Advocates in South Florida push to implement new law that takes DNA upon felony arrests

By Jerome Burdi, Sun Sentinel

8:27 AM EDT, October 12, 2010

Beginning in January, state law will require felony suspects to submit DNA samples to police for inclusion in a national database. But there's no money to run the program.

Until now, the state collected DNA after felony convictions. But if police could take DNA at the time a suspect was arrested, state officials said, it might help identify repeat offenders quicker and help keep them from again committing serious crimes.

Florida is the 24th state to enact the law.

That's where Karen Foster comes in. A member of the Surviving Parents Coalition advocacy group, she sent proposals to the Broward and Palm Beach county commissions to urge them to find money to implement the DNA collections and also testified before Broward commissioners.

Officials in both counties still are trying to figure out how much the DNA-collection effort would cost. A single DNA profile costs about $40 to process, Foster said.

The law will allow DNA to be taken after major arrests on felony charges: murder, rape, assault and battery, and lewd and lascivious offenses. More felony charges will be added to the list until January 2019, when DNA from all felony arrests will be taken.

Foster, of Hillsboro Beach, was the mother of Bonnie Craig, an 18-year-old college student who was raped and murdered in 1994 in Anchorage, Alaska. In 2007, Alaska state troopers informed Foster that a DNA match finally provided a clue to the killer.

"I learned that he had been in prison two months before he killed her, out on parole when he killed her and back in jail two months after killing her," Foster said. "With DNA on all felony arrests, this crime could have been solved in months."

The American Civil Liberties Union is challenging the law in California. DNA is far more personal than a mugshot or fingerprints, said Michael Risher, an ACLU attorney in San Francisco. DNA is a person's genetic makeup and should be private, he said.

"The people arrested and never convicted tend to be innocent," he said. "It does nothing to solve crime, and adds to the [DNA lab] backlogs."
The Florida Department of Law Enforcement, which will oversee the DNA collection, said the new law will help reduce crime.

"The reality of the criminal justice system is that only about half of arrests result in successful prosecution. Often cases are dropped for reasons that have nothing to do with the guilt or innocence of the defendant," FDLE Commissioner Gerald Bailey said. "Using DNA samples collected at arrest will help solve unsolved crimes, and can help prevent criminals from committing additional crimes."

Last year, Broward County had 32,803 felony arrests, according to records; Palm Beach County had 17,966. Statewide, the FDLE estimated that of the 393,670 felony arrests annually, DNA would be collected from 135,244 suspects.

Broward commissioners are supportive of the effort and the county staff is developing a program and trying to find money for it, said Pete Corwin, assistant to the county administrator.

"The ideal situation is you would demonstrate that it's a wise investment," Corwin said. "You would have data that's effective and worth spending money on."

Palm Beach County has yet to formally address the issue.

The DNA samples should be used 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 law states.

However, Risher said, once an innocent person is in the DNA system, he or she will be more likely to be arrested again "because they happen to be at a crime scene."

There are abuses or mishaps that can happen with taking every felony suspect's DNA, but it is more likely that the practice will save people from becoming future victims, said Richard Mangan, a criminal justice professor at Florida Atlantic University.

"They're looking at it as a helix, then match it to what they find at a crime scene," Mangan said.

Foster points to a study by Jay Siegel — forensic and investigative science analytical and forensic chemistry chairman at Indiana University-Purdue University Indianapolis — that determined the DNA legislation can save the state $60 million a year by cutting back repeat offenders.

Indiana has yet to enact the law.

Besides helping to cut crime, advocates say, the new law will help exonerate the wrongly accused.

"Public safety in the 21st century is not just about solving crimes, it's about using technology to prevent them," Bailey said. "Adding felony arrestees [to a DNA database] will result in more crimes being solved, repeat offenders being taken off the street sooner, and lives literally being saved."
Staff researcher Barbara Hijek contributed to this report.

Jerome Burdi can be reached at jburdi@sunSentinel.com or 561-243-6531.

Get breaking news sent right to your inbox. Sign up for our Daily Newsletter at SunSentinel.com/joinus

Copyright © 2010, South Florida Sun-Sentinel