

- s. 784.045, F.S. (aggravated battery);
- s. 812.133, F.S. (carjacking); or
- s. 812.135, F.S. (home-invasion robbery); and

2. Within the confines of the legal state boundaries.

A “person” under this section includes both juveniles and adults committed to or under the supervision of the Department of Corrections, the Department of Juvenile Justice or committed to a county jail.

The section requires the court to include in the judgment of conviction for an offense specified in the section, or a finding that a person, as described, violated a condition of probation, community control, or any other court ordered supervision, an order stating that blood specimens are required to be drawn by the appropriate agency in a manner consistent with the section. The section proceeds to prescribe the mechanism for payment of the blood specimens, and then provides that if the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the person to submit to the drawing of the blood specimens as a condition of the supervision. For the purpose of this convicted person, the collection requirement must be based upon a court order. If the judgment sentences the convicted person to time served, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of that sentence.

In *Carra v. State*, 736 So.2d 721 (Fla. 2d DCA 1999), the Second District Court of Appeal held that the collection requirement of s. 943.325, F.S., was not applicable to Carra. While noting that Carra had been “previously convicted,” and may have been compelled to deliver blood specimens if still incarcerated, Carra was not incarcerated when the State moved to compel Carra to submit to the taking of blood specimens, and therefore did not fall within the ambit of the statute.

The Florida Department of Law Enforcement (FDLE) is currently authorized, pursuant to s. 943.325, F.S., to collect DNA samples from offenders convicted of lewd act/indecency, murder, sexual assaults, aggravated battery, carjacking and home-invasion robbery. One of the reasons for adding the latter three offenses, is the correlation between those offenses and sexual assaults and other violent offenses. *See* Proceedings, National Commission on the Future of DNA Evidence (presentation by Mr. David Coffman, Supervisor, Florida DNA Investigative Support Database), May 7, 1999.

A review by FDLE of criminal histories of offenders matched to sexual assaults and homicides through the DNA database found that 52 percent committed burglaries before they committed sexual assaults and homicides.

III. Effect of Proposed Changes:

Senate Bill 838 removes the requirement that a person who is or has been previously convicted must still be incarcerated in order to be required to submit a blood specimen for DNA testing. Blood specimens can be obtained from a person who is or has been previously incarcerated if that person is either still incarcerated or no longer incarcerated but within the confines of the legal state boundaries.

In addition to a blood specimen collection pursuant to a court order, the specimen may be provided by the person in the absence of a court order. If a judgment fails to order the convicted person to submit to the drawing of a blood specimen, the state attorney may seek an amended order for this purpose, or alternatively, the Department of Corrections or any law enforcement agency may seek such order.

These provisions are in response to the *Carra* decision and would ensure that blood specimens can be taken while the offender is still under the supervision of the Department of Corrections, the Department of Juvenile Justice or the local sheriff (if serving a sentence in a county jail).

Burglary is added to the list of offenses for collection of blood specimens for DNA testing. This provision would provide FDLE with the ability to match those offenders who, early in their criminal career, commit a burglary, and later in their career progress to violent crimes and victimization.

The bill provides for an effective date of July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

There should be no impact on local law enforcement agencies and offenders beyond what is currently required by law.

C. Government Sector Impact:

Senate Bill 838 is the substantive companion to an issue in FDLE's budget request for \$2,142,742 from General Revenue to expand its DNA collections to include burglary. This request would authorize 2 scientists and additional equipment to meet the anticipated

increase in blood samples requiring analysis and entry into the DNA database, and is fully funded in the General Appropriations Bill proposed by the Committee on Budget.

Based on a unit cost of \$8.41 (half of the average RN/LPN hourly rate in the Department of Corrections), it is estimated that it would cost approximately \$200,000 annually to draw the additional blood samples for inmates and youth projected to be admitted for burglary to the Departments of Corrections and Juvenile Justice, respectively. Additionally, approximately \$200,000 would be necessary to collect samples from those currently incarcerated for burglary. To the extent these costs are not offset by authorized deductions from inmate bank accounts, the costs will be absorbed within current resources.

The cost of drawing and analyzing blood samples for persons not currently in the custody of or under the supervision of the Departments of Corrections or Juvenile Justice is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

#1 by Fiscal Policy:

Limits requirement to draw blood samples to those under court ordered or post-release supervision.

#2 by Fiscal Policy:

Deletes requirement for blood samples from those persons convicted of burglary but no longer incarcerated.