

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 Committee on Criminal Justice

BILL: CS/SB 350

INTRODUCER: Criminal Justice Committee and Senator Osgood and others

SUBJECT: Cold Case Murders

DATE: January 31, 2024

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Wyant | Stokes | CJ | Fav/CS |
| 2. | | | ACJ | |
| 3. | | | FP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 350 creates s. 782.41, F.S., to require law enforcement agencies to review certain cold cases upon receiving a written application from a designated person if the murder occurred on or after January 1, 1970. The bill provides definitions for terms used in this section such as “cold case,” “designated person,” and “probative lead.”

The bill provides criteria for the review of a cold case, and requires a law enforcement agency to conduct a full reinvestigation if the review concludes that a reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

The bill requires each law enforcement agency to develop a written application. The head of each law enforcement agency must adopt procedures by July 1, 2025. Law enforcement employees and officers must be trained on the procedures. The bill requires the law enforcement agency to issue a confirmation of receipt of the written application. A cold case that does not meet the specifications may be denied and a written explanation be given to the designated person.

A review must take place no later than 1 year after receipt of a written application but allows a one-time only 6 month extension if the law enforcement agency finds that the number of cases to review makes compliance with this time limit impracticable without diverting resources from other law enforcement activities.

The bill requires each law enforcement agency to submit a report by October 1, 2025, and at least quarterly thereafter to the Global Forensic and Justice Center at Florida International University. The bill requires the Global Forensic and Justice Center to establish and maintain a case tracking system and provides criteria for such system. The Global Forensic and Justice Center must include a list of resources for persons who have submitted an application which must include system-based and community-based cold case advocacy services.

The bill requires law enforcement agencies to coordinate a review or reinvestigation if more than one agency conducted the initial investigation of a cold case, and prohibits a full reinvestigation to be conducted solely by the person who previously investigated the murder. The bill provides limitations to reinvestigations.

The bill allows for a law enforcement agency to request, in writing, investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation.

The bill is titled the “Decker-Backmann Act.”

The bill may have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2025.

II. Present Situation:

Experience has shown that cold case programs can solve a substantial number of violent crime cold cases. Advances in DNA technologies have substantially increased the successful DNA analysis of aged, degraded, limited, or otherwise compromised biological evidence. As a result, crime scene samples once thought to be unsuitable for testing may now yield DNA profiles.¹

The Cold Case Advisory Commission, under the Florida Sheriff’s Association, meets quarterly to discuss strategies and hear cold case murder presentations from submitting law enforcement agencies. When cases are presented, advice regarding investigative steps and legal strategy may be offered to the case officer.²

The Commission is comprised of the following members:

- A Chair, who is a sheriff, appointed by the president;
- Two Vice-Chairs, who are sheriffs, appointed by the Chair;
- A medical examiner;
- A medical examiner investigator;
- A DNA scientist;
- 12 homicide investigators, crime scene techs, and other specialists;
- An assistant statewide prosecutor;

¹ See National Institute of Justice, *Cold Case Investigations*, available at <https://nij.ojp.gov/topics/law-enforcement/investigations/cold-case-investigations> (Last accessed January 25, 2024).

² See Florida Sheriff’s Associations, *Cold Case Advisory Commission*, available at <https://www.flsheriffs.org/law-enforcement-programs/cold-case-review-advisory-commission#:~:text=To%20respond%20to%20this%20need,from%20submitting%20law%20enforcement%20agencies> (Last accessed January 25, 2024.)

- A state attorney;
- A representative from the Attorney General’s Office;
- An FDLE Missing and Endangered Persons Information Clearinghouse representative;
- A Florida Department of Corrections representative;
- An FDLE Florida Fusion Center representative;
- A forensic anthropologist;
- A judge;
- A legal advisor;
- An FDLE Office of Statewide Intelligence representative; and
- A citizen.³

Currently there is no state-wide procedure in statute regarding cold cases.

III. Effect of Proposed Changes:

The bill creates s. 782.41, F.S., to require law enforcement agencies to review certain cold cases upon receiving a written application from a designated person if the murder occurred on or after January 1, 1970.

The bill provides definitions for cold case,⁴ designated person,⁵ immediate family member,⁶ law enforcement agency,⁷ murder,⁸ probative lead,⁹ and victim.¹⁰

The bill provides criteria for the review of a cold case. A law enforcement agency must conduct a full reinvestigation if the review concludes that a reinvestigation may result in previously unidentified probative leads or in the identification of a likely perpetrator.

A review must include:

- An analysis of any investigative procedures that may have been absent or missed in the initial investigation;
- An assessment of whether witnesses should be interviewed or reinterviewed;
- An examination of physical evidence to determine whether all appropriate forensic testing and analyses were performed in the initial investigation and whether additional testing might produce relevant information; and,

³ *Id.*

⁴ “Cold case” means a murder for which no likely perpetrator has been identified and was committed more than 5 years before the date of the application requesting a review submitted by a designated person, that was previously investigated by a law enforcement agency, and for which all probative leads have been exhausted.

⁵ “Designated person” means an immediate family member or an immediate family member’s designated legal representative, which representative must be a member in good standing of The Florida Bar.

⁶ “Immediate family member” means a parent, parent-in-law, grandparent, grandparent-in-law, sibling, spouse, child, or stepchild of a victim, or any person who exercised in loco parentis control over such victim younger than 18 years of age at the time of the murder.

⁷ “Law enforcement agency” means the law enforcement agency having jurisdiction at the time of the murder.

⁸ “Murder” means any criminal offense provided under s. 782.04, s. 782.071, or s. 782.072, F.S.

⁹ “Probative lead” means evidence that is sufficiently useful to prove an element of the crime and that was not identified or determined as part of the previous investigation by a law enforcement agency.

¹⁰ “Victim” means an individual who was murdered and whose case has been designated as a cold case.

- An update of the case file using the most current investigative standards, if such standards may help develop probative leads.

The bill prohibits a full reinvestigation to be conducted solely by the person who previously investigated the murder, and limits reinvestigations to only one full reinvestigation undertaken at any time with respect to the same victim. If a full reinvestigation is completed and a likely perpetrator is not identified, an additional review or full investigation is not required to be undertaken for a period of 5 years beginning from the date of the conclusion of the reinvestigation, unless materially significant evidence is discovered.

The bill requires each law enforcement agency to develop a written application. The head of each law enforcement agency must adopt procedures by July 1, 2025. The bill requires law enforcement employees and officers to be trained on the procedures.

The law enforcement agency must issue a confirmation of receipt of the written application.¹¹ A cold case that does not meet the specifications may be denied and a written explanation be given to the designated person.

The bill provides a review must take place no later than 1 year after receipt of a written application but allows a one-time only 6 month extension if the law enforcement agency finds that the number of cases to review makes compliance with this time limit impracticable without diverting resources from other law enforcement activities. If extended, the agency must provide notice and explanation of its reasoning for the extension to the designated person.

Each law enforcement agency must submit a report by October 1, 2025, and at least quarterly thereafter to the Global Forensic and Justice Center at Florida International University. The bill requires the Global Forensic and Justice Center to establish and maintain a case tracking system and provides criteria for such system. The Global Forensic and Justice Center must include a list of resources for persons who have submitted an application which must include system-based and community-based cold case advocacy services.

The bill requires law enforcement agencies to coordinate a review or reinvestigation if more than one agency conducted the initial investigation of a cold case.

The bill provides the operation of such is subject to the availability of funds specifically appropriated by the Legislature or other relevant political subdivision of this state.

The bill allows for a law enforcement agency to request, in writing, investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation.

The bill is titled the “Decker-Backmann Act.”

The bill is effective July 1, 2025.

¹¹ Confirmations must include a description of the process for submitting a complaint to, and contact information for, the law enforcement agency’s unit responsible for internal investigations involving allegations of misconduct.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Florida Department of Law Enforcement (FDLE) indicated additional positions and resources will be needed to comply with the new requirements of the bill. At a minimum, the forensic laboratory will be impacted for additional reviews for each case. FDLE has estimated an expenditure of \$4,195,924 (\$2,453,026 recurring funds).¹²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹² See FDLE, *2024 Legislative Bill Analysis SB 350*, (on file with the Senate committee on Criminal Justice).

VIII. Statutes Affected:

This bill creates section 782.41 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on January 30, 2024:

The committee substitute:

- Clarifies the definition of “law enforcement agency” is the agency having jurisdiction at the time of the murder.
- Removes a restriction for additional case reviews within 5 years of the last reinvestigation.
- Removes the requirement that a case that did not meet the criteria for a cold case be denied.
- Requires the Global Forensic and Justice Center to create and publish a list of resources for immediate family members or designated persons who have submitted an application, which must include system-based and community-based cold case advocacy services.
- Allows for a law enforcement agency to request, in writing, investigative assistance from the Department of Law Enforcement to complete a cold case review or reinvestigation.
- Removes language authorizing a medical examiner to issue a death certificate with a nonspecific cause of death and manner of murder if the medical examiner determines that the release of such information would not hinder the investigation.

- B. **Amendments:**

None.