HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CRJ 20-01 Postsentencing Forensic Analysis
SPONSOR(S): Criminal Justice Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		Hall	Hall

SUMMARY ANALYSIS

DNA is frequently collected at a crime scene and analyzed to assist in convicting or exonerating a suspect. DNA evidence may be collected from any biological material, such as hair, teeth, bones, skin cells, blood, semen, saliva, urine, feces, and other bodily substances. Other kinds of forensic analysis include fingerprint, footprint, tool mark, or tire print analysis; toxicology and blood alcohol analysis; fire debris, firearm, or explosive residue testing; microscopic hair analysis; and bite mark comparison. In some cases, science that was generally accepted at the time it was used in a criminal case has since been undermined by subsequent scientific advancements.

Florida law authorizes a person who has been tried and found guilty of committing a felony to examine physical evidence collected at the time of the investigation of the crime for which he or she has been sentenced that may contain DNA which would exonerate the person or mitigate the sentence that he or she received. Generally, a court may grant a petition where identification is a genuinely disputed issue in the case, and the petitioner shows there is a reasonable probability that he or she would have been acquitted or would have received a lesser sentence if the DNA evidence had been admitted at trial. Currently the Florida Department of Law Enforcement (FDLE) or its designee must perform court-ordered DNA testing.

The National DNA Index System (NDIS) contains DNA profiles contributed by federal, state, and local participating forensic laboratories, enabling law enforcement to exchange and compare DNA profiles electronically, thereby linking a crime or a series of crimes to each other or to a known offender. On a state level, FDLE administers the statewide DNA database. In part, the statewide database contains DNA samples submitted by persons convicted of or arrested for felony offenses and specified misdemeanor offenses.

PCB CRJ 20-01 expands the types of forensic analysis available to a petitioner beyond DNA testing and lowers the initial standard a petitioner must meet to gain access to forensic analysis. Under the proposed bill, a petitioner must show that forensic analysis may result in evidence material to the identity of the perpetrator of, or accomplice to, the crime that resulted in the person's conviction, rather than having to show the evidence would exonerate the person or mitigate his or her sentence.

The proposed bill authorizes a private laboratory to perform forensic analysis under specified circumstances at the petitioner's expense. If forensic analysis produces a DNA profile, FDLE must conduct a search of the statewide DNA database and must request NDIS to search the federal database. A database search may help a petitioner develop an alternative suspect for the crime for which he or she was convicted or, alternatively, may connect the petitioner to other unrelated or unsolved crimes. Finally, the proposed bill authorizes a court to order a governmental entity, in possession of physical evidence claimed to be lost or destroyed, to search for the physical evidence and produce a report to the court, the petitioner, and the prosecuting authority.

The proposed bill may have a negative indeterminate fiscal impact on state government by increasing state laboratories' workload and costs for additional forensic analysis. However, since the proposed bill authorizes private laboratory testing, at a petitioner's expense, the degree to which state laboratories' workload and testing costs will be increased is unknown.

The proposed bill has an effective date of July 1, 2020.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

DNA Exonerations

Deoxyribonucleic acid (DNA) is hereditary material existing in the cells of all living organisms. A DNA profile may be created by testing the DNA in a person's cells.[1] Similar to fingerprints, a person's DNA profile is a unique identifier, except for identical twins, who have the exact same DNA profile.[2] DNA is frequently collected at a crime scene and analyzed to assist in convicting or exonerating a suspect. DNA evidence may be collected from any biological material, such as hair, teeth, bones, skin cells, blood, semen, saliva, urine, feces, and other bodily substances.[3] A DNA sample may be used to solve a current crime or a crime that occurred before DNA-testing technology.[4]

According to the National Registry of Exonerations (Registry), which tracks both DNA and non-DNA based exonerations, the misapplication of forensic science has contributed to 45 percent of wrongful convictions in the United States later exonerated by DNA evidence.[5] Additionally, false or misleading forensic evidence was a contributing factor in 24 percent of all wrongful convictions nationally.[6] Data compiled through 2019 shows there have been 73 exonerations in Florida and that false or misleading forensic evidence was a contributing factor to the person's wrongful conviction in 18 of those cases.[7] In some cases, science that was generally accepted at the time it was used in a criminal case has since been undermined by subsequent scientific advancements. Examples of scientific disciplines that have been discredited in recent years include:

- Microscopic hair analysis;[8]
- Arson investigation techniques;
- Comparative bullet lead analysis;[9] and
- Bite mark matching.[10]

DNA Databases

CODIS and NDIS

The most common form of DNA analysis used to match samples and test for identification in forensic laboratories analyzes only certain parts of DNA, known as short tandem repeats or satellite tandem repeats (STRs).[11] In the early 1990s, the Federal Bureau of Investigation (FBI) chose 13 STRs as the basis for a DNA identification profile, and the 13 STRs became known as the Combined DNA Index

---

[1] FindLaw, *How DNA Evidence Works*, https://criminal.findlaw.com/criminal-procedure/how-dna-evidence-works.html (last visited Feb. 2, 2020).
[2] *Id*.
[3] *Id*.
[4] *Id*.; Dr. Alec Jeffreys developed the DNA profiling technique in 1984.
[5] Innocence Project, *Overturning Wrongful Convictions Involving Misapplied Forensics,* http://www.innocenceproject.org/overturning-wrongful-convictions-invovling-flawed-forensics/ (last visited Feb. 2, 2020).
[6] *Id*.
[7] The National Registry of Exonerations, https://www.law.umich.edu/special/exoneration/Pages/browse.aspx?View={B8342AE7-6520-4A32-8A06-4B326208BAF8}&FilterField1=State&FilterValue1=Florida (last visited Feb. 2, 2020).
[8] Microscopic hair comparison involves comparing hair found at a crime scene with the hair of a defendant. *Id*.
[9] Comparative bullet lead analysis linked bullets found at a crime scene to bullets possessed by a suspect based on the belief that the bullet's lead composition was unique and limited to the originating batch. *Id*.
[10] Bite mark matching is the process of determining that a patterned injury left on a victim was made by human dentition and attempting to match the injury impression with the bite mark of the suspect. Liliana Segura and Jordan Smith, *Bad Evidence, Ten Years After a Landmark Study Blew the Whistle on Junk Science, the Fight Over Forensics Rages On*, The Intercept (May 5, 2019) https://theintercept.com/2019/05/05/forensic-evidence-aafs-junk-science/ (last visited Feb. 2, 2020).
[11] Kelly Lowenberg, *Applying the Fourth Amendment when DNA Collected for One Purpose is Tested for Another*, 79 U. Cin. L. Rev. 1289, 1293 (2011), https://law.stanford.edu/wp-content/uploads/2011/11/APPLYING-THE-FOURTH-AMENDMENT-WHEN-DNA-COLLECTED-FOR-ONE-PURPOSE.pdf (last visited Feb. 2, 2020).

System (CODIS).[12] CODIS is now the general term used to describe the software maintained by the FBI and used to compare an existing DNA profile to a DNA sample found at a crime scene to identify the source of the crime scene sample.[13]

The DNA Identification Act of 1994 (DNA Act)[14] authorized the government to establish a National DNA Index, and in 1998 the National DNA Index System (NDIS) was established. NDIS contains DNA profiles contributed by federal, state, and local participating forensic laboratories,[15] enabling law enforcement to exchange and compare DNA profiles electronically, thereby linking a crime or a series of crimes to each other or to a known offender. A state seeking to participate in NDIS must sign a memorandum of understanding with the FBI agreeing to the DNA Act's requirements, including record-keeping requirements and other procedures. To submit a DNA record to NDIS, a participating laboratory must adhere to federal law regarding expungement[16] procedures, and the DNA sample must:

- Be generated in compliance with the FBI Director's Quality Assurance Standards;
- Be generated by an accredited and approved laboratory;
- Be generated by a laboratory that undergoes an external audit every two years to demonstrate compliance with the FBI Director's Quality Assurance Standards;
- Be from an acceptable data category, such as:
    - Convicted offender;
    - Arrestee;
    - Detainee;
    - Forensic case;
    - Unidentified human remains;
    - Missing person; or
    - Relative of a missing person.
- Meet minimum CODIS requirements for the specimen category; and
- Be generated using an approved kit.

Statewide DNA Database

In 1989, the Legislature established the Statewide DNA database (statewide database) to be administered by the Florida Department of Law Enforcement (FDLE), capable of classifying, matching, and storing analyses of DNA and other biological material and related data.[17] The statewide database contains DNA samples, including those:

- Submitted by persons convicted of or arrested for felony offenses and specified misdemeanor offenses; and
- Necessary for identifying missing persons and unidentified human remains, including samples voluntarily contributed by relatives of missing persons.[18]

All accredited local government crime laboratories in Florida have access to the statewide database in accordance with rules and agreements established by FDLE.[19] Local laboratories access the statewide database through the CODIS, allowing for the storage and exchange of DNA records submitted by federal, state, and local forensic DNA laboratories.[20]

The statewide database may contain DNA data obtained from the following types of biological samples:

- Crime scene samples.

---

[12] *Id*.
[13] *Id*. at 1294.
[14] 42 U.S.C. § 14132.
[15] All 50 states, the District of Columbia, the federal government, the U.S. Army Criminal Investigation Laboratory, and Puerto Rico participate in NDIS. FBI Services, *Laboratory Services, Frequently Asked Questions on CODIS and NDIS,* https://www.fbi.gov/services/laboratory/biometric-analysis/codis/codis-and-ndis-fact-sheet (last visited Feb. 2, 2020).
[16] *See* 42 U.S.C. § 14132(d)(2)(A)(ii) (requiring states to expunge a DNA record when a charge is dismissed, results in an acquittal, or when no charge is filed).
[17] Ch. 89-335, Laws of Fla.
[18] S. 943.325(1), F.S.
[19] S. 943.325(4), F.S.
[20] S. 943.325(2), F.S.

- Samples required by law to be obtained from qualifying offenders.[21]
- Samples lawfully obtained during the course of a criminal investigation, including those from deceased victims or deceased suspects.
- Samples from unidentified human remains.
- Samples from persons reported missing.
- Samples voluntarily contributed by relatives of missing persons.
- Other samples approved by FDLE.[22]

A qualifying offender is required to submit a DNA sample for inclusion in the statewide database if he or she is:

- Arrested or incarcerated in Florida; or
- On probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision.[23]

An arrested offender must submit a DNA sample at the time he or she is booked into a jail, correctional facility or juvenile facility. An incarcerated person and a juvenile in the custody of the Department of Juvenile Justice must submit a DNA sample at least 45 days before his or her presumptive release date.[24] FDLE must retain all DNA samples submitted to the statewide database and such samples may be used for any lawful purpose.[25]

FDLE specifies database procedures to maintain compliance with national quality assurance standards to ensure that DNA records may be accepted into the NDIS. Results of any DNA analysis must be entered into the statewide database and may only be released to criminal justice agencies. Otherwise, the information is confidential and exempt from s. 119.07(1), F.S. and article I, s. 24(a), of the Florida Constitution.[26]

Postsentencing DNA Testing

Defendants Sentenced After Trial

Florida law authorizes a person, who has been tried and found guilty of committing a felony, to petition a court to examine physical evidence collected at the time of the investigation of the crime for which he or she has been sentenced that may contain DNA which would exonerate the person or mitigate the sentence that he or she received.[27] A sentenced defendant can file a petition for postsentencing DNA testing any time after the judgment and sentence in his or her case becomes final.[28]

A petition for postsentencing DNA testing must be made under oath, and include the following:

- A statement of the facts supporting the petition, including a description of the physical evidence containing DNA to be tested and, if known, the present location or last known location of the evidence and how it was originally obtained;
- A statement that the evidence was not previously tested for DNA or that the results of any previous DNA testing were inconclusive and that subsequent scientific developments in DNA testing techniques would likely produce a definitive result establishing that the petitioner is not the person who committed the crime;
- A statement that the sentenced defendant is innocent and how the DNA testing requested by the petition will exonerate the defendant of the crime for which he or she was sentenced or will mitigate the sentence he or she received;

---

[21] A "qualifying offender" is any person, convicted of a felony or attempted felony in Florida or a similar offense in another jurisdiction, or specified misdemeanors, who is: committed to a county jail; committed to or under the supervision of the Department of Corrections, including a private correctional institution; committed to or under the supervision of the Department of Juvenile Justice; transferred to Florida under the Interstate Compact on Juveniles or the Interstate Corrections Compact. S. 943.325(2)(g), F.S.
[22] S. 943.0325(6), F.S.
[23] S. 943.325(7), F.S.
[24] *Id*.
[25] *Id*.
[26] S. 943.325(14), F.S.
[27] S. 925.11(1)(a)1., F.S.
[28] S. 925.11(1)(a)2., F.S.

- A statement that identification is a genuinely disputed issue in the case, and why it is an issue;
- Any other facts relevant to the petition; and
- A certification that a copy of the petition has been served on the prosecuting authority.[29]

A court must review the petition and deny it if it is insufficient. If the petition is sufficient, the prosecuting authority must respond within 30 days.[30] After reviewing the prosecuting authority's response, the court must either issue an order on the merits or set the petition for a hearing. If the court sets the petition for a hearing, it may appoint counsel to assist an indigent defendant, upon finding such assistance necessary.[31]

The court must make the following findings when ruling[32] on the petition:

- Whether the sentenced defendant has shown that the physical evidence that may contain DNA still exists;
- Whether the results of DNA testing of that physical evidence would be admissible at trial and whether there exits reliable proof to establish that the evidence has not been materially altered and would be admissible at a future hearing; and
- Whether there is a reasonable probability that the sentenced defendant would have been acquitted or would have received a lesser sentence if the DNA evidence had been admitted at trial.[33]

Defendants Sentenced After Entering a Plea

Defendants who entered a plea of guilty or nolo contendere to a felony offense before July 1, 2006, are eligible to petition for DNA testing based on the general eligibility requirements under s. 925.11, F.S. However, defendants who entered a plea of guilty or nolo contendere to a felony offense on or after July 1, 2006, may only petition for postsentencing DNA testing when:

- The facts on which the petition is sought were unknown to the petitioner or his or her attorney at the time the plea was entered and could not have been ascertained through the exercise of due diligence; or
- The physical evidence for which DNA testing is sought was not disclosed to the defense prior to the entry of the petitioner's plea.[34]

Since July 1, 2016,[35] prior to the entry of a felony plea, the court must inquire of the defendant, defense counsel, and of the state regarding:

- The existence of known physical evidence that may contain DNA that could exonerate the defendant;
- Whether discovery in the case disclosed or described the existence of such physical evidence; and
- Whether the defense has reviewed the discovery.[36]

If no such evidence is known to exist, the court may accept the defendant's plea. If physical evidence containing DNA that could exonerate the defendant exists, the court may postpone the plea and order DNA testing to be conducted.[37]

Laboratory Testing

---

[29] S. 925.11(2)(a), F.S.
[30] S. 925.11(2)(c), F.S.
[31] S. 925.11(2)(e), F.S.
[32] Any party adversely affected by the court's ruling on a petition for postsentencing DNA testing has the right to appeal. S. 925.11(3), F.S.
[33] S. 925.11(2)(f), F.S.
[34] S. 925.12(1), F.S.
[35] Ch. 2006-292, Laws of Fla.
[36] Ss. 925.11(2) and (3), F.S.
[37] S. 925.11, F.S. Any postponement is attributable to the defendant for the purposes of speedy trial.

To preserve access to evidence, a governmental entity[38] must maintain any physical evidence collected in a case for which postsentencing DNA testing may be requested. In a death penalty case, the evidence must be maintained for 60 days after execution of the sentence. In any other case, a governmental entity can dispose of the evidence if the term of the sentence imposed in the case has expired and the physical evidence is not otherwise required to be preserved by any other law or rule.[39]

FDLE or its designee must perform any DNA testing ordered under s. 925.11, F.S.[40] The sentenced defendant is responsible for the cost of testing, unless he or she is indigent, in which case, the state bears the cost. FDLE must provide the results of DNA testing to the court, the sentenced defendant, and the prosecuting authority. Fla. R. Crim. P. Rule 3.853 authorizes a court to order DNA testing by a private laboratory upon a petitioner's showing of good cause, when he or she can bear the cost of testing.[41]

Effect of Proposed Changes

PCB CRJ 20-01 amends s. 925.11, F.S., to expand access to postsentencing testing of physical evidence. The proposed bill expands the scope of current law to authorize postsentencing testing including other scientific techniques, in addition to DNA testing. Under the proposed bill, a petitioner found guilty of committing a felony after trial or by entering a plea of guilty or nolo contendere before July 1, 2020, may petition for forensic analysis of physical evidence, rather than only DNA testing. "Forensic analysis" is defined as the process by which a forensic or scientific technique is applied to evidence or biological material to identify the perpetrator of, or accomplice to, a crime and includes, but is not limited to, DNA testing.

The proposed bill lowers the initial standard a petitioner must meet to gain access to forensic analysis. Under the proposed bill, the petitioner must show that forensic analysis may result in evidence material to the identity of the perpetrator of, or accomplice to, the crime that resulted in the person's conviction, rather than having to show the evidence would exonerate the person or mitigate his or her sentence.

Additionally, the proposed bill amends the petition requirements under s. 925.11, F.S., only as they relate to the new standard, and only for the following petition requirements:

- A statement that the evidence was not previously subjected to forensic analysis or that the results of any previous forensic analysis were inconclusive and that subsequent scientific developments in forensic analysis would likely produce evidence material to the identity of the perpetrator of, or accomplice to, the crime;
- A statement that the petitioner is innocent and how the forensic analysis requested by the petitioner may result in evidence that is material to the identity of the perpetrator of, or accomplice to, the crime; and
- A statement that the petitioner will comply with any court order to provide a biological sample for the purpose of conducting requested forensic analysis and acknowledging such analysis could produce exculpatory evidence or evidence confirming the petitioner's identity as the perpetrator of, or accomplice to, the crime or a separate crime.

PCB CRJ 20-01 specifies postsentencing forensic analysis eligibility criteria for defendants who entered a plea of guilty or nolo contendere to a felony, depending on the date the plea was entered. Defendants who entered a plea on or after July 1, 2006, but before July 1, 2020, may petition for DNA testing under the same standards currently required under s. 925.11, F.S. The proposed bill maintains current criteria for these sentenced defendants because each had the benefit of the plea colloquy concerning the potential existence of exculpatory DNA evidence administered by the court since 2006.

Beginning July 1, 2020, the proposed bill requires a court prior to accepting a plea of guilty or nolo contendere to a felony to perform a plea colloquy inquiring whether the defendant, defense counsel, or

[38] A "governmental entity" includes, but is not limited to, any investigating law enforcement agency, the clerk of the court, the prosecuting authority, or FDLE. S. 925.11(4)(a), F.S.
[39] S. 925.11(4), F.S.
[40] S. 943.3251(1), F.S.
[41] Fla. R. Crim. P. 3.853(c)(7).

the state is aware of any physical evidence that, if subjected to forensic analysis, could produce evidence material to the identification of the perpetrator of, or accomplice to, the crime. As such, beginning July 1, 2020, a defendant entering a plea of guilty or nolo contendere to a felony will only be authorized to petition for postsentencing forensic analysis when either:

- The facts on which the petition is predicated were unknown to the petitioner or the petitioner's attorney at the time the plea was entered and could not have been ascertained through the exercise of due diligence; or
- The physical evidence for which forensic analysis is sought was not disclosed to the defense by the state prior to the petitioner's plea.

When ruling on a petition for postsentencing forensic analysis the court must make the following findings:

- Whether the petitioner has shown that the physical evidence that may be subjected to forensic analysis still exists;
- Whether the results of forensic analysis would be admissible at trial and whether reliable proof exists to establish that the evidence has not been materially altered and would be admissible at a future hearing; and
- Whether there is a reasonable probability the forensic analysis may result in evidence that is material to the identity of the perpetrator of, or accomplice to, the crime.

The proposed bill authorizes a court to order a private laboratory, certified by the petitioner to meet specified accreditation requirements, to perform forensic analysis when:

- The prosecuting authority and the petitioner mutually select a private laboratory to perform the testing;
- The petitioner makes a sufficient showing that the forensic analysis:
    - Ordered by the court is of such a nature that FDLE or its designee cannot perform the testing; or
    - Will be significantly delayed because of state laboratory backlog.

If the forensic analysis ordered by the court includes DNA testing, and the resulting DNA sample meets statewide database submission requirements, FDLE must perform a DNA database search. A private laboratory ordered to conduct testing must cooperate with the prosecuting authority and FDLE to carry out the database search. The department must compare the submitted DNA profile to:

- DNA profiles of known offenders;
- DNA profiles from unsolved crimes; and
- Any local DNA databases maintained by a law enforcement agency in the judicial circuit where the petitioner was convicted.

The proposed bill authorizes FDLE to maintain DNA samples obtained from testing ordered under ss. 925.11 or 925.12, F.S., in the statewide database. If the testing conducted complies with FBI requirements and the data meets NDIS criteria, FDLE must request NDIS to search its database of DNA profiles using any profiles obtained from the court ordered testing. FDLE must provide the results of the forensic analysis and the results of any search of the national, statewide, and local DNA databases to the court, the petitioner, and the prosecuting authority. The petitioner and the state are authorized to use the information for any lawful purpose.

The proposed bill authorizes a court to order a governmental entity, last known to possess evidence reported to be lost or destroyed in violation of law, to conduct a search and produce a report detailing:

- The nature of the search conducted.
- The date the search was conducted.
- The results of the search.
- Any records showing the physical evidence was lost or destroyed.
- The signature of the person supervising the search, attesting to the report's accuracy.

The report must be provided to the court, the petitioner, and the prosecuting authority in the case.

The proposed bill provides an effective date of July 1, 2020.

B. SECTION DIRECTORY:

Section 1: Amending s. 925.11, F.S.; relating to postsentencing DNA testing.
Section 2: Amending s. 925.12, F.S.; relating to DNA testing; defendants entering pleas.
Section 3: Amending s. 943.325, F.S.; relating to DNA database.
Section 4: Amending s. 943.3251, F.S.; relating to postsentencing DNA testing.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   The proposed bill will likely have a negative indeterminate fiscal impact on state government. The bill may increase the amount of postsentencing forensic testing FDLE is ordered to perform thereby increasing state laboratories' workload. Additionally, if indigent defendants are successful in petitioning for postsentencing analysis, the state may be responsible for increased testing costs. However, since the proposed bill authorizes private laboratory testing, at the petitioner's expense, the degree to which state laboratories' workload and testing costs will increase is unknown.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   None. The proposed bill does not appear to affect county or municipal governments.

2. Other:

Matters of practice and procedure in the state courts are solely the province of the Florida Supreme Court and may not be exercised by the Legislature.[42] However, the Court's exclusive rulemaking

[42] *Military Park Fire Control Tax Dis. No 4 v. DeMarois*, 407 So. 2d 1020 (Fla. 4th DCA 1981).

power is limited to rules governing procedural matters and does not extend to substantive rights.[43] The proposed bill and Fla. R. Crim. P. 3.853 conflict regarding petition eligibility criteria and the required showing necessary to obtain a court order for private laboratory testing of physical evidence.

Where there is direct conflict between a statute and a court rule, the court must determine if the subject matter is procedural or substantive. Substantive law describes the duties and rights under our system of government and is the responsibility of the Legislature. Procedural law concerns the means or methods to enforce those duties and rights, and such authority is reserved to the judiciary.[44]

The proposed bill expanding eligibility to petition, which may be considered substantive, and does not revise procedural requirements relating to time limitations or the right to a rehearing or an appeal. The Florida Supreme Court has held that where the subject matter of a rule is substantive rather than procedural law, and where the statute and rule conflict, the rule must either be revoked or amended to conform to the statute.[45] To the extent the provisions of the proposed bill conflicting with Fla. R. Crim. P. 3.853 are substantive, the proposed bill may not violate separation of powers.

B. RULE-MAKING AUTHORITY:

FDLE has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

[43] *Boyd v. Becker*, 627 So. 2d 481 (Fla. 1993).
[44] *Benyard v. Wainwright*, 322 So.2d 473, 475 (Fla. 1975).
[45] *Id*.