

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3443/P2dn
MGD:cjs:km

December 8, 1999

Bill:

1. Please note that under *California v. Greenwood*, 486 U.S. 1, 43-44 (1988), a state's determination of what expectations of privacy are reasonable have little or no bearing on a court's determination of what expectations are reasonable under the Fourth Amendment to the United States constitution. Therefore, the draft does not and cannot affect courts' application of the Fourth Amendment to searches and seizures of garbage or trash.

2. Do you want to include a requirement that the trash bag be sealed or closed?

3. Under the bill, prosecutors will have discretion to proceed under s. 943.201 (2) if someone uses personal information derived from trash, provided the other requirements of that subsection (that the person obtain something of value without the other's consent and by representing that he or she is the subject of the personal information or is acting with that person's consent) are met. Given the higher penalty in s. 943.201 (2), I assume that this is okay.

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