

Senate Bill No. 838

An act relating to DNA testing; amending s. 943.325, F.S.; requiring certain persons convicted of burglary to submit blood specimens for DNA analysis; requiring persons on probation, community control, or other supervision for any offense who are required to provide blood samples to provide them even without a court order requiring it; providing for enforcement; reenacting s. 810.02, F.S., relating to burglary; providing an effective date.

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

Section 1. Subsection (1) and paragraph (a) of subsection (10) of section 943.325, Florida Statutes, are amended and paragraph (f) is added to subsection (10) of that section, to read:

943.325 Blood specimen testing for DNA analysis.—

(1)(a) Any person who is 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. 810.02, s. 812.133, or s. 812.135, and who is either:

1. Still incarcerated, or

2. No longer incarcerated but is within the confines of the legal state boundaries and is on probation, community control, parole, conditional release, control release, or any other court-ordered supervision,

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 committed to a county jail.

(10)(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 ~~inmate's~~ 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, or as otherwise provided by the person in the absence of 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.

(f) If a judgment fails to order the convicted person to submit to the drawing of the blood specimens as mandated by this section, the state attorney may seek an amended order from the sentencing court mandating the submission of blood specimens in compliance with this section. As an alternative, the department, a state attorney, the Department of Corrections, or any law enforcement agency may seek a court order to secure the blood specimens as authorized in subsection (1).

Section 2. Section 810.02, Florida Statutes, is reenacted to read:

810.02 Burglary.—

(1) “Burglary” means entering or remaining in a dwelling, a structure, or a conveyance with the intent to commit an offense therein, unless the premises are at the time open to the public or the defendant is licensed or invited to enter or remain.

(2) Burglary is a felony of the first degree, punishable by imprisonment for a term of years not exceeding life imprisonment or as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender:

(a) Makes an assault or battery upon any person; or

(b) Is or becomes armed within the dwelling, structure, or conveyance, with explosives or a dangerous weapon; or

(c) Enters an occupied or unoccupied dwelling or structure, and:

1. Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense, and thereby damages the dwelling or structure; or

2. Causes damage to the dwelling or structure, or to property within the dwelling or structure in excess of \$1,000.

(3) Burglary is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(a) Dwelling, and there is another person in the dwelling at the time the offender enters or remains;

(b) Dwelling, and there is not another person in the dwelling at the time the offender enters or remains;

(c) Structure, and there is another person in the structure at the time the offender enters or remains; or

(d) Conveyance, and there is another person in the conveyance at the time the offender enters or remains.

(4) Burglary is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the course of committing the offense, the offender does not make an assault or battery and is not and does not become armed with a dangerous weapon or explosive, and the offender enters or remains in a:

(a) Structure, and there is not another person in the structure at the time the offender enters or remains; or

(b) Conveyance, and there is not another person in the conveyance at the time the offender enters or remains.

Section 3. This act shall take effect July 1, 2000.

Approved by the Governor June 7, 2000.

Filed in Office Secretary of State June 7, 2000.