improve clarity and readability and may avoid any untoward result.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Although fingerprints are taken in the course of the booking procedure in all arrests, critics assert that the taking of a DNA sample upon arrest – even by mouth swab – is a violation of the Fourth Amendment right against unreasonable search and seizure. Because this is a new area of the law (arrestee DNA), the courts are just beginning to rule on the various legal issues that are being raised for the first time in this context. While it is true that courts have considered cases involving DNA sample collection upon conviction, it could be many years before we have a clear message from the courts as to how the Constitution applies when the State seeks a DNA sample from a person who has been arrested.

The Virginia arrestee DNA law was challenged on search and seizure violation grounds and was upheld by the Supreme Court of Virginia. The case, *Anderson v. Virginia*, cites the reasoning of four different federal courts (predominantly *Jones v. Murray*[13], a convicted felon DNA sample case) and three state appellate courts in concluding that the taking of a DNA sample from an arrestee, even by a blood draw, is "no different in character than acquiring fingerprints upon arrest."[14] The Virginia Supreme Court, in making its ruling, reasoned that the State's interest in ascertaining and keeping a record of the arrestees' identification for purposes of solving crimes outweighs the arrestees' right to privacy and protection from government intrusion. The Virginia court, therefore, found no violation of the constitutional protection against unreasonable search and seizure.

A Minnesota court reached a different conclusion on the search and seizure issue in a 2006 case, *In the Matter of the Welfare of: C.T.L., Juvenile.*[15] This court determined that the State (law enforcement) should obtain a search warrant in order to take the DNA sample, except under the limited exceptions to the warrant requirement. Because no exception to the 4th Amendment warrant requirement existed, and because no search warrant was obtained, law enforcement intrusion into the human body to gather DNA was a violation of the right not to be subjected to unreasonable search and seizure.

Although the State argued that a judicial determination of probable cause for the arrest had been made, pursuant to the statutory requirement, the court found that probable cause for an arrest did not meet the same constitutional criteria as an impartial magistrate's

[13] 962 F2d 302 (4th Cir.), *cert. denied*, 506 U.S. 977, 113 S.Ct. 472, 121 L.Ed.2d 378 (1992).
[14] Anderson v. Virginia, 650 S.E.2d 702 (Va. 2007).
[15] In the Matter of the Welfare of C.T.L., Juvenile, (A06-874, Court of Appeals 2006) found at www.lawlibrary.state.mn.us.

decision to issue a search warrant for the sample, nor was it a sufficient reason to allow the DNA to be taken.

The State also urged the court to consider the issue by applying a "general balancing test" to the individual's rights and the State's interests. This was the analysis used by the federal court in the *Jones* case, relied upon by the Virginia court in *Anderson*. In its application of this balancing test, the Minnesota court opined that the person who is merely charged with a criminal offense has a greater expectation of privacy than one who has actually been convicted, which therefore weighs more heavily in the balance than the State's interest in gathering the DNA.

It should be remembered that the courts at the federal level and the other states' courts can be relied upon in Florida merely as "persuasive," not "legal precedent." Precedent that holds sway in Florida would come from the rulings of Florida appellate courts, and ultimately the Supreme Court of Florida and the U.S. Supreme Court, should these questions be addressed by those courts, as they relate to any arrestee DNA statute the Florida Legislature may pass.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has not yet considered the potential prison bed impact of the new felony offense created by this bill.

FDLE has recommended that if DNA is to be collected from all offenders arrested for a felony, it should be phased in as provided in the bill. FDLE indicates that currently, a person collecting DNA from an offender cannot immediately verify whether DNA has previously been collected from the offender in a prior case. This results in FDLE being sent DNA samples for offenders that are already in the database. FDLE also receives DNA samples that do not have the required demographic information attached. This results in additional workload for the department. FDLE recommends placing equipment at each of the 600 sites where DNA is collected so that the person could verify whether the DNA database already contained a sample from the offender in question. This would also reduce instances of DNA being submitted with insufficient demographic information attached.

The following is the information submitted by FDLE regarding the fiscal impact of this bill, if funded, through fiscal year 2018-2019:

Fiscal Timeline for Expanding DNA collections to include all persons arrested for felony offenses

Year 1 2009-2010	***Phase One*** $418,071 recur; $1,526,472 NR	***Build Collection Infrastructure and Regional Casework Capacity*** ▪ Rapid ID equipment at each collection site (600 total collection sites) to facilitate real time access to the State's DNA database ▪ 6 Crime Laboratory Analyst
Year 2 2010-2011	***Phase Two*** $489,580 recur; $418,071 NR	***Add Felony Arrests for Homicide, Assault, Battery, Sex Crimes (Chs. 782, 784, 794, and 800, F.S.)*** ▪ Workload Processing Costs; No New Resources
Year 3 2011-2012	***Phase Three*** $1,151,514 recur; $747,532 NR	***Build Casework Capacity in FDLE-Daytona Crime Laboratory*** ▪ 1 Crime Laboratory Analyst Supervisor ▪ 6 Crime Laboratory Analysts ▪ 4 Forensic Technologists ▪ Increased space requirements for Daytona Crime Laboratory ▪ Laboratory construction/renovation ▪ Laboratory equipment ▪ Laboratory supplies
Year 4 2012-2013	***Phase Four*** $1,151,514 recur; $593,152 NR	***Add Felony Arrests for Burglary, Theft, Robbery (Chs. 810 and 812, F.S.)*** ▪ Workload Processing Costs; No new resources
Year 6 2014-2015	***Phase Five*** $1,151,514 recur; $79,016 NR	***Add Felony Arrests for Kidnapping, Weapons (Chs. 787 and 790, F.S.)*** ▪ Workload Processing Costs; No new resources
Year 8 2016-2017	***Phase Six*** $1,151,514 recur; $404,348 NR	***Add Felony Arrests for Drug Offenses (Ch. 893, F.S.)*** ▪ Workload Processing Costs; No new resources
Year 10 2018-2019	***Phase Seven*** $1,151,514 recur; $1,066,352 NR	***Add All Remaining Felony Arrests*** ▪ Workload Processing Costs; No new resources

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Office of the State Courts Administrator provided the following information on circuit and county court dispositions for the fiscal year ending June 30, 2008. There were 29,124 felony dispositions resulting in a dismissal of charges as a result of speedy trial, dismissal, or bench or jury acquittal. An additional 16,623 dispositions were placed in an "other" category which included *nolle prosequi* among possible dispositions. In county court for the same time period, there were 155,893 similar dismissal or acquittals for criminal offenses. An additional 41,072 cases were classified in the "other" category.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Governmental Oversight and Accountability Committee on April 7, 2009:

Incorporates previously adopted amendments, barcodes 742992 and 524656, into the committee substitute which:

- Removed the four new misdemeanor convictions for which DNA would have been collected under the provisions of the bill.
- Removed the requirement that sex offenders and sexual predators give DNA samples based simply on their status. These persons are currently giving DNA at the time of conviction or because they are incarcerated or under Department of Corrections supervision.
- Reorganized the definition of "qualifying offender" without changing the content.
- Provided for the removal of DNA samples and analyses from the statewide DNA database, that had been included by virtue of conviction or arrest, is provided for under certain circumstances.
- Gives the department rulemaking authority to create the administrative process, beyond what is required in the bill, for that removal.

B. Amendments:

None.