

By the Committee on Criminal Justice

307-1556C-03

1                                   A bill to be entitled  
2           An act relating to the collecting of blood and  
3           biological specimens by the Department of Law  
4           Enforcement; amending s. 948.03, F.S.;  
5           requiring that each sex offender placed on  
6           probation or community control submit an  
7           approved biological specimen to be registered  
8           with the DNA data bank; amending s. 943.325,  
9           F.S.; requiring that, in addition to a blood  
10          specimen, an approved biological specimen be  
11          collected from a person convicted of specified  
12          offenses who is incarcerated or in the custody  
13          of the Department of Juvenile Justice;  
14          providing for collection of specimens;  
15          requiring that the sheriff secure, process, and  
16          transfer to the Department of Law Enforcement  
17          the blood and biological specimens collected  
18          from persons who are not incarcerated;  
19          providing an effective date.

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21 Be It Enacted by the Legislature of the State of Florida:

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23           Section 1. Paragraph (a) of subsection (5) of section  
24 948.03, Florida Statutes, is amended to read:

25           948.03 Terms and conditions of probation or community  
26 control.--

27           (5) Conditions imposed pursuant to this subsection, as  
28 specified in paragraphs (a) and (b), do not require oral  
29 pronouncement at the time of sentencing and shall be  
30 considered standard conditions of probation or community  
31 control for offenders specified in this subsection.

1           (a) Effective for probationers or community  
2 controllees whose crime was committed on or after October 1,  
3 1995, and who are placed under supervision for violation of  
4 chapter 794, s. 800.04, s. 827.071, or s. 847.0145, the court  
5 must impose the following conditions in addition to all other  
6 standard and special conditions imposed:

7           1. A mandatory curfew from 10 p.m. to 6 a.m. The court  
8 may designate another 8-hour period if the offender's  
9 employment precludes the above specified time, and such  
10 alternative is recommended by the Department of Corrections.  
11 If the court determines that imposing a curfew would endanger  
12 the victim, the court may consider alternative sanctions.

13           2. If the victim was under the age of 18, a  
14 prohibition on living within 1,000 feet of a school, day care  
15 center, park, playground, or other place where children  
16 regularly congregate, as prescribed by the court.

17           3. Active participation in and successful completion  
18 of a sex offender treatment program with therapists  
19 specifically trained to treat sex offenders, at the  
20 probationer's or community controllee's own expense. If a  
21 specially trained therapist is not available within a 50-mile  
22 radius of the probationer's or community controllee's  
23 residence, the offender shall participate in other appropriate  
24 therapy.

25           4. A prohibition on any contact with the victim,  
26 directly or indirectly, including through a third person,  
27 unless approved by the victim, the offender's therapist, and  
28 the sentencing court.

29           5. If the victim was under the age of 18, a  
30 prohibition, until successful completion of a sex offender  
31 treatment program, on unsupervised contact with a child under

1 the age of 18, unless authorized by the sentencing court  
2 without another adult present who is responsible for the  
3 child's welfare, has been advised of the crime, and is  
4 approved by the sentencing court.

5           6. If the victim was under age 18, a prohibition on  
6 working for pay or as a volunteer at any school, day care  
7 center, park, playground, or other place where children  
8 regularly congregate.

9           7. Unless otherwise indicated in the treatment plan  
10 provided by the sexual offender treatment program, a  
11 prohibition on viewing, owning, or possessing any obscene,  
12 pornographic, or sexually stimulating visual or auditory  
13 material, including telephone, electronic media, computer  
14 programs, or computer services that are relevant to the  
15 offender's deviant behavior pattern.

16           8. A requirement that the probationer or community  
17 controllee must submit two specimens of blood or other  
18 approved biological specimens to the Florida Department of Law  
19 Enforcement to be registered with the DNA data bank.

20           9. A requirement that the probationer or community  
21 controllee make restitution to the victim, as ordered by the  
22 court under s. 775.089, for all necessary medical and related  
23 professional services relating to physical, psychiatric, and  
24 psychological care.

25           10. Submission to a warrantless search by the  
26 community control or probation officer of the probationer's or  
27 community controllee's person, residence, or vehicle.

28           Section 2. Subsections (1) and (3) of section 943.325,  
29 Florida Statutes, are amended to read:

30           943.325 Blood or other biological specimen testing for  
31 DNA analysis.--

1           (1)(a) Any person who is convicted or was previously  
2 convicted in this state for any offense or attempted offense  
3 enumerated in paragraph (b), and any person who is transferred  
4 to this state under Article VII of the Interstate Compact on  
5 Juveniles, part V of chapter 985, who has committed or  
6 attempted to commit an offense similarly defined by the  
7 transferring state, who is either:

- 8           1. Still incarcerated, or
- 9           2. No longer incarcerated, or has never been  
10 incarcerated, yet is within the confines of the legal state  
11 boundaries and is on probation, community control, parole,  
12 conditional release, control release, or any other type of  
13 court-ordered supervision,

14  
15 shall be required to submit two specimens of blood or other  
16 biological specimens approved by the Department of Law  
17 Enforcement to a Department of Law Enforcement designated  
18 testing facility as directed by the department.

19           (b)1. Chapter 794, chapter 800, s. 782.04, s. 784.045,  
20 s. 810.02, s. 812.133, or s. 812.135.

21           2. Effective July 1, 2002, and contingent upon  
22 specific appropriation, s. 812.13 or s. 812.131.

23           3. Effective July 1, 2003, and contingent upon  
24 specific appropriation, chapter 787 or s. 782.07.

25           4. Effective July 1, 2004, and contingent upon  
26 specific appropriation, any forcible felony, as described in  
27 s. 776.08, aggravated child abuse, as described in s.  
28 827.03(2), aggravated abuse of an elderly person or a disabled  
29 adult, as described in s. 825.102(2), or any felony violation  
30 of chapter 790 involving the use or possession of a firearm.

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1           5. Effective July 1, 2005, and contingent upon  
2 specific appropriation, any felony offense.

3           (c) As used in this section, the term "any person"  
4 includes both juveniles and adults committed to a county jail  
5 or committed to or under the supervision of the Department of  
6 Corrections or the Department of Juvenile Justice, including  
7 persons incarcerated in a private correctional institution  
8 operated under contract pursuant to s. 944.105 or s. 957.03.

9           (d) ~~Effective July 1, 2001,~~Any person who was  
10 previously convicted in this state for any offense or  
11 attempted offense enumerated in subparagraph (b)1.,  
12 subparagraph (b)2., or subparagraph (b)3. and who is still  
13 incarcerated or in the custody of the Department of Juvenile  
14 Justice must submit, not less than 45 days before his or her  
15 presumptive date of release from such incarceration or  
16 commitment, two specimens of blood or other approved  
17 biological specimens as directed by the Department of Law  
18 Enforcement to a testing facility designated by the  
19 department.

20           (3) Upon a conviction of any person for any offense  
21 under paragraph (1)(a) which results in the commitment of the  
22 offender to a county jail, correctional facility, or juvenile  
23 facility, the entity responsible for the facility shall assure  
24 that the blood specimens or other biological specimens  
25 required by this section and approved by the Department of Law  
26 Enforcement are promptly secured and transmitted to the  
27 Department of Law Enforcement. Personnel at the jail,  
28 correctional facility, or juvenile facility shall collect the  
29 specimens as part of the regular processing of offenders  
30 committed to the jail or facility.If the person is not  
31 incarcerated following such conviction, the person may not be

1 released from the custody of the court at the time of  
2 sentencing or released pursuant to a bond or surety until the  
3 blood specimens or other approved biological specimens  
4 required by this section have been taken by the sheriff or his  
5 or her designee. The sheriff shall secure, process, and  
6 transmit the specimens to the Department of Law Enforcement in  
7 a timely manner.~~The chief judge of each circuit shall, in~~  
8 ~~conjunction with the sheriff or other entity that maintains~~  
9 ~~the county jail, assure implementation of a method to promptly~~  
10 ~~collect required blood specimens or other approved biological~~  
11 ~~specimens and forward the specimens to the Department of Law~~  
12 ~~Enforcement. The Department of Law Enforcement, in conjunction~~  
13 ~~with the sheriff, the courts, the Department of Corrections,~~  
14 ~~and the Department of Juvenile Justice, shall develop a~~  
15 ~~statewide protocol for securing the blood specimens or other~~  
16 ~~approved biological specimens of any person required to~~  
17 ~~provide specimens under this section. Personnel at the jail,~~  
18 ~~correctional facility, or juvenile facility shall implement~~  
19 ~~the protocol as part of the regular processing of offenders.~~

20 Section 3. This act shall take effect July 1, 2003.

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23 SENATE SUMMARY

24 Requires that a biological specimen be collected from sex  
25 offenders placed on probation or community control and  
26 persons convicted of certain offenses who are  
27 incarcerated or in the custody of the Department of  
28 Juvenile Justice. Requires the sheriff to secure,  
29 process, and transport to the Department of Law  
30 Enforcement the blood and biological specimens collected  
31 from persons who are not incarcerated.