

1 A bill to be entitled
2 An act relating to law enforcement; amending s.
3 943.031, F.S.; renaming the Florida Violent
4 Crime Council as the Florida Violent Crime and
5 Drug Control Council; revising membership;
6 providing circumstances for additional
7 meetings; providing grants to law enforcement
8 agencies for certain investigations; providing
9 statutory limits on funding of investigative
10 efforts by the council; authorizing the Victim
11 and Witness Protection Review Committee to
12 conduct meetings by teleconference under
13 certain circumstances; amending s. 943.17,
14 F.S.; conforming a reference; amending s.
15 943.042, F.S.; renaming the Violent Crime
16 Emergency Account as the Violent Crime
17 Investigative Emergency and Drug Control
18 Strategy Implementation Account; revising
19 provisions relating to use of emergency
20 supplemental funds; clarifying limits on
21 disbursement of funds for certain purposes;
22 requiring the Department of Law Enforcement to
23 adopt rules pertaining to certain
24 investigations; requiring reports by recipient
25 agencies; providing circumstances for
26 limitation or termination of funding or return
27 of funds by recipient agencies; amending s.
28 943.0585, F.S., relating to court-ordered
29 expunction of certain criminal history records;
30 adding sexual offenses that require an offender
31 to register with the state to the list of

1 excluded offenses; amending s. 943.059, F.S.,
2 relating to court-ordered sealing of certain
3 criminal history records; adding offenses
4 relating to sexual offenses that require an
5 offender to register with the state to the list
6 of excluded offenses; amending s. 943.325,
7 F.S.; permitting collection of approved
8 biological specimens other than blood for
9 purposes of DNA testing; permitting collection
10 of specimens from certain persons who have
11 never been incarcerated; limiting liability;
12 authorizing use of force to collect specimens
13 under certain circumstances; amending s.
14 760.40, F.S., to conform to changes made by s.
15 943.325, F.S.; amending ss. 938.01 and 943.25,
16 F.S., relating to the Court Cost Clearing Trust
17 Fund and criminal justice trust funds;
18 preserving certain funding functions scheduled
19 for repeal on July 1, 2001; transferring the
20 Criminal Justice Program from the Department of
21 Community Affairs to the Department of Law
22 Enforcement; providing for adoption of rules;
23 providing an effective date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Section 943.031, Florida Statutes, is
28 amended to read:

29 943.031 Florida Violent Crime and Drug Control
30 Council.--The Legislature finds that there is a need to
31 develop and implement a statewide strategy to address violent

1 criminal activity and drug control efforts by state and local
2 law enforcement agencies, including investigations of illicit
3 money laundering. In recognition of this need, the Florida
4 Violent Crime and Drug Control Council is created within the
5 department. The council shall serve in an advisory capacity to
6 the department.

7 (1) MEMBERSHIP.--The council shall consist of 14 ~~12~~
8 members, as follows:

9 (a) The Attorney General or a designate.

10 (b) A designate of the executive director of the
11 Department of Law Enforcement.

12 (c) The secretary of the Department of Corrections or
13 a designate.

14 (d) The Secretary of Juvenile Justice or a designate.

15 (e) The Commissioner of Education or a designate.

16 (f) The president of the Florida Network of
17 Victim/Witness Services, Inc., or a designate.

18 (g) The director of the Office of Drug Control within
19 the Executive Office of the Governor, or a designate.

20 (h) The Comptroller, or a designate.

21 (i)~~(g)~~ Six members appointed by the Governor,
22 consisting of two sheriffs, two chiefs of police, one medical
23 examiner, and one state attorney or their designees.

24
25 The Governor, when making appointments under this subsection,
26 must take into consideration representation by geography,
27 population, ethnicity, and other relevant factors to ensure
28 that the membership of the council is representative of the
29 state at large. Designates appearing on behalf of a council
30 member who is unable to attend a meeting of the council are
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1 empowered to vote on issues before the council to the same
2 extent the designating council member is so empowered.

3 (2) TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;
4 STAFF.--

5 (a) Members appointed by the Governor shall be
6 appointed for terms of 2 years. The other members are standing
7 members of the council. In no event shall a member serve
8 beyond the time he or she ceases to hold the office or
9 employment which was the basis for appointment to the council.
10 In the event of a vacancy, an appointment to fill the vacancy
11 shall be only for the unexpired term.

12 (b) The Legislature finds that the council serves a
13 legitimate state, county, and municipal purpose and that
14 service on the council is consistent with a member's principal
15 service in a public office or employment. Membership on the
16 council does not disqualify a member from holding any other
17 public office or being employed by a public entity, except
18 that no member of the Legislature shall serve on the council.

19 (c) The members of the council shall elect a chair and
20 a vice chair every 2 years, to serve for a 2-year term. As
21 deemed appropriate, other officers may be elected by the
22 members.

23 (d) Members of the council or their designees shall
24 serve without compensation but are entitled to reimbursement
25 for per diem and travel expenses pursuant to s. 112.061.
26 Reimbursements made pursuant to this paragraph ~~may~~ shall be
27 paid from either the Violent Crime Investigative Emergency and
28 Drug Control Strategy Implementation Account within the
29 Department of Law Enforcement Operating Trust Fund or from
30 other appropriations provided to the department by the
31 Legislature in the General Appropriations Act.

1 (e) The department shall provide the council with
2 staff necessary to assist the council in the performance of
3 its duties.

4 (3) MEETINGS.--The council must meet at least
5 semiannually. Additional meetings may be held when it is
6 determined ~~deemed appropriate~~ by the chair that extraordinary
7 circumstances require an additional meeting of the council ~~or~~
8 ~~a majority of the council members~~. A majority of the members
9 of the council constitutes a quorum.

10 (4) DUTIES OF COUNCIL.--The council shall provide
11 advice and make recommendations, as necessary, to the
12 executive director of the department.

13 (a) The council may advise the executive director on
14 the feasibility of undertaking initiatives which include, but
15 are not limited to, the following:

16 1. Establishing a program which provides grants to
17 criminal justice agencies that develop and implement effective
18 violent crime prevention and investigative programs and which
19 provides grants to law enforcement agencies for the purpose of
20 drug control and illicit money laundering investigative
21 efforts or task force efforts that are determined by the
22 council to significantly contribute to achieving the state's
23 goal of reducing drug-related crime as articulated by the
24 Office of Drug Control, that represent a significant illicit
25 money laundering investigative effort, or that otherwise
26 significantly support statewide strategies developed by the
27 Statewide Drug Policy Advisory Council established under s.
28 397.333, subject to the limitations provided in this section.
29 The grant program may ~~shall~~ include an innovations grant
30 program to provide startup funding for new initiatives by
31 local and state law enforcement agencies to combat violent

1 crime or to implement drug control or illicit money laundering
2 investigative efforts or task force efforts by law enforcement
3 agencies, including, but not limited to, initiatives such as:
4 a. Providing ~~Provision of~~ enhanced community-oriented
5 policing.
6 b. Providing ~~Provision of~~ additional undercover
7 officers and other investigative officers to assist with
8 violent crime investigations in emergency situations.
9 c. Providing funding for multiagency or statewide drug
10 control or illicit money laundering investigative efforts or
11 task force efforts that cannot be reasonably funded completely
12 by alternative sources and that significantly contribute to
13 achieving the state's goal of reducing drug-related crime as
14 articulated by the Office of Drug Control, that represent a
15 significant illicit money laundering investigative effort, or
16 that otherwise significantly support statewide strategies
17 developed by the Statewide Drug Policy Advisory Council
18 established under s. 397.333.
19 ~~2. Creating a criminal justice research and behavioral~~
20 ~~science center. The center shall provide key support to local~~
21 ~~law enforcement agencies undertaking unique or emergency~~
22 ~~violent crime investigations, including the mobilization of~~
23 ~~special task forces to directly target violent crime in~~
24 ~~specific areas.~~
25 ~~2.3.~~ Expanding the use of automated fingerprint
26 identification systems at the state and local level.
27 ~~3.4.~~ Identifying methods to prevent violent crime.
28 4. Identifying methods to enhance multiagency or
29 statewide drug control or illicit money laundering
30 investigative efforts or task force efforts that significantly
31 contribute to achieving the state's goal of reducing

1 drug-related crime as articulated by the Office of Drug
2 Control, that represent a significant illicit money laundering
3 investigative effort, or that otherwise significantly support
4 statewide strategies developed by the Statewide Drug Policy
5 Advisory Council established under s. 397.333.

6 5. Enhancing criminal justice training programs which
7 address violent crime, drug control, or illicit money
8 laundering investigative techniques or efforts.

9 6. Developing and promoting crime prevention services
10 and educational programs that serve the public, including, but
11 not limited to:

12 a. Enhanced victim and witness counseling services
13 that also provide crisis intervention, information referral,
14 transportation, and emergency financial assistance.

15 b. A well-publicized rewards program for the
16 apprehension and conviction of criminals who perpetrate
17 violent crimes.

18 7. Enhancing information sharing and assistance in the
19 criminal justice community by expanding the use of community
20 partnerships and community policing programs. Such expansion
21 may include the use of civilian employees or volunteers to
22 relieve law enforcement officers of clerical work in order to
23 enable the officers to concentrate on street visibility within
24 the community.

25 (b) ~~Additionally,~~The council shall:

26 1. Receive periodic reports from ~~Advise the executive~~
27 ~~director on the creation of~~ regional violent crime
28 investigation and statewide drug control strategy
29 implementation coordinating teams which relate to violent
30 crime trends or the investigative needs or successes in the
31 regions, factors and trends relevant to the implementation of

1 the statewide drug strategy, and the results of drug control
2 and illicit money laundering investigative efforts funded in
3 part by the council.

4 2. Maintain and utilize ~~Develop~~ criteria for the
5 disbursement of funds from the Violent Crime Investigative
6 Emergency and Drug Control Strategy Implementation Account
7 within the Department of Law Enforcement Operating Trust Fund
8 or other appropriations provided to the Department of Law
9 Enforcement by the Legislature in the General Appropriations
10 Act. The criteria shall allow for the advancement of funds as
11 approved by the council. Funds available in the Violent Crime
12 Investigative Emergency and Drug Control Strategy
13 Implementation Account within the Department of Law
14 Enforcement Operating Trust Fund shall be earmarked for use to
15 the extent that funds are not available from other
16 appropriations provided by the Legislature to the department.

17 3. Review and approve all requests for disbursement of
18 funds from the Violent Crime Investigative Emergency and Drug
19 Control Strategy Implementation Account within the Department
20 of Law Enforcement Operating Trust Fund and from other
21 appropriations provided to the department by the Legislature
22 in the General Appropriations Act. An expedited approval
23 procedure shall be established for rapid disbursement of funds
24 in violent crime emergency situations.

25 4. ~~Advise the executive director on the development of~~
26 ~~a statewide violent crime information system.~~

27 (5) REPORTS.--The council shall report annually on its
28 activities, on or before December 30 of each calendar year, to
29 the executive director, the President of the Senate, the
30 Speaker of the House of Representatives, and the chairs of the
31 Senate and House committees having principal jurisdiction over

1 ~~criminal law chairs of the Committees on Criminal Justice in~~
2 ~~both chambers. Comments and responses of the executive~~
3 ~~director to the report are to be included must respond to the~~
4 ~~annual report and any other recommendations of the council in~~
5 ~~writing. All written responses must be forwarded to the~~
6 ~~council members, the President of the Senate, the Speaker of~~
7 ~~the House of Representatives, and the chairs of the Committees~~
8 ~~on Criminal Justice in both chambers.~~

9 (6) VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.--

10 (a) The Victim and Witness Protection Review Committee
11 is created within the Florida Violent Crime and Drug Control
12 Council, consisting of the statewide prosecutor or a state
13 attorney, a sheriff, a chief of police, and the designee of
14 the executive director of the Department of Law Enforcement.
15 The committee shall be appointed from the membership of the
16 council by the chair of the council after the chair has
17 consulted with the executive director of the Department of Law
18 Enforcement. Committee members shall meet in conjunction with
19 the meetings of the council.

20 (b) The committee shall:

21 1. Maintain and utilize ~~Develop~~ criteria for
22 disbursing funds to reimburse law enforcement agencies for
23 costs associated with providing victim and witness protective
24 or temporary relocation services.

25 2. Review and approve or deny, in whole or in part,
26 all reimbursement requests submitted by law enforcement
27 agencies.

28 (c) The lead law enforcement agency providing victim
29 or witness protective or temporary relocation services
30 pursuant to the provisions of s. 914.25 may submit a request
31 for reimbursement to the Victim and Witness Protection Review

1 Committee in a format approved by the committee. The lead law
2 enforcement agency shall submit such reimbursement request on
3 behalf of all law enforcement agencies that cooperated in
4 providing protective or temporary relocation services related
5 to a particular criminal investigation or prosecution. As part
6 of the reimbursement request, the lead law enforcement agency
7 must indicate how any reimbursement proceeds will be
8 distributed among the agencies that provided protective or
9 temporary relocation services.

10 (d) The committee, in its discretion, may use funds
11 available to the committee to provide all or partial
12 reimbursement to the lead law enforcement agency for such
13 costs, or may decline to provide any reimbursement.

14 (e) The committee may conduct its meeting by
15 teleconference or conference phone calls when the chair of the
16 committee finds that the need for reimbursement is such that
17 delaying until the next scheduled council meeting will
18 adversely affect the requesting agency's ability to provide
19 the protection services.

20 (7) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL
21 MEETINGS AND RECORDS.--

22 (a)1. The Legislature finds that during limited
23 portions of the meetings of the Florida Violent Crime and Drug
24 Control Council it is necessary that the council be presented
25 with and discuss details, information, and documents related
26 to active criminal investigations or matters constituting
27 active criminal intelligence, as those concepts are defined by
28 s. 119.011. These presentations and discussions are necessary
29 for the council to make its funding decisions as required by
30 the Legislature. The Legislature finds that to reveal the
31 contents of documents containing active criminal investigative

1 or intelligence information or to allow active criminal
2 investigative or active criminal intelligence matters to be
3 discussed in a meeting open to the public negatively impacts
4 the ability of law enforcement agencies to efficiently
5 continue their investigative or intelligence gathering
6 activities. The Legislature finds that information coming
7 before the council that pertains to active criminal
8 investigations or intelligence should remain confidential and
9 exempt from public disclosure. The Legislature finds that the
10 Florida Violent Crime and Drug Control Council may, by
11 declaring only those portions of council meetings in which
12 active criminal investigative or active criminal intelligence
13 information is to be presented or discussed closed to the
14 public, assure an appropriate balance between the policy of
15 this state that meetings be public and the policy of this
16 state to facilitate efficient law enforcement efforts.

17 2. The Legislature finds that it is a public necessity
18 that portions of the meetings of the Florida Violent Crime and
19 Drug Control Council be closed when the confidential details,
20 information, and documents related to active criminal
21 investigations or matters constituting active criminal
22 intelligence are discussed. The Legislature further finds that
23 it is no less a public necessity that portions of public
24 records generated at closed council meetings, such as tape
25 recordings, minutes, and notes, memorializing the discussions
26 regarding such confidential details, information, and
27 documents related to active criminal investigations or matters
28 constituting active criminal intelligence, also shall be held
29 confidential.

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1 (b) The Florida Violent Crime and Drug Control Council
2 shall be considered a "criminal justice agency" within the
3 definition of s. 119.011(4).

4 (c)1. The Florida Violent Crime and Drug Control
5 Council may close portions of meetings during which the
6 council will hear or discuss active criminal investigative
7 information or active criminal intelligence information, and
8 such portions of meetings shall be exempt from the provisions
9 of s. 286.011 and s. 24(b), Art. I of the State Constitution,
10 provided that the following conditions are met:

11 a. The chair of the council shall advise the council
12 at a public meeting that, in connection with the performance
13 of a council duty, it is necessary that the council hear or
14 discuss active criminal investigative information or active
15 criminal intelligence information.

16 b. The chair's declaration of necessity for closure
17 and the specific reasons for such necessity shall be stated in
18 writing in a document that shall be a public record and shall
19 be filed with the official records of the council.

20 c. The entire closed session shall be recorded. The
21 recording shall include the times of commencement and
22 termination of the closed session, all discussion and
23 proceedings, and the names of all persons present. No portion
24 of the session shall be off the record. Such recording shall
25 be maintained by the council, and is exempt from the
26 provisions of s. 119.07(1) and s. 24(a), Art. I of the State
27 Constitution until such time as the criminal investigative
28 information or criminal intelligence information that
29 justifies closure ceases to be active, at which time the
30 portion of the record related to the no longer active
31

1 information or intelligence shall be open for public
2 inspection and copying.

3

4 The exemption in this paragraph is subject to the Open
5 Government Sunset Review Act of 1995 in accordance with s.
6 119.15 and shall stand repealed on October 2, 2002, unless
7 reviewed and saved from repeal through reenactment by the
8 Legislature.

9 2. Only members of the council, Department of Law
10 Enforcement staff supporting the council's function, and other
11 persons whose presence has been authorized by chair of the
12 council shall be allowed to attend the exempted portions of
13 the council meetings. The council shall assure that any
14 closure of its meetings as authorized by this section is
15 limited so that the general policy of this state in favor of
16 public meetings is maintained.

17 (d) Those portions of any public record, such as a
18 tape recording, minutes, and notes, generated during that
19 portion of a Florida Violent Crime and Drug Control Council
20 meeting which is closed to the public pursuant to this
21 section, which contain information relating to active criminal
22 investigations or matters constituting active criminal
23 intelligence, are confidential and exempt from the provisions
24 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
25 until such criminal investigative information or criminal
26 intelligence information ceases to be active. The exemptions
27 in this paragraph are subject to the Open Government Sunset
28 Review Act of 1995 in accordance with s. 119.15 and shall
29 stand repealed on October 2, 2002, unless reviewed and saved
30 from repeal through reenactment by the Legislature.

31

1 Section 2. Subsection (5) of section 943.17, Florida
2 Statutes, is amended to read:

3 943.17 Basic recruit, advanced, and career development
4 training programs; participation; cost; evaluation.--The
5 commission shall, by rule, design, implement, maintain,
6 evaluate, and revise job-related curricula and performance
7 standards for basic recruit, advanced, and career development
8 training programs and courses. The rules shall include, but
9 are not limited to, a methodology to assess relevance of the
10 subject matter to the job, student performance, and instructor
11 competency.

12 (5) The commission, in consultation with the Florida
13 Violent Crime and Drug Control Council, shall establish
14 standards for basic and advanced training programs for law
15 enforcement officers in the subjects of investigating and
16 preventing violent crime. After January 1, 1995, every basic
17 skills course required in order for law enforcement officers
18 to obtain initial certification must include training on
19 violent crime prevention and investigations.

20 Section 3. Section 943.042, Florida Statutes, is
21 amended to read:

22 943.042 Violent Crime Investigative Emergency and Drug
23 Control Strategy Implementation Account within the Department
24 of Law Enforcement Operating Trust Fund.--

25 (1) There is created a Violent Crime Investigative
26 Emergency and Drug Control Strategy Implementation Account
27 within the Department of Law Enforcement Operating Trust Fund.
28 The account shall be used to provide emergency supplemental
29 funds to:

30 (a) State and local law enforcement agencies which are
31 involved in complex and lengthy violent crime investigations,

1 or matching funding to multiagency or statewide drug control
2 or illicit money laundering investigative efforts or task
3 force efforts that significantly contribute to achieving the
4 state's goal of reducing drug-related crime as articulated by
5 the Office of Drug Control, that represent a significant
6 illicit money laundering investigative effort, or that
7 otherwise significantly support statewide strategies developed
8 by the Statewide Drug Policy Advisory Council established
9 under s. 397.333;

10 (b) State and local law enforcement agencies which are
11 involved in violent crime investigations which constitute a
12 significant emergency within the state; or

13 (c) Counties which demonstrate a significant hardship
14 or an inability to cover extraordinary expenses associated
15 with a violent crime trial.

16 (2) In consultation with the Florida Violent Crime and
17 Drug Control Council, the department must maintain ~~promulgate~~
18 rules which, at minimum, address the following:

19 (a) Criteria for determining what constitutes a
20 complex and lengthy violent crime investigation for the
21 purpose of this section.

22 (b) Criteria for determining those violent crime
23 investigations which constitute a significant emergency within
24 the state for the purpose of this section.

25 (c) Criteria for determining the circumstances under
26 which counties may receive emergency supplemental funds for
27 extraordinary expenses associated with a violent crime trial
28 under this section.

29 (d) Guidelines which establish a \$100,000 maximum
30 limit ~~limits~~ on the amount that may be disbursed on a single
31 investigation and a \$200,000 maximum limit on funds that may

1 be provided to a single agency during the agency's fiscal
2 year.

3 (e) Procedures for law enforcement agencies to use
4 when applying for funds, including certification by the head
5 of the agency that a request complies with the requirements
6 established by the council.

7 (f) Annual evaluation and audit of the trust fund.

8 (3) With regard to the funding of drug control or
9 illicit money laundering investigative efforts or task force
10 efforts, the department shall adopt rules which, at a minimum,
11 address the following:

12 (a) Criteria for determining what constitutes a
13 multiagency or statewide drug control or illicit money
14 laundering investigative effort or task force effort eligible
15 to seek funding under this section.

16 (b) Criteria for determining whether a multiagency or
17 statewide investigation or task force effort significantly
18 contributes to achieving the state's goals and strategies.

19 (c) Limitations upon the amount that may be disbursed
20 yearly to a single multiagency or statewide drug control or
21 illicit money laundering investigation or task force effort.

22 (d) Procedures to utilize when applying for funds,
23 including a required designation of the amount of matching
24 funds being provided by the task force or participating
25 agencies and a signed commitment by the head of each agency
26 seeking funds that funds so designated will be utilized as
27 represented if council funding is provided.

28 (e) Requirements to expend funds provided by the
29 council in the manner authorized by the council, and a method
30 of accounting for the receipt, use, and disbursement of any
31 funds expended in drug control or illicit money laundering

1 investigative efforts or task force efforts funded in part
2 under the authority of this section.

3 (f) Requirements for reporting by recipient agencies
4 on the performance and accomplishments secured by the
5 investigative or task force efforts, including a requirement
6 that the reports demonstrate how the state's drug control
7 goals and strategies have been promoted by the efforts, and
8 how other investigative goals have been met, including arrests
9 made by such efforts, results of prosecutions based on such
10 arrests, impact upon organized criminal enterprise structures
11 by reason of such efforts, property or currency seizures made,
12 illicit money laundering operations disrupted or otherwise
13 impacted, forfeiture of assets by reason of such efforts, and
14 anticipated or actual utilization of assets received by reason
15 of a forfeiture based in whole or in part upon an
16 investigation funded in whole or in part by council funds.

17 (4)(3)(a) Except as permitted in this section, a
18 disbursement from for the Violent Crime Investigative
19 Emergency and Drug Control Strategy Implementation Account
20 shall not be used to supplant existing appropriations of state
21 and local law enforcement agencies and counties or to
22 otherwise fund expenditures that are ordinary or reasonably
23 predictable for the operation of a state or local law
24 enforcement agency.

25 (b) The moneys placed in the account shall consist of
26 appropriations from the Legislature or moneys received from
27 any other public or private source. Any local law enforcement
28 agency that acquires funds pursuant to the Florida Contraband
29 Forfeiture Act or any other forfeiture action is authorized to
30 donate a portion of such funds to the account.

31

1 (c) Upon a finding by a majority of the members of the
2 council, any unexcused failure by recipient agencies or task
3 forces to utilize funds in the manner authorized by this
4 section and the Florida Violent Crime and Drug Control
5 Council, or to timely provide required accounting records,
6 reports, or other information requested by the council or by
7 the department related to funding requested or provided,
8 shall:

9 1. Constitute a basis for a demand by the council for
10 the immediate return of all or any portion of funds previously
11 provided to the recipient by the council; and

12 2. Result in termination or limitation of any pending
13 funding by the council under this section,

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15 and may, upon specific direction of a majority of the council,
16 result in disqualification of the involved agencies or task
17 forces from consideration for additional or future funding for
18 investigative efforts as described in this section for a
19 period of not more than 2 years following the council's
20 action. The council, through the department, is authorized to
21 pursue any collection remedies necessary if a recipient agency
22 fails to return funds as demanded.

23 Section 4. Section 943.0585, Florida Statutes, is
24 amended to read:

25 943.0585 Court-ordered expunction of criminal history
26 records.--The courts of this state have jurisdiction over
27 their own procedures, including the maintenance, expunction,
28 and correction of judicial records containing criminal history
29 information to the extent such procedures are not inconsistent
30 with the conditions, responsibilities, and duties established
31 by this section. Any court of competent jurisdiction may order

1 a criminal justice agency to expunge the criminal history
2 record of a minor or an adult who complies with the
3 requirements of this section. The court shall not order a
4 criminal justice agency to expunge a criminal history record
5 until the person seeking to expunge a criminal history record
6 has applied for and received a certificate of eligibility for
7 expunction pursuant to subsection (2). A criminal history
8 record that relates to a violation of s. 787.025, chapter 794,
9 s. 796.03, s. 800.04, s. 817.034, s. 825.1025, s. 827.071,
10 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s.
11 893.135, or a violation enumerated in s. 907.041 may not be
12 expunged, without regard to whether adjudication was withheld,
13 if the defendant was found guilty of or pled guilty or nolo
14 contendere to the offense, or if the defendant, as a minor,
15 was found to have committed, or pled guilty or nolo contendere
16 to committing, the offense as a delinquent act. The court may
17 only order expunction of a criminal history record pertaining
18 to one arrest or one incident of alleged criminal activity,
19 except as provided in this section. The court may, at its sole
20 discretion, order the expunction of a criminal history record
21 pertaining to more than one arrest if the additional arrests
22 directly relate to the original arrest. If the court intends
23 to order the expunction of records pertaining to such
24 additional arrests, such intent must be specified in the
25 order. A criminal justice agency may not expunge any record
26 pertaining to such additional arrests if the order to expunge
27 does not articulate the intention of the court to expunge a
28 record pertaining to more than one arrest. This section does
29 not prevent the court from ordering the expunction of only a
30 portion of a criminal history record pertaining to one arrest
31 or one incident of alleged criminal activity. Notwithstanding

1 any law to the contrary, a criminal justice agency may comply
2 with laws, court orders, and official requests of other
3 jurisdictions relating to expunction, correction, or
4 confidential handling of criminal history records or
5 information derived therefrom. This section does not confer
6 any right to the expunction of any criminal history record,
7 and any request for expunction of a criminal history record
8 may be denied at the sole discretion of the court.

9 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY
10 RECORD.--Each petition to a court to expunge a criminal
11 history record is complete only when accompanied by:

12 (a) A certificate of eligibility for expunction issued
13 by the department pursuant to subsection (2).

14 (b) The petitioner's sworn statement attesting that
15 the petitioner:

16 1. Has never, prior to the date on which the petition
17 is filed, been adjudicated guilty of a criminal offense or
18 comparable ordinance violation or adjudicated delinquent for
19 committing a felony or a misdemeanor specified in s.
20 943.051(3)(b).

21 2. Has not been adjudicated guilty of, or adjudicated
22 delinquent for committing, any of the acts stemming from the
23 arrest or alleged criminal activity to which the petition
24 pertains.

25 3. Has never secured a prior sealing or expunction of
26 a criminal history record under this section, former s.
27 893.14, former s. 901.33, or former s. 943.058, or from any
28 jurisdiction outside the state.

29 4. Is eligible for such an expunction to the best of
30 his or her knowledge or belief and does not have any other
31

1 petition to expunge or any petition to seal pending before any
2 court.

3

4 Any person who knowingly provides false information on such
5 sworn statement to the court commits a felony of the third
6 degree, punishable as provided in s. 775.082, s. 775.083, or
7 s. 775.084.

8 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.--Prior
9 to petitioning the court to expunge a criminal history record,
10 a person seeking to expunge a criminal history record shall
11 apply to the department for a certificate of eligibility for
12 expunction. The department shall, by rule adopted pursuant to
13 chapter 120, establish procedures pertaining to the
14 application for and issuance of certificates of eligibility
15 for expunction. The department shall issue a certificate of
16 eligibility for expunction to a person who is the subject of a
17 criminal history record if that person:

18 (a) Has obtained, and submitted to the department, a
19 written, certified statement from the appropriate state
20 attorney or statewide prosecutor which indicates:

21 1. That an indictment, information, or other charging
22 document was not filed or issued in the case.

23 2. That an indictment, information, or other charging
24 document, if filed or issued in the case, was dismissed or
25 nolle prosequi by the state attorney or statewide prosecutor,
26 or was dismissed by a court of competent jurisdiction.

27 3. That the criminal history record does not relate to
28 a violation of s. 787.025, chapter 794, s. 796.03, s. 800.04,
29 s. 817.034, s. 825.1025, s. 827.071, chapter 839, s. 847.0133,
30 s. 847.0135, s. 847.0145, s. 893.135, or a violation
31 enumerated in s. 907.041, where the defendant was found guilty

1 of, or pled guilty or nolo contendere to any such offense, or
2 that the defendant, as a minor, was found to have committed,
3 or pled guilty or nolo contendere to committing, such an
4 offense as a delinquent act, without regard to whether
5 adjudication was withheld.

6 (b) Remits a \$75 processing fee to the department for
7 placement in the Department of Law Enforcement Operating Trust
8 Fund, unless such fee is waived by the executive director.

9 (c) Has submitted to the department a certified copy
10 of the disposition of the charge to which the petition to
11 expunge pertains.

12 (d) Has never, prior to the date on which the
13 application for a certificate of eligibility is filed, been
14 adjudicated guilty of a criminal offense or comparable
15 ordinance violation or adjudicated delinquent for committing a
16 felony or a misdemeanor specified in s. 943.051(3)(b).

17 (e) Has not been adjudicated guilty of, or adjudicated
18 delinquent for committing, any of the acts stemming from the
19 arrest or alleged criminal activity to which the petition to
20 expunge pertains.

21 (f) Has never secured a prior sealing or expunction of
22 a criminal history record under this section, former s.
23 893.14, former s. 901.33, or former s. 943.058.

24 (g) Is no longer under court supervision applicable to
25 the disposition of the arrest or alleged criminal activity to
26 which the petition to expunge pertains.

27 (h) Is not required to wait a minimum of 10 years
28 prior to being eligible for an expunction of such records
29 because all charges related to the arrest or criminal activity
30 to which the petition to expunge pertains were dismissed prior
31 to trial, adjudication, or the withholding of adjudication.

1 Otherwise, such criminal history record must be sealed under
2 this section, former s. 893.14, former s. 901.33, or former s.
3 943.058 for at least 10 years before such record is eligible
4 for expunction.

5 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.--

6 (a) In judicial proceedings under this section, a copy
7 of the completed petition to expunge shall be served upon the
8 appropriate state attorney or the statewide prosecutor and
9 upon the arresting agency; however, it is not necessary to
10 make any agency other than the state a party. The appropriate
11 state attorney or the statewide prosecutor and the arresting
12 agency may respond to the court regarding the completed
13 petition to expunge.

14 (b) If relief is granted by the court, the clerk of
15 the court shall certify copies of the order to the appropriate
16 state attorney or the statewide prosecutor and the arresting
17 agency. The arresting agency is responsible for forwarding the
18 order to any other agency to which the arresting agency
19 disseminated the criminal history record information to which
20 the order pertains. The department shall forward the order to
21 expunge to the Federal Bureau of Investigation. The clerk of
22 the court shall certify a copy of the order to any other
23 agency which the records of the court reflect has received the
24 criminal history record from the court.

25 (c) For an order to expunge entered by a court prior
26 to July 1, 1992, the department shall notify the appropriate
27 state attorney or statewide prosecutor of an order to expunge
28 which is contrary to law because the person who is the subject
29 of the record has previously been convicted of a crime or
30 comparable ordinance violation or has had a prior criminal
31 history record sealed or expunged. Upon receipt of such

1 notice, the appropriate state attorney or statewide prosecutor
2 shall take action, within 60 days, to correct the record and
3 petition the court to void the order to expunge. The
4 department shall seal the record until such time as the order
5 is voided by the court.

6 (d) On or after July 1, 1992, the department or any
7 other criminal justice agency is not required to act on an
8 order to expunge entered by a court when such order does not
9 comply with the requirements of this section. Upon receipt of
10 such an order, the department must notify the issuing court,
11 the appropriate state attorney or statewide prosecutor, the
12 petitioner or the petitioner's attorney, and the arresting
13 agency of the reason for noncompliance. The appropriate state
14 attorney or statewide prosecutor shall take action within 60
15 days to correct the record and petition the court to void the
16 order. No cause of action, including contempt of court, shall
17 arise against any criminal justice agency for failure to
18 comply with an order to expunge when the petitioner for such
19 order failed to obtain the certificate of eligibility as
20 required by this section or such order does not otherwise
21 comply with the requirements of this section.

22 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
23 criminal history record of a minor or an adult which is
24 ordered expunged by a court of competent jurisdiction pursuant
25 to this section must be physically destroyed or obliterated by
26 any criminal justice agency having custody of such record;
27 except that any criminal history record in the custody of the
28 department must be retained in all cases. A criminal history
29 record ordered expunged that is retained by the department is
30 confidential and exempt from the provisions of s. 119.07(1)
31 and s. 24(a), Art. I of the State Constitution and not

1 available to any person or entity except upon order of a court
2 of competent jurisdiction. A criminal justice agency may
3 retain a notation indicating compliance with an order to
4 expunge.

5 (a) The person who is the subject of a criminal
6 history record that is expunged under this section or under
7 other provisions of law, including former s. 893.14, former s.
8 901.33, and former s. 943.058, may lawfully deny or fail to
9 acknowledge the arrests covered by the expunged record, except
10 when the subject of the record:

11 1. Is a candidate for employment with a criminal
12 justice agency;

13 2. Is a defendant in a criminal prosecution;

14 3. Concurrently or subsequently petitions for relief
15 under this section or s. 943.059;

16 4. Is a candidate for admission to The Florida Bar;

17 5. Is seeking to be employed or licensed by or to
18 contract with the Department of Children and Family Services
19 or the Department of Juvenile Justice or to be employed or
20 used by such contractor or licensee in a sensitive position
21 having direct contact with children, the developmentally
22 disabled, the aged, or the elderly as provided in s.
23 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
24 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
25 985.407, or chapter 400; or

26 6. Is seeking to be employed or licensed by the Office
27 of Teacher Education, Certification, Staff Development, and
28 Professional Practices of the Department of Education, any
29 district school board, or any local governmental entity that
30 licenses child care facilities.

31

1 (b) Subject to the exceptions in paragraph (a), a
2 person who has been granted an expunction under this section,
3 former s. 893.14, former s. 901.33, or former s. 943.058 may
4 not be held under any provision of law of this state to commit
5 perjury or to be otherwise liable for giving a false statement
6 by reason of such person's failure to recite or acknowledge an
7 expunged criminal history record.

8 (c) Information relating to the existence of an
9 expunged criminal history record which is provided in
10 accordance with paragraph (a) is confidential and exempt from
11 the provisions of s. 119.07(1) and s. 24(a), Art. I of the
12 State Constitution, except that the department shall disclose
13 the existence of a criminal history record ordered expunged to
14 the entities set forth in subparagraphs (a)1., 4., 5., and 6.
15 for their respective licensing and employment purposes, and to
16 criminal justice agencies for their respective criminal
17 justice purposes. It is unlawful for any employee of an entity
18 set forth in subparagraph (a)1., subparagraph (a)4.,
19 subparagraph (a)5., or subparagraph (a)6. to disclose
20 information relating to the existence of an expunged criminal
21 history record of a person seeking employment or licensure
22 with such entity or contractor, except to the person to whom
23 the criminal history record relates or to persons having
24 direct responsibility for employment or licensure decisions.
25 Any person who violates this paragraph commits a misdemeanor
26 of the first degree, punishable as provided in s. 775.082 or
27 s. 775.083.

28 (5) STATUTORY REFERENCES.--Any reference to any other
29 chapter, section, or subdivision of the Florida Statutes in
30 this section constitutes a general reference under the
31 doctrine of incorporation by reference.

1 Section 5. Section 943.059, Florida Statutes, is
2 amended to read:
3 943.059 Court-ordered sealing of criminal history
4 records.--The courts of this state shall continue to have
5 jurisdiction over their own procedures, including the
6 maintenance, sealing, and correction of judicial records
7 containing criminal history information to the extent such
8 procedures are not inconsistent with the conditions,
9 responsibilities, and duties established by this section. Any
10 court of competent jurisdiction may order a criminal justice
11 agency to seal the criminal history record of a minor or an
12 adult who complies with the requirements of this section. The
13 court shall not order a criminal justice agency to seal a
14 criminal history record until the person seeking to seal a
15 criminal history record has applied for and received a
16 certificate of eligibility for sealing pursuant to subsection
17 (2). A criminal history record that relates to a violation of
18 s. 787.025, chapter 794, s. 796.03, s. 800.04, s. 817.034, s.
19 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
20 s. 847.0145, s. 893.135, or a violation enumerated in s.
21 907.041 may not be sealed, without regard to whether
22 adjudication was withheld, if the defendant was found guilty
23 of or pled guilty or nolo contendere to the offense, or if the
24 defendant, as a minor, was found to have committed or pled
25 guilty or nolo contendere to committing the offense as a
26 delinquent act. The court may only order sealing of a criminal
27 history record pertaining to one arrest or one incident of
28 alleged criminal activity, except as provided in this section.
29 The court may, at its sole discretion, order the sealing of a
30 criminal history record pertaining to more than one arrest if
31 the additional arrests directly relate to the original arrest.

1 If the court intends to order the sealing of records
2 pertaining to such additional arrests, such intent must be
3 specified in the order. A criminal justice agency may not seal
4 any record pertaining to such additional arrests if the order
5 to seal does not articulate the intention of the court to seal
6 records pertaining to more than one arrest. This section does
7 not prevent the court from ordering the sealing of only a
8 portion of a criminal history record pertaining to one arrest
9 or one incident of alleged criminal activity. Notwithstanding
10 any law to the contrary, a criminal justice agency may comply
11 with laws, court orders, and official requests of other
12 jurisdictions relating to sealing, correction, or confidential
13 handling of criminal history records or information derived
14 therefrom. This section does not confer any right to the
15 sealing of any criminal history record, and any request for
16 sealing a criminal history record may be denied at the sole
17 discretion of the court.

18 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.--Each
19 petition to a court to seal a criminal history record is
20 complete only when accompanied by:

21 (a) A certificate of eligibility for sealing issued by
22 the department pursuant to subsection (2).

23 (b) The petitioner's sworn statement attesting that
24 the petitioner:

25 1. Has never, prior to the date on which the petition
26 is filed, been adjudicated guilty of a criminal offense or
27 comparable ordinance violation or adjudicated delinquent for
28 committing a felony or a misdemeanor specified in s.
29 943.051(3)(b).

30 2. Has not been adjudicated guilty of or adjudicated
31 delinquent for committing any of the acts stemming from the

1 arrest or alleged criminal activity to which the petition to
2 seal pertains.

3 3. Has never secured a prior sealing or expunction of
4 a criminal history record under this section, former s.
5 893.14, former s. 901.33, former s. 943.058, or from any
6 jurisdiction outside the state.

7 4. Is eligible for such a sealing to the best of his
8 or her knowledge or belief and does not have any other
9 petition to seal or any petition to expunge pending before any
10 court.

11

12 Any person who knowingly provides false information on such
13 sworn statement to the court commits a felony of the third
14 degree, punishable as provided in s. 775.082, s. 775.083, or
15 s. 775.084.

16 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.--Prior to
17 petitioning the court to seal a criminal history record, a
18 person seeking to seal a criminal history record shall apply
19 to the department for a certificate of eligibility for
20 sealing. The department shall, by rule adopted pursuant to
21 chapter 120, establish procedures pertaining to the
22 application for and issuance of certificates of eligibility
23 for sealing. The department shall issue a certificate of
24 eligibility for sealing to a person who is the subject of a
25 criminal history record provided that such person:

26 (a) Has submitted to the department a certified copy
27 of the disposition of the charge to which the petition to seal
28 pertains.

29 (b) Remits a \$75 processing fee to the department for
30 placement in the Department of Law Enforcement Operating Trust
31 Fund, unless such fee is waived by the executive director.

1 (c) Has never, prior to the date on which the
2 application for a certificate of eligibility is filed, been
3 adjudicated guilty of a criminal offense or comparable
4 ordinance violation or adjudicated delinquent for committing a
5 felony or a misdemeanor specified in s. 943.051(3)(b).

6 (d) Has not been adjudicated guilty of or adjudicated
7 delinquent for committing any of the acts stemming from the
8 arrest or alleged criminal activity to which the petition to
9 seal pertains.

10 (e) Has never secured a prior sealing or expunction of
11 a criminal history record under this section, former s.
12 893.14, former s. 901.33, or former s. 943.058.

13 (f) Is no longer under court supervision applicable to
14 the disposition of the arrest or alleged criminal activity to
15 which the petition to seal pertains.

16 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.--

17 (a) In judicial proceedings under this section, a copy
18 of the completed petition to seal shall be served upon the
19 appropriate state attorney or the statewide prosecutor and
20 upon the arresting agency; however, it is not necessary to
21 make any agency other than the state a party. The appropriate
22 state attorney or the statewide prosecutor and the arresting
23 agency may respond to the court regarding the completed
24 petition to seal.

25 (b) If relief is granted by the court, the clerk of
26 the court shall certify copies of the order to the appropriate
27 state attorney or the statewide prosecutor and to the
28 arresting agency. The arresting agency is responsible for
29 forwarding the order to any other agency to which the
30 arresting agency disseminated the criminal history record
31 information to which the order pertains. The department shall

1 forward the order to seal to the Federal Bureau of
2 Investigation. The clerk of the court shall certify a copy of
3 the order to any other agency which the records of the court
4 reflect has received the criminal history record from the
5 court.

6 (c) For an order to seal entered by a court prior to
7 July 1, 1992, the department shall notify the appropriate
8 state attorney or statewide prosecutor of any order to seal
9 which is contrary to law because the person who is the subject
10 of the record has previously been convicted of a crime or
11 comparable ordinance violation or has had a prior criminal
12 history record sealed or expunged. Upon receipt of such
13 notice, the appropriate state attorney or statewide prosecutor
14 shall take action, within 60 days, to correct the record and
15 petition the court to void the order to seal. The department
16 shall seal the record until such time as the order is voided
17 by the court.

18 (d) On or after July 1, 1992, the department or any
19 other criminal justice agency is not required to act on an
20 order to seal entered by a court when such order does not
21 comply with the requirements of this section. Upon receipt of
22 such an order, the department must notify the issuing court,
23 the appropriate state attorney or statewide prosecutor, the
24 petitioner or the petitioner's attorney, and the arresting
25 agency of the reason for noncompliance. The appropriate state
26 attorney or statewide prosecutor shall take action within 60
27 days to correct the record and petition the court to void the
28 order. No cause of action, including contempt of court, shall
29 arise against any criminal justice agency for failure to
30 comply with an order to seal when the petitioner for such
31 order failed to obtain the certificate of eligibility as

1 required by this section or when such order does not comply
2 with the requirements of this section.

3 (e) An order sealing a criminal history record
4 pursuant to this section does not require that such record be
5 surrendered to the court, and such record shall continue to be
6 maintained by the department and other criminal justice
7 agencies.

8 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.--A
9 criminal history record of a minor or an adult which is
10 ordered sealed by a court of competent jurisdiction pursuant
11 to this section is confidential and exempt from the provisions
12 of s. 119.07(1) and s. 24(a), Art. I of the State Constitution
13 and is available only to the person who is the subject of the
14 record, to the subject's attorney, to criminal justice
15 agencies for their respective criminal justice purposes, or to
16 those entities set forth in subparagraphs (a)1., 4., 5., and
17 6. for their respective licensing and employment purposes.

18 (a) The subject of a criminal history record sealed
19 under this section or under other provisions of law, including
20 former s. 893.14, former s. 901.33, and former s. 943.058, may
21 lawfully deny or fail to acknowledge the arrests covered by
22 the sealed record, except when the subject of the record:

- 23 1. Is a candidate for employment with a criminal
24 justice agency;
- 25 2. Is a defendant in a criminal prosecution;
- 26 3. Concurrently or subsequently petitions for relief
27 under this section or s. 943.0585;
- 28 4. Is a candidate for admission to The Florida Bar;
- 29 5. Is seeking to be employed or licensed by or to
30 contract with the Department of Children and Family Services
31 or the Department of Juvenile Justice or to be employed or

1 used by such contractor or licensee in a sensitive position
2 having direct contact with children, the developmentally
3 disabled, the aged, or the elderly as provided in s.
4 110.1127(3), s. 393.063(15), s. 394.4572(1), s. 397.451, s.
5 402.302(3), s. 402.313(3), s. 409.175(2)(i), s. 415.102(4), s.
6 415.103, s. 985.407, or chapter 400; or
7 6. Is seeking to be employed or licensed by the Office
8 of Teacher Education, Certification, Staff Development, and
9 Professional Practices of the Department of Education, any
10 district school board, or any local governmental entity which
11 licenses child care facilities.
12 (b) Subject to the exceptions in paragraph (a), a
13 person who has been granted a sealing under this section,
14 former s. 893.14, former s. 901.33, or former s. 943.058 may
15 not be held under any provision of law of this state to commit
16 perjury or to be otherwise liable for giving a false statement
17 by reason of such person's failure to recite or acknowledge a
18 sealed criminal history record.
19 (c) Information relating to the existence of a sealed
20 criminal record provided in accordance with the provisions of
21 paragraph (a) is confidential and exempt from the provisions
22 of s. 119.07(1) and s. 24(a), Art. I of the State
23 Constitution, except that the department shall disclose the
24 sealed criminal history record to the entities set forth in
25 subparagraphs (a)1., 4., 5., and 6. for their respective
26 licensing and employment purposes. It is unlawful for any
27 employee of an entity set forth in subparagraph (a)1.,
28 subparagraph (a)4., subparagraph (a)5., or subparagraph (a)6.
29 to disclose information relating to the existence of a sealed
30 criminal history record of a person seeking employment or
31 licensure with such entity or contractor, except to the person

1 to whom the criminal history record relates or to persons
2 having direct responsibility for employment or licensure
3 decisions. Any person who violates the provisions of this
4 paragraph commits a misdemeanor of the first degree,
5 punishable as provided in s. 775.082 or s. 775.083.

6 (5) STATUTORY REFERENCES.--Any reference to any other
7 chapter, section, or subdivision of the Florida Statutes in
8 this section constitutes a general reference under the
9 doctrine of incorporation by reference.

10 Section 6. Section 943.325, Florida Statutes, is
11 amended to read:

12 943.325 Blood or other biological specimen testing for
13 DNA analysis.--

14 (1)(a) Any person who is convicted or was previously
15 convicted in this state for any offense or attempted offense
16 defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s.
17 810.02, s. 812.133, or s. 812.135 and who is either:

- 18 1. Still incarcerated, or
- 19 2. No longer incarcerated, or has never been
20 incarcerated, yet ~~but~~ is within the confines of the legal
21 state boundaries and is on probation, community control,
22 parole, conditional release, control release, or any other
23 court-ordered supervision,

24
25 shall be required to submit two specimens of blood or other
26 biological specimens approved by the Department of Law
27 Enforcement to a Department of Law Enforcement designated
28 testing facility as directed by the department.

29 (b) For the purpose of this section, the term "any
30 person" shall include both juveniles and adults committed to
31 or under the supervision of the Department of Corrections or

1 the Department of Juvenile Justice or committed to a county
2 jail.

3 (2) The withdrawal of blood for purposes of this
4 section shall be performed in a medically approved manner
5 using a collection kit provided by, or accepted by, the
6 Department of Law Enforcement and only by or under the
7 supervision of a physician, registered nurse, licensed
8 practical nurse, ~~or~~ duly licensed medical personnel, or other
9 trained and competent personnel. The collection of other
10 approved biological specimens shall be performed by any person
11 using a collection kit provided by, or accepted by, the
12 Department of Law Enforcement in a manner approved by the
13 department, as directed in the kit, or as otherwise found to
14 be acceptable by the department.

15 (3) Upon a conviction of any person for any offense
16 under paragraph (1)(a) which results in the commitment of the
17 offender to a county jail, correctional facility, or juvenile
18 facility, the entity responsible for the facility shall assure
19 that the blood specimens or other biological specimens
20 required by this section and approved by the Department of Law
21 Enforcement are promptly secured and transmitted to the
22 Department of Law Enforcement. If the person is not
23 incarcerated following such conviction, the person may not be
24 released from the custody of the court or released pursuant to
25 a bond or surety until the blood specimens or other approved
26 biological specimens required by this section have been taken.
27 The chief judge of each circuit shall, in conjunction with the
28 sheriff or other entity that maintains the county jail, assure
29 implementation of a method to promptly collect required blood
30 specimens or other approved biological specimens and forward
31 the specimens to the Department of Law Enforcement. The

1 Department of Law Enforcement, in conjunction with the
2 sheriff, the courts, the Department of Corrections, and the
3 Department of Juvenile Justice, shall develop a statewide
4 protocol for securing the blood specimens or other approved
5 biological specimens of any person required to provide
6 specimens under this section. Personnel at the jail,
7 correctional facility, or juvenile facility shall implement
8 the protocol as part of the regular processing of offenders.

9 (4) If any blood specimens or other approved
10 biological specimens submitted to the Department of Law
11 Enforcement under this section are found to be unacceptable
12 for analysis and use or cannot be used by the department in
13 the manner required by this section, the Department of Law
14 Enforcement may require that another set of blood specimens or
15 other approved biological specimens be taken as set forth in
16 subsection (11).

17 (5) The Department of Law Enforcement shall provide
18 the specimen vials, mailing tubes, labels, or other
19 appropriate containers and instructions for the collection of
20 blood specimens or other approved biological specimens. The
21 specimens shall thereafter be forwarded to the designated
22 testing facility for analysis to determine genetic markers and
23 characteristics for the purpose of individual identification
24 of the person submitting the sample.

25 (6) In addition to the specimens required to be
26 submitted under this section, the Department of Law
27 Enforcement may receive and utilize other blood specimens or
28 other approved biological specimens. ~~Any~~ ~~The~~ analysis, when
29 completed, shall be entered into the automated database
30 maintained by the Department of Law Enforcement for such
31 purpose, as provided in this section, and shall not be

1 included in the state central criminal justice information
2 repository.

3 (7) The results of a DNA analysis and the comparison
4 of analytic results shall be released only to criminal justice
5 agencies as defined in s. 943.045(10), at the request of the
6 agency. Otherwise, such information is confidential and exempt
7 from the provisions of s. 119.07(1) and s. 24(a), Art. I of
8 the State Constitution.

9 (8) The Department of Law Enforcement and the
10 statewide criminal laboratory analysis system shall establish,
11 implement, and maintain a statewide automated personal
12 identification system capable of, but not limited to,
13 classifying, matching, and storing analyses of DNA
14 (deoxyribonucleic acid) and other biological molecules. The
15 system shall be available to all criminal justice agencies.

16 (9) The Department of Law Enforcement shall:

17 (a) Receive, process, and store blood specimen samples
18 or other approved biological specimen samples and the data
19 derived therefrom furnished pursuant to subsection (1), ~~or~~
20 pursuant to a requirement of supervision imposed by the court
21 or the Parole Commission with respect to a person convicted of
22 any offense specified in subsection (1), or as specified in
23 subsection (6).

24 (b) Collect, process, maintain, and disseminate
25 information and records pursuant to this section.

26 (c) Strive to maintain or disseminate only accurate
27 and complete records.

28 (d) Adopt rules prescribing the proper procedure for
29 state and local law enforcement and correctional agencies to
30 collect and submit blood specimen samples and other approved
31 biological specimen samples pursuant to this section.

1 (10)(a) The court shall include in the judgment of
2 conviction for an offense specified in this section, or a
3 finding that a person described in subsection (1) violated a
4 condition of probation, community control, or any other
5 court-ordered supervision, an order stating that blood
6 specimens or other approved biological specimens are required
7 to be drawn or collected by the appropriate agency in a manner
8 consistent with this section and, unless the convicted person
9 lacks the ability to pay, the person shall reimburse the
10 appropriate agency for the cost of drawing and transmitting
11 the blood specimens or collecting and transmitting other
12 approved biological specimens to the Florida Department of Law
13 Enforcement. The reimbursement payment may be deducted from
14 any existing balance in the inmate's bank account. If the
15 account balance is insufficient to cover the cost of drawing
16 and transmitting the blood specimens or collecting and
17 transmitting other approved biological specimens to the
18 Florida Department of Law Enforcement, 50 percent of each
19 deposit to the account must be withheld until the total amount
20 owed has been paid. If the judgment places the convicted
21 person on probation, community control, or any other
22 court-ordered supervision, the court shall order the convicted
23 person to submit to the drawing of the blood specimens or the
24 collecting of other approved biological specimens as a
25 condition of the probation, community control, or other
26 court-ordered supervision. For the purposes of a person who is
27 on probation, community control, or any other court-ordered
28 supervision, the collection requirement must be based upon a
29 court order, or as otherwise provided by the person in the
30 absence of a court order. If the judgment sentences the
31 convicted person to time served, the court shall order the

1 convicted person to submit to the drawing of the blood
2 specimens or the collecting of other approved biological
3 specimens as a condition of such sentence.

4 (b) The appropriate agency shall cause the specimens
5 to be drawn or collected as soon as practical after conviction
6 but, in the case of any person ordered to serve a term of
7 incarceration as part of the sentence, the specimen shall be
8 drawn or collected as soon as practical after the receipt of
9 the convicted person by the custodial facility. For the
10 purpose of this section, the appropriate agency shall be the
11 Department of Corrections whenever the convicted person is
12 committed to the legal and physical custody of the department.
13 Conviction information contained in the offender information
14 system of the Department of Corrections shall be sufficient to
15 determine applicability under this section. The appropriate
16 agency shall be the sheriff or officer in charge of the county
17 correctional facility whenever the convicted person is placed
18 on probation, community control, or any other court-ordered
19 supervision or form of supervised release or is committed to
20 the legal and physical custody of a county correctional
21 facility.

22 (c) Any person previously convicted of an offense
23 specified in this section, or a crime which, if committed in
24 this state, would be an offense specified in this section, and
25 who is also subject to the registration requirement imposed by
26 s. 775.13, shall be subject to the collection requirement of
27 this section when the appropriate agency described in this
28 section verifies the identification information of the person.
29 The collection requirement of this section does not apply to a
30 person as described in s. 775.13(5).

31

1 (d) For the purposes of this section, conviction shall
2 include a finding of guilty, or entry of a plea of nolo
3 contendere or guilty, regardless of adjudication or, in the
4 case of a juvenile, the finding of delinquency.

5 (e) If necessary, the state or local law enforcement
6 or correctional agency having authority over the person
7 subject to the sampling under this section shall assist in the
8 procedure. The law enforcement or correctional officer so
9 assisting may use reasonable force if necessary to require
10 such person to submit to the withdrawal of blood specimens or
11 the collection of other approved biological specimens. Any
12 such ~~The~~ withdrawal or collection shall be performed in a
13 reasonable manner. A hospital, clinical laboratory, medical
14 clinic, or similar medical institution; a physician, certified
15 paramedic, registered nurse, licensed practical nurse, or
16 other personnel authorized by a hospital to draw blood; a
17 licensed clinical laboratory director, supervisor,
18 technologist, or technician; or any other person who assists a
19 law enforcement officer is not civilly or criminally liable as
20 a result of withdrawing blood specimens according to accepted
21 medical standards when requested to do so by a law enforcement
22 officer or any personnel of a jail, correctional facility, or
23 juvenile detention facility, regardless of whether the
24 convicted person resisted the drawing of blood specimens. A
25 person other than the subject required to provide the
26 biological specimens who collects or assists in the collection
27 of approved specimens other than blood is not civilly or
28 criminally liable if a collection kit provided by, or accepted
29 by, the Department of Law Enforcement is utilized and the
30 collection is done in a manner approved by the department, as
31

1 directed in the kit, or is performed in an otherwise
2 reasonable manner.

3 (f) If a judgment fails to order the convicted person
4 to submit to the drawing of the blood specimens or the
5 collecting of other approved biological specimens as mandated
6 by this section, the state attorney may seek an amended order
7 from the sentencing court mandating the submission of blood
8 specimens or other approved biological specimens in compliance
9 with this section. As an alternative, the department, a state
10 attorney, the Department of Corrections, or any law
11 enforcement agency may seek a court order to secure the blood
12 specimens or other approved biological specimens as authorized
13 in subsection (11).

14 (11) If the Department of Law Enforcement determines
15 that a convicted person who is required to submit blood
16 specimens or other approved biological specimens under this
17 section has not provided the specimens, the department, a
18 state attorney, or any law enforcement agency may apply to the
19 circuit court for an order that authorizes taking the
20 convicted person into custody for the purpose of securing the
21 required specimens. The court shall issue the order upon a
22 showing of probable cause. Following issuance of the order,
23 the convicted person shall be transported to a location
24 acceptable to the agency that has custody of the person, the
25 blood specimens or other approved biological specimens shall
26 be withdrawn or collected in a reasonable manner, and the
27 person shall be released if there is no other reason to
28 justify retaining the person in custody. An agency acting
29 under authority of an order under this section may, in lieu of
30 transporting the convicted person to a collection site, secure
31 the blood specimens or other approved biological specimens at

1 the location of the convicted person in a reasonable manner.
2 If the convicted person resists providing the specimens,
3 reasonable force may be utilized to secure the specimens and
4 any person utilizing such force to secure the specimens or
5 reasonably assisting in the securing of the specimens is not
6 civilly or criminally liable for actions taken.The agency
7 that takes the convicted person into custody may, but is not
8 required to, transport the person back to the location where
9 the person was taken into custody.

10 (12) Unless the convicted person has been declared
11 indigent by the court, the convicted person shall pay the
12 actual costs of collecting the blood specimens or other
13 approved biological specimens required under this section.

14 (13) If a court, a law enforcement agency, or the
15 Department of Law Enforcement fails to strictly comply with
16 this section or to abide by a statewide protocol for
17 collecting blood specimens or other approved biological
18 specimens, such failure is not grounds for challenging the
19 validity of the collection or the use of a specimen, and
20 evidence based upon or derived from the collected blood
21 specimens or other approved biological specimens may not be
22 excluded by a court.

23 Section 7. Subsection (2) of section 760.40, Florida
24 Statutes, is amended to read:

25 760.40 Genetic testing; informed consent;
26 confidentiality.--

27 (2)(a) Except for purposes of criminal prosecution,
28 except for purposes of determining paternity as provided in s.
29 742.12(1), and except for purposes of acquiring specimens from
30 persons convicted of certain offenses or as otherwise provided
31 in s. 943.325, DNA analysis may be performed only with the

1 informed consent of the person to be tested, and the results
2 of such DNA analysis, whether held by a public or private
3 entity, are the exclusive property of the person tested, are
4 confidential, and may not be disclosed without the consent of
5 the person tested. Such information held by a public entity is
6 exempt from the provisions of s. 119.07(1) and s. 24(a), Art.
7 I of the State Constitution.

8 (b) A person who violates paragraph (a) is guilty of a
9 misdemeanor of the first degree, punishable as provided in s.
10 775.082 or s. 775.083.

11 Section 8. Subsection (1) of section 938.01, Florida
12 Statutes, as amended by chapter 2000-171, Laws of Florida, is
13 amended to read:

14 938.01 Additional Court Cost Clearing Trust Fund.--

15 (1) All courts created by Art. V of the State
16 Constitution shall, in addition to any fine or other penalty,
17 assess \$3 as a court cost against every person convicted for
18 violation of a state penal or criminal statute or convicted
19 for violation of a municipal or county ordinance. Any person
20 whose adjudication is withheld pursuant to the provisions of
21 s. 318.14(9) or (10) shall also be assessed such cost. In
22 addition, \$3 from every bond estreature or forfeited bail bond
23 related to such penal statutes or penal ordinances shall be
24 forwarded to the Treasurer as described in this subsection.
25 However, no such assessment may be made against any person
26 convicted for violation of any state statute, municipal
27 ordinance, or county ordinance relating to the parking of
28 vehicles.

29 (a) All such costs collected by the courts shall be
30 remitted to the Department of Revenue, in accordance with
31 administrative rules adopted by the executive director of the

1 Department of Revenue, for deposit in the Additional Court
2 Cost Clearing Trust Fund and shall be earmarked to the
3 Department of Law Enforcement ~~and the Department of Community~~
4 ~~Affairs~~ for distribution as follows:

5 1. Two dollars and seventy-five cents of each \$3
6 assessment shall be deposited in the Criminal Justice
7 Standards and Training Trust Fund, and the remaining 25 cents
8 of each such assessment shall be deposited into the Department
9 of Law Enforcement Operating Trust Fund and shall be disbursed
10 to ~~the Bureau of Public Safety Management~~ of the Department of
11 Law Enforcement ~~Community Affairs~~.

12 2. Ninety-two percent of the money distributed to the
13 Additional Court Cost Clearing Trust Fund pursuant to s.
14 318.21 shall be earmarked to the Department of Law Enforcement
15 for deposit in the Criminal Justice Standards and Training
16 Trust Fund, and 8 percent of such money shall be deposited
17 into the Department of Law Enforcement Operating Trust Fund
18 and shall be disbursed to ~~the Bureau of Public Safety~~
19 ~~Management~~ of the Department of Law Enforcement ~~Community~~
20 ~~Affairs~~.

21 (b) The funds deposited in the Criminal Justice
22 Standards and Training Trust Fund and the Department of Law
23 Enforcement Operating Trust Fund may be invested. Any interest
24 earned from investing such funds and any unencumbered funds
25 remaining at the end of the budget cycle shall remain in the
26 respective trust fund until the following year.

27 (c) All funds in the Criminal Justice Standards and
28 Training Trust Fund earmarked to the Department of Law
29 Enforcement shall be disbursed only in compliance with s.
30 943.25(9).

31

1 Section 9. Subsection (1) of section 943.25, Florida
2 Statutes, as amended by chapter 2000-171, Laws of Florida, is
3 amended to read:

4 943.25 Criminal justice trust funds; source of funds;
5 use of funds.--

6 (1) The Department of Law Enforcement ~~Community~~
7 ~~Affairs~~ may approve, for disbursement from the Department of
8 Law Enforcement ~~its~~ Operating Trust Fund, those appropriated
9 sums necessary and required by the state for grant matching,
10 implementing, administering, evaluating, and qualifying for
11 such federal funds. Disbursements from the trust fund for the
12 purpose of supplanting state general revenue funds may not be
13 made without specific legislative appropriation.

14 Section 10. The Criminal Justice Program shall be
15 transferred from the Department of Community Affairs to the
16 Department of Law Enforcement by a type two transfer, pursuant
17 to s. 20.06(2), Florida Statutes. The Criminal Justice Program
18 so transferred is comprised of the Byrne State and Local Law
19 Enforcement Assistance Program, Local Law Enforcement Block
20 Grants, Drug-Free Communities Program, Residential Substance
21 Abuse Treatment of State Prisoners, the Bulletproof Vest
22 Program, the Guantanamo Bay Refugee and Entrant Assistance
23 Program, the National Criminal History Improvement Program,
24 and the Violent Offender Incarceration and Truth-in-Sentencing
25 Program.

26 Section 11. The Florida Department of Law Enforcement
27 is authorized to adopt rules pursuant to ss. 120.536(1) and
28 120.54, Florida Statutes, necessary for the implementation,
29 administration, operation, and execution of the Criminal
30 Justice Program.

31 Section 12. This act shall take effect July 1, 2001.

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HOUSE SUMMARY

Revises provisions relating to law enforcement. Renames the Florida Violent Crime Council as the Florida Violent Crime and Drug Control Council and revises membership. Provides circumstances for additional meetings. Provides grants to law enforcement agencies for certain investigations. Provides statutory limits on funding of investigative efforts by the council. Authorizes the Victim and Witness Protection Review Committee to conduct meetings by teleconference under certain circumstances. Renames the Violent Crime Emergency Account as the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account. Revises provisions relating to use of emergency supplemental funds. Clarifies limits on disbursement of funds for certain purposes. Requires the Department of Corrections to adopt rules pertaining to certain investigations. Requires reports by recipient agencies. Provides circumstances for limitation or termination of funding or return of funds by recipient agencies. Adds sexual offenses that require an offender to register with the state to the list of excluded offenses with regard to court-ordered expunction and sealing of certain criminal history records.

Permits collection of approved biological specimens other than blood for purposes of DNA testing. Permits collection of specimens from certain persons who have never been incarcerated. Limits liability. Authorizes use of force to collect specimens under certain circumstances.

Preserves certain funding functions scheduled for repeal July 1, 2001.

Transfers the Criminal Justice Program from the Department of Community Affairs to the Department of Law Enforcement. Provides for adoption of rules.

See bill for details.