

Senate Bill No. 1648

An act relating to the collecting of blood and biological specimens by the Department of Law Enforcement; amending s. 948.03, F.S.; requiring that each sex offender placed on probation or community control submit an approved biological specimen to be registered with the DNA data bank; amending s. 943.325, F.S.; requiring that, in addition to a blood specimen, an approved biological specimen be collected from a person convicted of specified offenses who is incarcerated or in the custody of the Department of Juvenile Justice; providing for collection of specimens; requiring that the sheriff secure, process, and transfer to the Department of Law Enforcement the blood and biological specimens collected from persons who are not incarcerated; providing an effective date.

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

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

948.03 Terms and conditions of probation or community control.—

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

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

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

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

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

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

5. If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the sentencing court without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the sentencing court.

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

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

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

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

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

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

943.325 Blood or other biological specimen testing for DNA analysis.—

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

1. Still incarcerated, or

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

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

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

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

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

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

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

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

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

(3) Upon a conviction of any person for any offense under paragraph (1)(a) which results in the commitment of the offender to a county jail, correctional facility, or juvenile facility, the entity responsible for the facility shall assure that the blood specimens or other biological specimens required by this section and approved by the Department of Law Enforcement are promptly secured and transmitted to the Department of Law Enforcement. Personnel at the jail, correctional facility, or juvenile facility shall collect the specimens as part of the regular processing of offenders committed to the jail or facility. If the person is not incarcerated following such conviction, the person may not be released from the custody of the court at the time of sentencing or released pursuant to a bond or surety until the blood specimens or other approved biological specimens required by this section have been taken by the sheriff or his or her designee. The sheriff shall secure, process, and transmit the specimens to the Department of Law Enforcement in a timely manner. The chief judge of each circuit shall, in conjunction with

~~the sheriff or other entity that maintains the county jail, assure implementation of a method to promptly collect required blood specimens or other approved biological specimens and forward the specimens to the Department of Law Enforcement. The Department of Law Enforcement, in conjunction with the sheriff, the courts, the Department of Corrections, and the Department of Juvenile Justice, shall develop a statewide protocol for securing the blood specimens or other approved biological specimens of any person required to provide specimens under this section. Personnel at the jail, correctional facility, or juvenile facility shall implement the protocol as part of the regular processing of offenders.~~

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

Approved by the Governor May 21, 2003.

Filed in Office Secretary of State May 21, 2003.