

## HB 7077 - Postsentencing Forensic Analysis

This bill amends s. 925.11, F.S., defining “forensic analysis” 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. The term includes, but is not limited to, DNA (deoxyribonucleic acid) testing.” Additionally, it adds (in bold) that “a person who has **entered a plea of guilty or nolo contendere to a felony prior to July 1, 2020, or who has** been tried and found guilty of committing a felony and has been sentenced by a court established by the laws of this state may petition that court to order the **forensic analysis** of physical evidence collected at the time of the investigation of the crime for which he or she has been sentenced that **may result in evidence material to the identity of the perpetrator of, or accomplice to, the crime that resulted in the person's conviction.**” This language originally applied to someone tried and found guilty, and the physical evidence collected “may contain DNA (deoxyribonucleic acid) and...would exonerate that person or mitigate the sentence that person received.” Additionally, those who entered a plea of guilty or nolo contendere to a felony prior to July 1, 2006 were eligible under the original language. The bill also amends other parts of this statute to comply with the new language and further streamlines the process of examining DNA and checking relevant databases, as well as the process by which a governmental entity will go about searching for potentially missing or destroyed physical evidence. This bill also amends s. 925.12, F.S., explaining the circumstances under which a person who has entered a plea of guilty or nolo contendere can petition for postsentencing forensic analysis after July 1, 2020, matching what was originally in place for DNA testing, including “the facts on which the petition is predicated were unknown to the petitioner or the petitioner's attorney” or “the physical evidence for which forensic analysis is sought was not disclosed to the defense by the state” prior to when the plea was entered. Finally, forensic analysis replaces DNA for defendants seeking to enter a plea of guilty or nolo contendere on or after July 1, 2020, and “could exonerate the defendant” is replaced by physical evidence “if subjected to forensic analysis, could produce evidence material to the identification of the perpetrator of, or accomplice to, the crime” when regarding the court inquiring of the defendant and of counsel for both the defendant and the state as to the known existence of such evidence. Knowledge of such evidence could postpone the proceeding on the defendant's behalf.

Per Innocence Project of Florida, in CY 2019, there were four people released from prison, with three of those fully exonerated. It is not known how the expansion to forensic analysis in combination with petitions restricted to the requirement that analysis could identify a perpetrator or accomplice to a crime will impact future releases.

**CONFERENCE ADOPTED ESTIMATE: Negative Indeterminate**

**Requested by: House**