

## Committee Substitute for House Bill No. 1151

An act relating to law enforcement; amending s. 384.287, F.S.; permitting certain support personnel, including a crime scene analyst, forensic technologist, and crime lab analyst, to request, and seek court orders for, screening of a person for a sexually transmissible disease, under specified circumstances; amending s. 943.03, F.S.; requiring the Department of Law Enforcement to develop and maintain, in consultation with the Criminal and Juvenile Justice Information Systems Council, an information system in administrative support of the state criminal and juvenile justice system; providing duties of the department as custodial manager; amending s. 20.315, F.S.; providing for maintenance by the Department of Corrections of an offender-based information system; amending s. 20.316, F.S.; conforming terminology relating to development by the Department of Juvenile Justice of a juvenile justice information system; removing a provision requiring a report by the department to the council; amending s. 186.022, F.S., relating to state agency strategic plans; providing for review by the Executive Office of the Governor of recommendations of the council; amending s. 282.1095, F.S., relating to the state agency law enforcement radio system; reducing the membership of the Joint Task Force on State Agency Law Enforcement Communications to eliminate a representative of the council; amending s. 282.111, F.S., relating to the statewide system of regional law enforcement communications; removing a provision requiring certain consultation by the Division of Communications with the council; amending s. 318.18, F.S., relating to civil penalties; redesignating regional criminal justice assessment centers as criminal justice selection centers; amending s. 943.031, F.S., relating to the Florida Violent Crime Council; conforming cross references; amending s. 943.08, F.S.; deleting obsolete provisions; requiring the council to review proposed plans and policies for the information system of the specified agencies to assist in facilitating the standardization, sharing, and coordination of criminal and juvenile justice data and other specified data; requiring the council to make recommendations to specified agencies; requiring recommendations regarding the installation and operation of the Florida Criminal Justice Intranet Service Network, of which the department will be the custodial manager, and specifying its functions; requiring recommendations concerning installation and operation of such a statewide network in each judicial circuit; providing legislative intent that future equipment capable of certain technologies within the specified entities be compatible with certain standards; amending s. 943.135, F.S.; allowing law enforcement officers who are also elected or appointed public officials to maintain certification in a special status while holding office; creating s. 943.146, F.S., relating to copyrighting and sale of work products of the Department of Law Enforcement; defining "product"; prescribing powers and duties of

the department and guidelines for securing and enforcing copyrights; providing for certain notification to the Department of State; providing for deposit of proceeds of sales or products or certain rights in products; amending s. 943.256, F.S.; providing for the regional criminal justice assessment centers, which are directed by a postsecondary public school or a criminal justice agency, to be redesignated as criminal justice selection centers; amending s. 943.325, F.S., relating to blood specimen testing for DNA analysis; requiring entities responsible for a county jail, correctional facility, or juvenile facility to ensure that required blood specimens from certain offenders are secured and transmitted to the department under specified provisions; prohibiting release of the offender from the custody of the court and release of bond or surety until blood specimens have been taken as required; prescribing duties of the chief administrative judge of each circuit and the sheriff or other entity maintaining the county jail with respect to collection and forwarding of blood specimens; providing for a statewide protocol for securing blood specimens of certain offenders to be developed by the department in conjunction with the sheriffs, the court, the Department of Corrections, and the Department of Juvenile Justice; requiring certain offenders to submit or resubmit to blood testing, under specified circumstances; providing for certain immunity from liability as a result of withdrawal of blood specimens; providing for court orders authorizing the taking of the person into custody for purposes of securing the required blood specimens; providing for issuance of the court order; providing for transportation or release of the person taken into custody, under specified circumstances; providing that the offender is liable for actual costs of blood collection, unless declared indigent; providing for construction; reenacting s. 760.40(2)(a), F.S., relating to genetic testing and informed consent therefor, and s. 948.03(10), F.S., relating to terms and conditions of probation or community control, to incorporate said amendment in references; amending s. 943.33, F.S., relating to state-operated criminal analysis laboratories; defining "good cause" for purposes of certifying court orders for state-operated laboratory services to the criminal defendant; requiring the laboratory to include a cost statement with the report of the service provided; requiring provision of a copy of the report and the cost statement to prosecutor and court; providing an effective date.

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

Section 1. Subsections (1) and (2) of section 384.287, Florida Statutes, are amended to read:

384.287 Screening for sexually transmissible disease.—

(1) An officer as defined in s. 943.10(14); support personnel as defined in s. 943.10(11) who are employed by the Department of Law Enforcement, including, but not limited to, any crime scene analyst, forensic technologist, or crime lab analyst; firefighter as defined in s. 633.30; or ambulance driver, paramedic, or emergency medical technician as defined in s. 401.23, acting

within the scope of employment, who comes into contact with a person in such a way that significant exposure, as defined in s. 381.004, has occurred may request that the person be screened for a sexually transmissible disease that can be transmitted through a significant exposure.

(2) If the person will not voluntarily submit to screening, the officer, support personnel of the Department of Law Enforcement, firefighter, ambulance driver, paramedic, or emergency medical technician, or the employer of any of the employees described in subsection (1) ~~such person~~ acting on behalf of the employee, may seek a court order directing that the person who is the source of the significant exposure submit to screening. A sworn statement by a physician licensed under chapter 458 or chapter 459 that a significant exposure has occurred and that, in the physician's medical judgment, the screening is medically necessary to determine the course of treatment for the employee, constitutes probable cause for the issuance of the order by the court.

Section 2. Subsection (13) is added to section 943.03, Florida Statutes, to read:

943.03 Department of Law Enforcement.—

(13) The department shall develop and maintain, in consultation with the Criminal and Juvenile Justice Information Systems Council under s. 943.08, an information system that supports the administration of the state's criminal and juvenile justice system in compliance with s. 943.05 and other provisions of law. The department shall serve as custodial manager of the statewide telecommunications and data network developed and maintained as part of the information system authorized by this subsection.

Section 3. Subsection (11) of section 20.315, Florida Statutes, is amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(11) SINGLE INFORMATION AND RECORDS SYSTEM.—There shall be only one offender-based information and records system maintained by the Department of Corrections for the joint use of the department and the Parole Commission. This data system is managed through the Justice Data Center, which is hereby transferred to the department under this act pursuant to a type two transfer authorized under s. 20.06(2). The department shall develop and maintain, in consultation with the Criminal and Juvenile Justice Information Systems Council under s. 943.08, such offender-based information system designed to serve the needs of both the department and the Parole Commission. The department shall notify the commission of all violations of parole and the circumstances thereof.

Section 4. Paragraphs (a) and (f) of subsection (6) of section 20.316, Florida Statutes, are amended to read:

20.316 Department of Juvenile Justice.—There is created a Department of Juvenile Justice.

## (6) INFORMATION SYSTEMS.—

(a) The Department of Juvenile Justice shall develop, in consultation with the Criminal and Juvenile Justice Information Systems Council under s. 943.08, a juvenile justice information system which shall provide information concerning the department's activities and programs.

(f) The department shall provide an annual report on the juvenile justice information system to the Joint Information Technology Resources Committee ~~and the Criminal and Juvenile Justice Information Systems Council~~. The committee ~~and the council~~ shall review and ~~reach consensus on the report and~~ shall forward the report, along with ~~its the consensus~~ comments, to the appropriate substantive and appropriations committees of the House of Representatives and the Senate delineating the development status of the system and other information necessary for funding policy formulation.

Section 5. Subsection (3) of section 186.022, Florida Statutes, is amended to read:

186.022 State agency strategic plans; preparation, form, and review.—

(3) The Executive Office of the Governor shall review the state agency strategic plans to ensure that they are consistent with the state comprehensive plan and other requirements as specified in the written instructions. In its review, the Executive Office of the Governor shall consider all comments received in formulating required revisions. This shall include:

(a) The findings of the Technology Review Workgroup as to the consistency of the information resources management portion of agency strategic plans with the State Annual Report on Information Resources Management and statewide policies recommended by the State Technology Council; and

(b) The findings and recommendations of the Criminal and Juvenile Justice Information Systems Council's review with respect to public safety system strategic information resources management issues.

Within 60 days, reviewed plans shall be returned to the agency, together with any required revisions. However, any required revisions relating to information resources management needs identified in the agency strategic plans are subject to the notice and review procedures set forth in s. 216.177 and must be approved by the Administration Commission for the executive branch and the Chief Justice for the judicial branch.

Section 6. Paragraph (a) of subsection (2) of section 282.1095, Florida Statutes, is amended to read:

282.1095 State agency law enforcement radio system.—

(2)

(a) The Joint Task Force on State Agency Law Enforcement Communications shall consist of eight ~~nine~~ members, as follows:

1. A representative of the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation who shall be appointed by the secretary of the department.

2. A representative of the Division of Florida Highway Patrol of the Department of Highway Safety and Motor Vehicles who shall be appointed by the executive director of the department.

3. A representative of the Department of Law Enforcement who shall be appointed by the executive director of the department.

4. A representative of the Game and Fresh Water Fish Commission who shall be appointed by the executive director of the commission.

5. A representative of the Division of Law Enforcement of the Department of Environmental Protection who shall be appointed by the secretary of the department.

6. A representative of the Department of Corrections who shall be appointed by the secretary of the department.

7. A representative of the Division of State Fire Marshal of the Department of Insurance who shall be appointed by the State Fire Marshal.

8. A representative of the Department of Transportation who shall be appointed by the secretary of the department.

~~9. A representative of the Criminal and Juvenile Justice Information Systems Council who shall be appointed by the chair of the council.~~

Section 7. Subsection (5) of section 282.111, Florida Statutes, is amended to read:

282.111 Statewide system of regional law enforcement communications.—

(5) No law enforcement communications system shall be established or present system expanded after July 1, 1972, without the prior approval of the Department of Management Services Division of Communications. After January 1, 1997, the Division of Communications shall consult with the Criminal and Juvenile Justice Information Systems Council before approving any law enforcement communications system or system expansion.

Section 8. Subsection (11) of section 318.18, Florida Statutes, is amended to read:

318.18 Amount of civil penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 are as follows:

(11)(a) Court costs that which are to be in addition to the stated fine shall be imposed by the court in an amount not less than the following:

- For pedestrian infractions . . . . . \$ 3.
- For nonmoving traffic infractions . . . . . \$ 6.
- For moving traffic infractions . . . . . \$10.

(b) In addition to the court cost assessed under paragraph (a), the court shall impose a \$3 court cost for each infraction to be distributed as provided in s. 943.25(3).

~~In no event may~~ Court costs imposed under this subsection may not exceed \$30. A ~~regional~~ criminal justice selection assessment center or other local criminal justice access and assessment center may be funded from these court costs.

Section 9. Paragraph (c) of subsection (7) of section 943.031, Florida Statutes, is amended to read:

943.031 Florida Violent Crime Council.—The Legislature finds that there is a need to develop and implement a statewide strategy to address violent criminal activity. In recognition of this need, the Florida Violent Crime Council is created within the department. The council shall serve in an advisory capacity to the department.

(7) CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS AND RECORDS.—

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

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

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

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session shall be off the record. Such recording shall be maintained by the council, and is exempt from the provisions of s. 119.07(1) ~~s. 119.044~~ and s. 24(a) ~~s. 24(b)~~, Art. I of the State Constitution until such time as the criminal investigative information or criminal intelligence information that ~~which~~ justifies closure ceases to be active, at which time the portion of the record related to the no longer active information or intelligence shall be open for public inspection and copying.

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

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

Section 10. Section 943.08, Florida Statutes, is amended to read:

943.08 Duties; Criminal and Juvenile Justice Information Systems Council.—

(1) The council shall facilitate the identification, standardization, sharing, and coordination of criminal and juvenile justice data and other public safety system data among federal, state, and local agencies.

(2) ~~The council shall review proposed rules and operating policies and procedures, and amendments thereto, of the Division of Criminal Justice Information Systems and make recommendations to the executive director which shall be represented in the meeting minutes of the council. In addition, the council shall review proposed plans and policies, rules, and procedures relating to the information system of the Department of Corrections, the Department of Highway Safety and Motor Vehicles, the Department of Juvenile Justice, and the Department of Law Enforcement for the purpose of determining whether the departments' strategic information technology resource development efforts will facilitate the effective identification, standardization, sharing, and coordination of criminal and juvenile justice data and other public safety system data among federal, state, and local agencies. The council shall make recommendations as it deems appropriate to the executive director and the secretaries of these departments and make recommendations to the Secretary of Juvenile Justice or designated assistant who shall attend council meetings. Those recommendations shall relate to the following areas:~~

(a) ~~The management control of criminal and juvenile justice information systems and applications supported by the departments, criminal intelligence information systems, and criminal investigative information systems maintained by the department.~~

(b) ~~The installation and operation of criminal and juvenile justice information systems, criminal intelligence information systems, and criminal investigative information systems by the departments department and the exchange of such information with other criminal and juvenile justice agencies of this state and other states, including federal agencies.~~

(c) ~~The operation and maintenance of computer hardware and software within criminal and juvenile justice information systems, criminal intelligence information systems, and criminal investigative information systems maintained by the departments department.~~

(d) ~~The operation, maintenance, and use of an automated fingerprint identification system, including interfacing with existing automated systems.~~

~~(d)(e)~~ The physical security of the systems system, to prevent unauthorized disclosure of information contained in the systems system and to ensure that the criminal and juvenile justice information in the systems system is accurately updated in a timely manner ~~currently and accurately revised to include subsequently revised information.~~

~~(e)(f)~~ The security of the systems system, to ensure that criminal and juvenile justice information ~~is, criminal intelligence information, and criminal investigative information will be~~ collected, processed, stored, and disseminated in such manner that it cannot be modified, destroyed, accessed, changed, purged, or overlaid by unauthorized individuals or agencies.

~~(f)(g)~~ The purging, expunging, or sealing of criminal and juvenile justice information upon order of a court of competent jurisdiction or when authorized by law.

~~(g)(h)~~ The dissemination of criminal and juvenile justice information to persons or agencies not associated with criminal justice when such dissemination is authorized by law.

~~(h)(i)~~ The access to criminal and juvenile justice information maintained by any criminal or juvenile justice agency by any person about whom such information is maintained for the purpose of challenge, correction, or addition of explanatory material.

~~(i)(j)~~ The training, which ~~should~~ may be provided to ~~pursuant to s. 938.01, s. 938.15, or s. 943.25,~~ of employees of the departments department and other state and local criminal and juvenile justice agencies in the proper use and control of criminal and juvenile justice information.

~~(j)(k)~~ The characteristics, structures, and communications technologies linkages needed to allow the transmittal of, sharing of, access to, and utilization of information among the various state, local, private, and federal agencies, organizations, and institutions in the criminal and juvenile justice systems. public safety system, including, but not limited to, recommendations regarding:

~~1. The management control and administration of juvenile justice data and information.~~

~~2. The installation and operation of local area networks.~~

~~3. The installation and operation of statewide area networks.~~

~~4. Electronic mail and file transport.~~

~~5. The operation and maintenance of hardware and software.~~

~~6. Access to juvenile justice information.~~

~~7. The security and integrity of the information system.~~

~~8. Training of information system users and user groups.~~

(k) The installation and operation of a statewide telecommunications and data network, to be called the Florida Criminal Justice Intranet Service Network, for which the Department of Law Enforcement will serve as custodial manager and which will be capable of electronically transmitting text and image data, including electronic mail and file transport, among criminal justice agencies within the state.

(l) The installation and operation, when feasible, of equipment in each of the judicial circuits capable of electronically transmitting over the Florida Criminal Justice Intranet Service Network digitized photographs and live-scan fingerprint images of each criminal defendant convicted or found guilty, at the time and place of such disposition.

(m)(4) Such other areas as relate to the collection, processing, storage, and dissemination of criminal and juvenile justice and other public safety system information, criminal intelligence information, and criminal justice investigative information, including the development of criteria, policies, and procedures for the standardization of criminal and juvenile justice data and information-transfer protocols for transmitting electronic transmission of such data.

(3) The council shall develop and approve a strategic plan pursuant to the requirements set forth in s. 186.022(9). Copies of the approved plan shall be transmitted, electronically or in writing, to the Executive Office of the Governor, the Speaker of the House of Representatives, the President of the Senate, and the council members.

(4) It is the policy of this state and the intent of the Legislature that all further installation, enhancement, and planned utilization of equipment capable of transmitting telecommunications and data which are performed by any state court, the clerks of the court, state or local law enforcement agencies, or the departments referred to in this section be implemented in a manner to assure that such equipment is compatible with the Florida Criminal Justice Intranet Service Network standards.

Section 11. Subsection (4) of section 943.135, Florida Statutes, is amended to read:

943.135 Requirements for continued employment.—

(4)(a) Notwithstanding any other provision of law, any person holding active certification from the Criminal Justice Standards and Training Commission as a law enforcement officer, correctional officer, or correctional probation officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), who resigns his or her position as law enforcement officer, correctional officer, or correctional probation officer for the sole purpose of serving in an office to which the person has been elected or appointed and to thereby avoid the prohibition against dual officeholding established in s. 5(a), Art. II of the State Constitution may be allowed to retain active certification in a special status during the tenure of the elected or appointed office if, at the time of resignation, the person:

1. Was employed by or associated with an employing agency in a manner authorized by this chapter;
2. Was not subject to an internal investigation or employment action to discipline or dismiss by the employing agency;
3. Was not subject to criminal investigation or prosecution by any state or federal authority; and
4. Was not subject to an investigation or action against his or her certification by the Criminal Justice Standards and Training Commission.

and that subsequent to the resignation the person otherwise complies with this subsection.

(b) Any person who qualifies under paragraph (a) may, for purposes of meeting the minimum mandatory continuing training or education requirements of this section, at the option of an employing agency, associate with that agency for the sole purpose of securing continuing training or education as required by this section and for allowing the agency to report completion of the education or training to the Criminal Justice Standards and Training Commission. The employing agency with which the person has associated shall submit proof of completion of any education or training so obtained for purposes of demonstrating compliance with this section and shall indicate that the person for whom the credits are reported has secured the training under the special status authorized by this section. An employing agency may require any person so associated to attend continuing training or education at the person's own expense and may determine the courses or training that a person is to attend while associated with the agency. Any person who is permitted to associate with an employing agency for purposes of obtaining and reporting education or continuing training credits while serving in an elected or appointed public office shall not be considered to be employed by the employing agency or considered by the association with the employing agency to maintain an office under s. 5(a), Art. II of the State Constitution.

(c) The period of time a person serves in an elected or appointed office and thereby maintains the special certification status authorized by this section may not be considered in calculating whether the person is considered to have incurred a break in service for purposes of maintaining active certification by the Criminal Justice Standards and Training Commission.

(d) An employing agency that receives a resignation from a person for the purpose of avoiding the dual office holding prohibition as discussed in this subsection shall verify that the person who has resigned is in fact serving in an elected or public office and report the verification, including an indication of the office in which the person is serving to the Criminal Justice Standards and Training Commission via the affidavit of separation of employment used by the commission.

(e) Any person seeking the benefit of this subsection shall, upon request, provide to the Criminal Justice Standards and Training Commission any documentation or proof required by the commission to evaluate the person's

eligibility under this subsection, to evaluate a submission of continuing training or education credits as authorized by this subsection, or to determine the duration of any tenure in an elected or appointed public office, including any extension of the status by reason of reelection or reappointment or by election or appointment to a different office. The commission is authorized to develop this program for implementation on July 1, 1985, for full-time, part-time, or auxiliary law enforcement officers and correctional officers and a program for correctional probation officers for implementation on July 1, 1987.

Section 12. Section 943.146, Florida Statutes, is created to read:

943.146 Securing of copyrights by the department and sale of department work products.—

(1) As used in this section, the term “product” includes any and all inventions, methodologies, techniques, and creations that may be properly protected by patent, copyright, or trademark. The term specifically includes, but is not limited to, job task analyses; all curricula developed for basic or post-basic training in the disciplines of law enforcement, corrections, and correctional probation; support materials, including, but not limited to, associated instructor or student guides, textbooks, computer software, and video, electronic, and digital materials; and all other materials, regardless of form, developed by or on behalf of the commission to support the delivery of the basic recruit or post-basic training in the disciplines of law enforcement, corrections, and correctional probation.

(2) Notwithstanding any other provision of law to the contrary, the Department of Law Enforcement is authorized, in its own name, to:

(a) Perform all things necessary to secure copyrights on any legitimately acquired work product and to enforce its rights therein.

(b) License, lease, assign, or otherwise give written consent to any person, firm, or corporation for the publication, manufacture, or use of any product protected by copyright, whether on a royalty basis or for such other consideration as the department may deem proper.

(c) Take any action necessary, including legal action to enforce its rights under any agreement and to protect its property rights from improper or unlawful use or infringement.

(d) Enforce the collection of any payments or other obligations due to the department for the publication or use of any product by any other party.

(e) Sell any product, except where otherwise provided by public records laws, which the department may create or cause to be created, whether or not the product is protected by a copyright of the department, and to execute all instruments necessary to consummate any such sale.

(f) Do all other acts necessary and proper for the execution of powers and duties conferred upon the department under this section.

(3) The department shall notify the Department of State in writing whenever property rights by copyright are secured or exploited by the department.

(4) Any proceeds from the sale of products or the right to publish or use a product shall be deposited in the Grants and Donations Trust Fund of the department and may be appropriated to finance activities of the department.

Section 13. Section 943.256, Florida Statutes, is amended to read:

943.256 ~~Regional Criminal justice selection assessment~~ centers; creation.—

(1) The creation of ~~regional criminal justice selection assessment~~ centers is hereby authorized. Each center shall be under the direction and control of a postsecondary public school, hereinafter called the “directing school,” or of a criminal justice agency, hereinafter called the “directing agency,” within the region.

(2) Each center shall provide standardized evaluation of preservice candidates for all units of the local criminal justice system in the region, thereby establishing a pool of qualified candidates for criminal justice agencies throughout the region.

(3) Each center shall also provide standardized evaluation of inservice officers for all units of the local criminal justice system in the region, thereby establishing a pool of qualified officers for criminal justice agencies throughout each region.

Section 14. Section 943.325, Florida Statutes, is amended to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person convicted, or who was previously convicted and is still incarcerated, in this state for any offense or attempted offense defined in chapter 794, chapter 800, s. 782.04, s. 784.045, s. 812.133, or s. 812.135, and who is within the confines of the legal state boundaries, shall be required to submit two specimens of blood to a Department of Law Enforcement designated testing facility as directed by the department.

(b) For the purpose of this section, the term “any person” shall include both juveniles and adults committed to or under the supervision of the Department of Corrections, ~~or the Department of Juvenile Justice,~~ or a county jail.

(2) The withdrawal of blood for purposes of this section shall be performed in a medically approved manner and only under the supervision of a physician, registered nurse, licensed practical nurse, or duly licensed medical personnel.

(3) Upon conviction of any person for any offense under paragraph (1)(a), resulting in the commitment of the offender to a county jail, correctional facility, or juvenile facility, the entity responsible for the facility shall ensure

that a blood specimen as required by this section is promptly secured and transmitted to the Department of Law Enforcement. Should the disposition be any option other than commitment to incarceration in a county jail, correctional facility, or juvenile facility, the person shall not be released from the custody of the court or, when a bond or surety has been posted, shall not have the person's bond or surety released until such time as the blood specimen required by this section has been taken. The chief administrative judge of each circuit shall, in conjunction with the sheriff of each county or other entity maintaining the county jail, ensure that a method of prompt collection of the required blood specimen and forwarding to the Department of Law Enforcement is implemented. The Department of Law Enforcement, in conjunction with the sheriffs, courts, Department of Corrections, and Department of Juvenile Justice shall develop a statewide protocol for the securing of blood specimens for any person required to provide the specimen under this section who will not be incarcerated in such a manner as to allow the drawing of the specimen by jail personnel, correctional personnel, or juvenile justice personnel as part of the regular in-processing of offenders.

(4) Any person convicted of an offense under this section for which the submission of blood specimens is required shall, upon request, submit to the drawing of the person's blood. If the blood specimens submitted to the Department of Law Enforcement are found not to be acceptable for analysis and use under this section, or for any other reason cannot be used by the department in the manner required by this section, the department may require that another set of blood specimens be taken as provided in subsection (11).

(5)(3) The Department of Law Enforcement shall provide the specimen vials, mailing tubes, labels, and instructions for the collection of blood specimens. The specimens shall thereafter be forwarded to the designated testing facility for analysis to determine genetic markers and characteristics for the purpose of individual identification of the person submitting the sample.

(6)(4) The analysis, when completed, shall be entered into the automated database maintained by the Department of Law Enforcement for such purpose, and shall not be included in the state central criminal justice information repository.

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

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

(9)(7) The Department of Law Enforcement shall:

(a) Receive, process, and store blood samples and the data derived therefrom furnished pursuant to subsection (1) or pursuant to a requirement of supervision imposed by the court or the Parole Commission with respect to a person convicted of any offense specified in subsection (1).

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

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

(d) Adopt rules prescribing the proper procedure for state and local law enforcement and correctional agencies to collect and submit blood samples pursuant to this section.

~~(10)~~(8)(a) The court shall include in the judgment of conviction for an offense specified in this section, or a finding that a person described in subsection (1) 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 this section and, unless the convicted person lacks the ability to pay, the person shall reimburse the appropriate agency for the cost of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement. The reimbursement payment may be deducted from any existing balance in the inmates's bank account. If the account balance is insufficient to cover the cost of drawing and transmitting the blood specimens to the Florida Department of Law Enforcement, 50 percent of each deposit to the account must be withheld until the total amount owed has been paid. If the judgment places the convicted person on probation, community control, or any other court-ordered supervision, the court shall order the convicted person to submit to the drawing of the blood specimens as a condition of the probation, community control, or other court-ordered supervision. For the purposes of a person who is on probation, community control, or any other court-ordered supervision, 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 such sentence.

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

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

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

(e) If necessary, the state or local law enforcement or correctional agency having authority over the person subject to the sampling under this section shall assist in the procedure. The law enforcement or correctional officer so assisting may use reasonable force if necessary to require such person to submit to the withdrawal of blood. The withdrawal shall be performed in a reasonable manner. No hospital, clinical laboratory, medical clinic, or similar medical institution or physician, certified paramedic, registered nurse, licensed practical nurse, or other personnel authorized by a hospital to draw blood, or duly licensed clinical laboratory director, supervisor, technologist, or technician, or other person assisting a law enforcement officer shall incur any civil or criminal liability as a result of the withdrawal of blood specimens pursuant to accepted medical standards when requested by a law enforcement officer, or any jail, correctional, or juvenile justice detention personnel to draw blood for the purposes of this section, regardless of whether or not the subject resisted the blood drawing.

(11) Upon a determination by the Department of Law Enforcement that a person convicted of an offense for which blood specimens are to be provided under this section has not provided the required specimens, the department, any state attorney, or any law enforcement agency may apply to the circuit court for an order authorizing the taking of the person into custody for the purposes of securing the required specimen. The court, upon a showing of probable cause that the person is required to provide a specimen and has not provided the specimen, shall issue the order. Any person taken into custody under an order authorized by this subsection shall be promptly transported to a location acceptable to the agency having custody of the person where blood specimens may be drawn, and the blood specimens shall be withdrawn in a reasonable manner. Upon securing the specimens, if there is no other reason justifying retaining the person in custody, the person shall be released. The agency taking any such person into custody under the authority of this section may, but is not required to, transport the person back to the location where the person was taken into custody.

(12) Unless the offender has been declared indigent by the court, the offender shall pay the actual costs of blood collection as required under this section.

(13) The failure of any court or agency or the department to strictly comply with this section or to abide by a protocol shall not constitute a ground for challenging the validity of the collection or use of the sample as

provided in this section or for exclusion of evidence based upon, or derived from, any specimen so taken.

Section 15. For the purpose of incorporating the amendment to section 943.325, Florida Statutes, in references thereto, the following sections or subdivisions of Florida Statutes are reenacted to read:

760.40 Genetic testing; informed consent; confidentiality.—

(2)(a) Except for purposes of criminal prosecution, except for purposes of determining paternity as provided in s. 742.12(1), and except for purposes of acquiring specimens from persons convicted of certain offenses as provided in s. 943.325, DNA analysis may be performed only with the informed consent of the person to be tested, and the results of such DNA analysis, whether held by a public or private entity, are the exclusive property of the person tested, are confidential, and may not be disclosed without the consent of the person tested. Such information held by a public entity is exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

948.03 Terms and conditions of probation or community control.—

(10) As a condition of probation, community control, or any other court-ordered community supervision, the court shall order persons convicted of offenses specified in s. 943.325 to submit to the drawing of the blood specimens as prescribed in that section as a condition of the probation, community control, or other court-ordered community supervision. For the purposes of this subsection, conviction shall include a finding of guilty, or entry of a plea of nolo contendere or guilty, regardless of adjudication, or, in the case of a juvenile, the finding of delinquency.

Section 16. Section 943.33, Florida Statutes, is amended to read:

943.33 State-operated criminal analysis laboratories.—The state-operated laboratories shall furnish laboratory service upon request to law enforcement officials in the state. The services of such laboratories shall also be available to any defendant in a criminal case upon showing of good cause and upon order of the court with jurisdiction in the case. When such service is to be made available to the defendant, the order shall be issued only after motion by the defendant and hearing held after notice with a copy of the motion being served upon the prosecutor and the state-operated laboratory from which the service is being sought. For purposes of this section, “good cause” means a finding by the court that the laboratory service being sought by the defendant is anticipated to produce evidence that is relevant and material to the defense, that the service sought is one which is reasonably within the capacity of the state-operated laboratory and will not be unduly burdensome upon the laboratory, and that the service cannot be obtained from any qualified private or nonstate operated laboratory within the state or otherwise reasonably available to the defense. The court shall may assess the costs of such service ordered by the court to the defendant or local public defender’s office. The laboratory providing the service ordered shall include with the report of the analysis, comparison, or identification a statement of the costs of the service provided and shall provide a copy of all reports and

analysis performed and cost statement being provided to the prosecutor in the case and the court.

Section 17. This act shall take effect July 1 of the year in which enacted.

Became a law without the Governor's approval May 28, 1998.

Filed in Office Secretary of State May 27, 1998.